

Trinity College

Trinity College Digital Repository

Senior Theses and Projects

Student Scholarship

Spring 2023

An Analysis of the Rise and Fall of Cape Wind and its Implications in Environmental Policy

Maddie Recker

madeline.recker@trincoll.edu

Follow this and additional works at: <https://digitalrepository.trincoll.edu/theses>



Part of the [Environmental Law Commons](#), and the [Law and Politics Commons](#)

Recommended Citation

Recker, Maddie, "An Analysis of the Rise and Fall of Cape Wind and its Implications in Environmental Policy". Senior Theses, Trinity College, Hartford, CT 2023.

Trinity College Digital Repository, <https://digitalrepository.trincoll.edu/theses/1051>

An Analysis of the Rise and Fall of Cape Wind and its
Implications in Environmental Policy

A Thesis Submitted to
The Faculty of the Department of Public Policy and Law
In Candidacy for the Baccalaureate Degree With Honors in
Public Policy and Law
By
Madeline R. Recker

Hartford, Connecticut
May 2023

Table of Contents:

Table of Contents:	2
Acknowledgements	3
Introduction	4
Chapter 1: The Origins of Controversy and the Stakeholders	8
Chapter 2: The Regulatory Process, Issues in Congress, Legal Battles, and Bankruptcy.	19
Chapter 3: The Evolution of Public Opinion	41
Chapter 4: Elite Influence Over Environmental Policy	55
Conclusion	67
Bibliography	71

Acknowledgements

I would like to thank my thesis advisor and mentor Professor Fulco. She has been my biggest supporter throughout my time at Trinity, and I would not have been able to complete this thesis without her support. I would also like to thank Professor DiBella for agreeing to be my second reader and introducing me to the world of environmental law and policy. Lastly, I'd like to thank my parents for all their support throughout my time at Trinity.

Abstract

Cape Wind was the first proposed offshore wind farm in the United States, but it was never built. Proposed in 2001 and canceled in 2017, Cape Wind fought against well-funded opposition groups who used the regulatory and permitting process to create legal battles every step of the way. The Alliance to Protect Nantucket Sound, which was composed largely of members of the 1% who owned ocean property off the coast of Cape Cod which was where the wind farm was proposed, contributed millions of dollars to ensure that Cape Wind was never built. During public meetings to discuss Cape Wind, the Alliance to Protect Nantucket Sound used local and national politicians to take up time that was reserved for the public comment as a tactic to try and suppress support. Additionally, there were a variety of Environmental Impact Statements and review processes that Cape Wind needed to pass to begin construction on the turbines, and the Alliance used these regulations to sue Cape Wind and the federal agencies supporting Cape Wind as a means to delay the project. This thesis examines the tactics used by the Alliance to delay and eventually cancel the construction of Cape Wind. It further links these tactics to practices that are utilized to cancel environmentally friendly projects or fund projects that are harmful to the environment, despite public opinion.

Introduction:

Since the Industrial Revolution in the 1800s, the temperature of our planet has increased by 2 degrees Fahrenheit. 5 of the warmest years on record have been recorded since 2015.¹ Global warming and climate change have become an increasingly serious issue for the world. There have been increases in the frequency and severity of natural disasters across the world, and Antarctica has lost over 400 trillion tons of ice since the late 1990s which has led to a rise in sea level and the destruction of coastal communities.² While it is true that throughout its history, the Earth has had a cycle of warming temperatures and then cooling again, it has never happened as quickly as it is being recorded now. Past cycles have taken thousands of years to complete. Global warming is caused by the emission of carbon dioxide (CO₂) as well as other pollutants like methane into the atmosphere, which are then trapped and reflected down to Earth, increasing the temperature, and resulting in climate change.³ Scientists have warned that we must limit the rise in the temperature to 1.5 degrees Celsius by 2040, or the damage to our planet will be irreversible.

To combat climate change, countries have begun to make the transition from fossil fuels that release CO₂ into the atmosphere to renewable energy sources like solar, wind, and hydro energy. European countries have taken the lead in the transition to clean power, with the United States only beginning to truly invest in the past two decades. The younger generations of Americans have become increasingly concerned about climate change and its impact. Sixty-nine percent of Americans favor the United States becoming carbon neutral by 2050, as well as prioritizing the production of renewable energy sources.⁴ The renewable energy source with the most potential for

¹ Jeff Turrentine, "Global Warming 101," *National Resource Defense Council*, April 7, 2021, <https://www.nrdc.org/stories/global-warming-101#warming>.

² Turrentine.

³ Turrentine.

⁴ Alec Tyson, Cary Funk, and Brian Kennedy, "What the Data Says About Americans' Views of Climate Change," *Pew Research Center*, April 18, 2023, <https://www.pewresearch.org/short-reads/2023/04/18/for-earth-day-key-facts-about-americans-views-of-climate-change-and-renewable-energy/>.

energy production is wind power, especially offshore wind power due to the fact that winds off the ocean are the most powerful.⁵ In 2001, the first offshore wind project for the United States was proposed off the coast of Cape Cod, Massachusetts. In 2017, Cape Wind was canceled after a battle that included lawsuits, public debates, legislative battles, and large sums of money among other things. Cape Cod is one of the richest areas in the United States, with many powerful elites living there year-round or having inherited estates where they summer. These individuals were the main voices behind the legal battles and fundraising campaigns against Cape Wind. My thesis will conduct an in-depth analysis about the role of elites in the destruction of Cape Wind, and how this demonstrates a common theme in environmental policy that is still an issue today.

The first chapter of my thesis will focus on the origins of Cape Wind, including Jim Gordon's creation of the project, and the subsequent rise of groups in opposition. The largest and most prominent opposition group that was formed was the Alliance to Protect Nantucket Sound. The Alliance consisted primarily of elites who had large sums of money that they were willing and able to donate to a cause whose sole purpose was to block the creation of Cape Wind. It also discusses the group in favor of Cape Wind that was formed, known as Clean Power Now. Clean Power Now was formed in opposition to the Alliance to Protect Nantucket Sound and was comprised of a large group of local homeowners on the Cape who donated small sums of money. In contrast, the Alliance had a select group that was donating large sums of money, sometimes millions.

The second chapter serves to lay out the timeline of Cape Wind's progress through the legal and policy process, from its initial proposal in 2001, to the official termination of the project in 2017. The timeline itself shows the variety of regulations already required in the permitting process

⁵ Liz Hartman, "Computing America's Offshore Wind Energy Potential", Energy.gov, September 9th, 2016, <https://www.energy.gov/eere/articles/computing-america-s-offshore-wind-energy-potential>.

for the construction of the offshore wind farm, but it also shows the variety of court cases that Cape Wind had to fight against private citizens and interest groups. These legal battles not only took time, sometimes years, to resolve but they also drained the funding for Cape Wind that was intended to be used for the construction fees. It also shows the evolution of the regulatory process, specifically the transition of oversight from the Army Corps of Engineers to the Department of the Interior.

Chapter three examines the evolution of public opinion of average citizens and the role public attitudes played as the process for approval unfolded. This chapter analyzes public opinion by looking at survey results as well as op-ed articles from local and national newspapers to show what much of the state wanted. By looking at these public opinion articles, it shows a wide variety of reasons that people were in favor of the project. In addition to print sources, different public forums that were held to allow for debate regarding the construction of Cape Wind are examined. These debates were often contentious with the opponents and proponents of Cape Wind attacking one another.

The final chapter analyzes the concept of issue framing to understand why at first the Alliance successfully argued that their concerns were about Cape Wind's environmental impacts when in fact they were concerned about visual impact on their properties. It is important to note that the first Environmental Impact Statement released by the government which showed minimal impact to the Nantucket Sound ecosystem, the support of the public changed considerably in favor of Cape Wind. After the general public learned of this information, they turned from supporting the Alliance to disliking them after realizing their true motives. It further discusses the role that corporations, legislatures, and PACs, or political action committees, can have on environmental policy. Additionally, chapter 4 compiles all the information from the previous chapters and the fate of offshore wind since 2017 to show how the influence of elites can be essential or detrimental to the production of offshore wind.

Chapter 1: The Origins of the Controversy and the Stakeholders

Why Offshore Wind

While scientists were discussing climate change as early as the 1930's, the issue was not effectively communicated to the American public until the Presidential Election of 2000.

Democratic candidate and former Vice President Al Gore warned of the grim future that no action against climate change would create. He talked of rising sea levels, droughts, and increasingly severe natural disasters. Despite not winning the election, Gore continued to discuss climate change and even produced a film, *An Inconvenient Truth*, talking about the effect that continuing to rely on fossil fuels would have on the planet.⁶ One way to combat these issues was through alternative energy sources. Solar power was the most well-known alternative energy source, but hydropower and wind power were also beginning to gain notoriety.

In Europe wind turbines, especially offshore wind turbines, were becoming a popular alternative to wind power located on land. An investor by the name of Jim Gordon noticed this development and decided that it was time for the United States to join the world of offshore wind. Gordon, who founded Energy Management in 1975, began to research the average wind speeds of different points along the U.S. coastline, to see which area would be the best for development, in terms of cost effectiveness as well as energy yield. In a joint study by the Department of Energy and the Department of the Interior, the researchers found that the Massachusetts coast has the greatest Net Technical Energy Potential of all 50 states, meaning that Massachusetts was identified as the best place for offshore wind turbines to be placed in terms of energy generation.⁷

⁶ History.com Editors, "Climate Change History", History.com, A&E Television Networks, August 8th, 2022, <https://www.history.com/topics/natural-disasters-and-environment/history-of-climate-change>.

⁷ Liz Hartman, "Computing America's Offshore Wind Energy Potential", Energy.gov, September 9th, 2016, <https://www.energy.gov/eere/articles/computing-america-s-offshore-wind-energy-potential>.

After deliberation, Jim Gordon decided that Nantucket Sound, off the coast of Cape Cod in Massachusetts was the best place for America's first offshore wind farm. At the heart of New England with history-rich Boston as its capital city, as well as a coastline with some of the most beautiful beaches in the United States, generations of wealthy Americans have flocked to Massachusetts as a place to settle down and raise a family. These wealthy families own property on the Massachusetts coastline as well as the surrounding islands. Excluding Washington D.C, Massachusetts is currently ranked second in highest average income behind only New Jersey.⁸ Despite this, the wealth gap is large, and while there are many millionaires, there are also many citizens of Massachusetts who live paycheck to paycheck. For these citizens, the winter of 2001 had been particularly brutal, because the price of oil and electricity had skyrocketed. At the same time, many Cape residents were becoming increasingly frustrated with the Cape Cod Canal electrical plant, which was a fossil-fuel fired plant providing electricity to most of the Cape. The Cape Cod Canal electrical plant was significantly degrading the air quality not only for the Cape, but for the entire state.⁹ Local citizens as well as state representatives were calling for change.

Recognizing the public's frustration with the electrical plant as well as the potential for alternative energy initiatives off the coast of Cape, Gordon pulled his investments from natural gas and teamed up with a group of engineers and other private investors. While there was substantial support for the wind farm idea, Spyro Mitrokostas, who was the executive director of the Cape Cod Technology Council, had a warning for Gordon. He warned that, "Only two or three hundred people run the Cape. If you don't have them on your side, forget it." Nevertheless, because of the apparent overall public support for the project, Gordon and his group agreed to budget \$5 million in

⁸ "Per Capita Income by State," World Population Review, Accessed February 12th, 2023, <https://worldpopulationreview.com/state-rankings/per-capita-income-by-state>.

⁹ Wendy Williams and Robert Whitcomb, *Cape Wind: Money Celebrity, Class, Politics, and the Battle for Our Energy Future on Nantucket Sound* (New York: Public Affairs Books, 2007), pg. 4.

development costs for the construction of a wind farm off the coast of Cape Cod, and create a company known as Cape Wind Associates, LLC.¹⁰

Little did Gordon know that he would be embarking on a journey that would encompass sixteen years, and over \$100 million of his own money, and that the journey would end in failure, with not a single turbine ever having been constructed when he announced the end of the project in December of 2017.¹¹ It is important to ascertain how a project with so much—public support failed to materialize. While there was no singular event that ruined the Cape Wind project, a variety of developments that took place over those 16 years led to the demise of the project. As the Cape Wind timeline reveals, there were moments where it seemed as if nothing would be able to stop its development, and others where it seemed that this would be the time the project was finished for good. The full story of the rise and fall of the proposed wind farm known as “Cape Wind” involves a variety of landmark events, decisions, and actors. The project’s history can be divided into five stages. This chapter discusses the first stage: the stakeholders. The other stages, which include the regulatory process, public opinion, issues in Congress and legal battles, and the bankruptcy of Cape Wind, will be discussed in detail in the following chapters. The timeline appears in Figure 1.

¹⁰ Williams and Whitcomb, 8.

¹¹ Katharine Q. Seelye. “After 16 Years, Hope for Cape Cod Wind Farm Float Away,” *New York Times*, December 19th, 2017. <https://www.nytimes.com/2017/12/19/us/offshore-cape-wind-farm.html>.

Figure 1: A Timeline of the Cape Wind Project

<p>August 2001</p> <p>Jim Gordon meets with the <i>Cape Cod Times</i> to discuss Cape Wind, and the Alliance to Protect Nantucket Sound is formed.</p>	<p>November 2001</p> <p>Cape Wind submits an application to the Army Corps of Engineers to construct a data tower in Horseshoe Shoal; the next day they submit an application for the wind turbines.</p>	<p>January 2002</p> <p>The first public hearing regarding the construction of Cape Wind is conducted.</p>	<p>June 2002</p> <p>The group Clean Power Now is formed.</p>
<p>August 2002</p> <p>The Army Corps of Engineers grants Cape Wind the permit to construct a data tower.</p>	<p>August 2003</p> <p><i>Ten Taxpayer Citizen Group v. Cape Wind Associates</i> is decided in favor of Cape Wind.</p>	<p>September 2003</p> <p><i>Alliance to Protect Nantucket Sound v. U.S. Department of Army</i> was decided in favor of the Army.</p>	<p>November 2004</p> <p>The Army Corps of Engineers issues a Draft Environmental Impact Statement (DEIS).</p>
<p>December 2004</p> <p>A public hearing regarding the Draft Environmental Impact Statement is attended by Governor Mitt Romney.</p>	<p>August 2005</p> <p>The Energy Policy Act of 2005 is signed, transferring responsibility for Cape Wind permitting to the Department of the Interior, and more specifically, to the Mineral Management Service (MMS).</p>	<p>September-November 2005</p> <p>Senator Don Young from Alaska attempts to add amendments to a bill regarding the Coast Guard that would be detrimental to Cape Wind.</p>	<p>December 2005</p> <p>Robert F. Kennedy Jr. writes an op-ed in the <i>New York Times</i> that causes controversy.</p>
<p>December 2006</p> <p>The Massachusetts State Supreme Court upholds the approval of transmission cables to connect Cape Wind to the power grid.</p>	<p>January 2008</p> <p>The Mineral Management Service releases the new Draft Environmental Impact Statement.</p>	<p>March 2008</p> <p>The Mineral Management Service holds public hearings.</p>	<p>January 2009</p> <p>The Mineral Management Service issues a Final Environmental Impact Statement (FEIS).</p>
<p>October 2009</p> <p>The Wampanoag tribes argue that Horseshoe Shoal should be placed on the National Register of Historic Places.</p>	<p>January 2010</p> <p>The U.S. National Park Service agrees with the tribes, and a review process under section 106 of the National Historic Preservation Act Begins.</p>	<p>April 2010</p> <p>The Federal Advisory Council on Historic Preservation recommends to Interior Secretary Ken Salazar that he reject Cape Wind.</p>	<p>October 2010</p> <p>Secretary Ken Salazar, issues Cape Wind Associates the official lease to operate the wind farm.</p>
<p>July 2011</p> <p>The Aquinnah Wampanoag Tribe of Gay Head files suit against the Bureau of Energy Management.</p>	<p>October-December 2011</p> <p>The claims of various groups filing suit against Cape Wind are consolidated under one case.</p>	<p>January 2015</p> <p>The National Grid and NStar both terminate their power contracts with Cape Wind.</p>	<p>February 2016</p> <p>Cape Wind Associates submits a request for a two-year suspension of the operations term of its commercial lease.</p>
<p>July 2016</p> <p>The case <i>Public Employees for Environmental Responsibility v. Abigail Ross Hopper, Acting Director, U.S. Bureau of Ocean Energy Management</i> decided against Cape Wind.</p>	<p>June 2017</p> <p>Cape Wind Associates submits another request for a two-year suspension of the operation terms and a suspension of its payment obligations.</p>	<p>July 2017</p> <p>The BOEM released the supplemental Environmental Impact Statement, saying that there are no geologic issues predicted.</p>	<p>December 2017</p> <p>The Cape Wind project is officially canceled.</p>

The Alliance to Protect Nantucket Sound

On August 9th, 2001, the *Cape Cod Times* ran a story interviewing Gordon about his idea for an offshore wind farm. The interview provided a basic outline of the project for the public, describing the plan to use between 150-200 turbines, as well as the ability of these turbines to generate “up to 420 megawatts of electricity - close to Cape Cod's summer peak load”. The turbines were predicted to be 258 feet tall each, with three 160-foot-long rotating blades.¹² In the interview, Gordon also stated that the turbines would be built in Horseshoe Shoal and in waters as shallow as 8 feet deep.¹³ Since the *Cape Cod Times* is a local paper, news of the story traveled quickly across the Cape, and unlike what Gordon had expected, there were mixed opinions on the wind farm, with a variety of concerns being voiced. Wind power was a new concept for the East Coast. Before the proposal, all wind energy proposals in the United States had been focused out West, where there were flat lands that were unpopulated and had the space for wind farms. For example, out West, many homeowners are legally required to allow drilling rigs to work on their private property, because oftentimes the surface rights and mineral rights are owned by two different entities. In the New England areas however, there are property titles that have been in singular families for generations, even back into the time of King George III.¹⁴ Those in opposition to the wind farm proposal realized that to be effective they needed to band together and present a united front against Cape Wind. As a result, towards the end of August 2001, an opposition group to the Cape Wind farm was formed called the Alliance to Protect Nantucket Sound.¹⁵

¹² Dominic Spinelli, “Historic Preservation & Offshore Wind Energy: Lessons Learned from the Cape Wind Saga,” *Gonzaga Law Review*, Vol. 46 no. 3 (2011): 741-770, <http://blogs.gonzaga.edu/gulawreview/files/2011/09/Spinelli.pdf>.

¹³ James Kinsella, “Wind Farm Airs its Plans,” *Cape Cod Times*, August 9th, 2001.

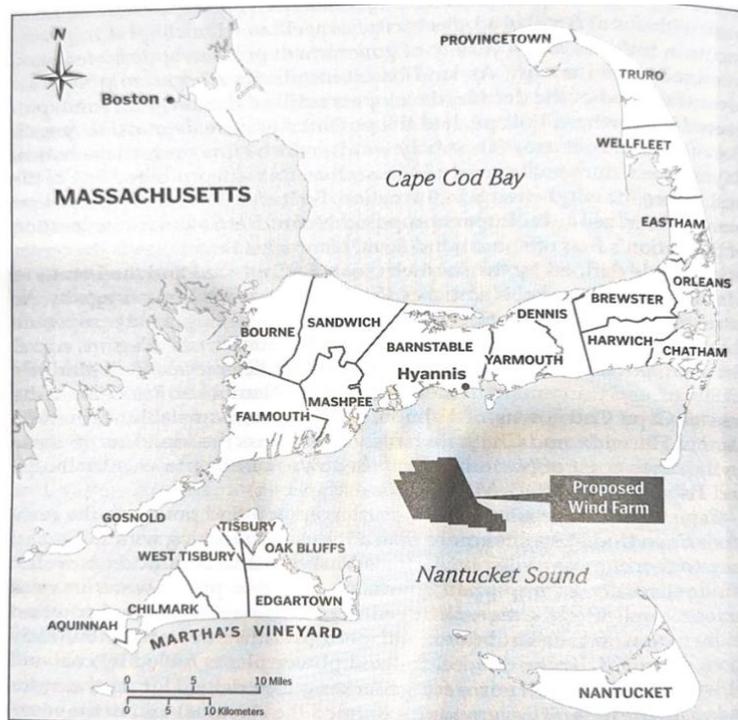
<https://www.capecodtimes.com/story/news/2001/08/09/wind-farm-air-its-plans/50978845007/>.

¹⁴ Williams and Whitcomb, pg. 131.

¹⁵ Robbie Gemmel, *Cape Spin: An American Power Struggle*, directed by Libby Handros, Robbie Gemmel, John Kirby, & Daniel Coffin (2011), Documentary.

The Alliance claimed to catalog a variety of environmental concerns ranging from fears of birds flying full speed into turbines, to the impact they thought they could have on sea turtles and seals, as well as worries regarding a decrease in tourism. Without a doubt, their largest concern was the visual impact. More often than not, members of the Alliance included wealthy individuals with waterfront property on the Cape, with some even coming from the surrounding islands of Nantucket and Martha’s Vineyard.¹⁶ Gordon commissioned research that proved the turbines would only be seen approximately half an inch off the horizon on a clear day, but the members of the Alliance to Protect Nantucket Sound were constantly sending out distorted images that showed the Cape as a large industrial site all the way to the coastline, despite the fact that the windfarm was going to be located miles off the coast.¹⁷

Figure 2: Cape Wind Proposed Location



Source: Map and Cape Wind site compiled by author from ESRI, TeleAtlas, and AP. 18

¹⁶ Gemmel, 13:45.

¹⁷ Judith A. Layzer. *The Environmental Case* (Los Angeles: Sage Publications, 2016, 4th edition), pg. 430.

¹⁸ Layzer, 426.

The common theme among members of the Alliance was that wind power was an important resource to consider developing, just not in the Nantucket Sound. In its first fourteen months as an organization, the Alliance to Protect Nantucket Sound was able to raise \$2 million in contributions, which they used to fund TV and radio ads, yard signs, and legal action against Cape Wind. The following year, they took in impressive numbers yet again, with \$4.8 million in donations.¹⁹ While the large donations might suggest that the Alliance had broad-based support, this is not the case. In fact, 94% of its money was coming from 93 “major donors” who gave \$20,000 or more.²⁰ These were not middle-class citizens donating to a campaign about which they felt strongly. Rather, the donors were wealthy members of the area funneling money into a campaign that would protect their view of the ocean.

The Doners

As noted above, the Alliance to Protect Nantucket Sound was successful in getting the rich and powerful to join in their opposition, both as donors and through public appearances. For example, at the time of its founding, the Chief Executive Officer of the Alliance to Protect Nantucket Sound was Douglas Yearly, who was named, “Copper Man of the Year” in 1993 for his success in the mining industry. Before becoming CEO for the Alliance, Yearly was the CEO for another company, known as Phelps Dodge Corporation. Phelps Dodge Corporation used controversial practices such as open-pit mining, and beginning in 2000, the company had been under siege for the deaths of birds near their site that had died due to acid runoff. He was also a property owner on the Cape, and his house cost approximately \$6.8 million at the time he bought it in 1997.²¹ Another oil tycoon that became a member of the Alliance was William “Bill” Koch. William Koch was born into money; his father was the founder of Koch Industries, which was an

¹⁹ Layzer, 432.

²⁰ Layzer, 432.

²¹ Williams and Whitcomb, 84-85.

oil refinery business.²² Over the course of the 16 years that the Alliance was opposing the Cape Wind farm, Koch himself donated “around \$5 million” to the cause.²³ Other particularly notable donors include David McCullough, a historian who has won the Pulitzer Prize, the National Book Award, and the Presidential Medal of Freedom; Paul Fireman, who was the owner of Reebok before selling to Adidas in 2006; and a multi-millionaire member of the Cape Cod Chamber of Commerce, John O’Brian.²⁴ Not only were there individuals contributing money to the Alliance’s campaign, but many nonprofit charities and tax-exempt foundations donated as well. For example, the Egan Family Foundation which is headed by Richard J. Egan, the Massachusetts Republican Party boss and financier and close friend of Mitt Romney, donated \$16,000 to Three Bays, an environmental non-profit. Egan included specific instructions that the money was to be used by the Alliance to Protect Nantucket Sound. Shortly afterwards, the family donated another \$2,500 to Three Bays for the same purpose as well as a \$90,000 donation directly to the Alliance, and a \$100,000 donation to the Beacon Hill Institute, which used the money to conduct an analysis of “doubtful quality,” claiming that Cape Wind would cause significant economic distress to the Cape Cod area with little proof. The Egan Family Foundation again listed a \$300,000 donation directly to the Alliance in 2003.²⁵ That is just one example of wealthy donor contribution efforts to defeat the project, and there are various other charities and foundations that received similar donations.

There were also members of the political elite who could not officially put their support or money behind the Alliance to Protect Nantucket Sound but were still adamantly against the Cape Wind project. Their opposition to the Cape Wind project fueled the Alliance through non-financial means. Arguably, the most influential member of all was Massachusetts Senator Ted Kennedy. The

²² Gemmel, 22:20.

²³ Katharine Q. Seelye. “Koch Brother Wages 12-Year Fight Over Wind Farm,” *New York Times*, October 22nd, 2013. <https://www.nytimes.com/2013/10/23/us/koch-brother-wages-12-year-fight-over-wind-farm.html>.

²⁴ Williams and Whitcomb, xiii, 42, 92, 103.

²⁵ Williams and Whitcomb, 91-92.

younger brother of President John F. Kennedy served as a member of the Senate from 1962 until his death in August of 2009.²⁶ His political network was large, and he enjoyed wide political support in Massachusetts. If he opposed the project, it would be difficult to obtain public support. Another prominent member of the Kennedy family who was against the production of the Cape Wind farm was environmental lawyer Robert F. Kennedy Jr. While Senator Kennedy had to attempt to look outwardly impartial to maintain the respect of the public, Robert Kennedy Jr. did not have this problem, and he was willing and able to openly challenge advocates for Cape Wind. In October of 2002, Kennedy went head-to-head against Jim Gordon on the NPR show *The Connection*. He spent the hour making claim after claim that Cape Wind was going to destroy a sanctuary both for recreational fishing as well as sailing.²⁷ In 2005, he wrote an op-ed piece for the *New York Times* in which he adamantly stated that he supported wind power and the expansion of offshore wind power, but only in the correct places. He accused Gordon of trying to “privatize the commons.”²⁸

While both Kennedys were Democrats, the Alliance also had Republican support from Mitt Romney. While he was running for Governor in 2002, Jim Gordon sent Romney a campaign donation and even attended one of his fund-raisers. Despite this, Romney stated that he’d made campaign promises that he was not going to allow the Cape Wind farm to come to fruition, and that “I never go back on my promises.”²⁹ The Congressman William Delahunt was another politician who was adamantly opposed to production of Cape Wind. Serving until 2011, he was the congressman for the 10th district of Massachusetts, which included Cape Cod, as well as Martha’s Vineyard and Nantucket Island. He felt that the entirety of the Nantucket Sound, including Horseshoe Shoal, belonged to the residents of Massachusetts, especially the residents that he was

²⁶ “Ted Kennedy Dies of Brain Cancer at Age 77,” *ABC News*, August 26, 2009, <https://abcnews.go.com/Politics/TedKennedy/story?id=6692022>.

²⁷ Williams and Whitcomb, 121.

²⁸ Robert F. Kennedy Jr., “An Ill Wind Off Cape Cod,” *New York Times*, December 16, 2005, <https://www.nytimes.com/2005/12/16/opinion/an-ill-wind-off-cape-cod.html>.

²⁹ Williams and Whitcomb, 99.

elected to represent. He continuously said, “Nantucket Sound is not our backyard, it is our front!” Over time, this became a rallying cry of the rich to protect the sound.³⁰ Peter Meyer was another important ally that the Alliance to Protect Nantucket Sound had on their side. While he is not as well-known as the Kennedys or Mitt Romney, he was still able to play an invaluable part in the fight against Cape Wind. Meyer was the publisher for the local *Cape Cod Times*. Since he decided what was printed in the paper every day and opposed the project, the local news stories often portrayed the Cape Wind project in a negative light. It is also important to note that Peter Meyer owned a \$1.2 million home in Osterville, which is an elite gated community complete with a country club.³¹

Clean Power Now

After attending the town meetings about the construction of Cape Wind in January of 2002, supporters of the wind project began to realize that they were becoming overpowered by those who opposed the wind farm. They determined that to make a significant impact they would have to form their own group to fight against the powerful Alliance to Protect Nantucket Sound. After reaching out and gathering support, Barbara Hill was able to form a group to counter the Alliance. On June 10th, 2003, they officially became known as Clean Power Now. They felt that the wind turbine projects were the best way to protect Nantucket Sound given the human impact on climate change, especially along the coast. They created a new slogan to counter the qualms: “It’s not the view...it’s the vision.”³² Clean Power Now tried to focus on all the benefits that the wind farm would bring to Nantucket Sound. They discussed how building and maintaining the turbines could create jobs, and that despite the fears of some opponents, the project could also generate tourism as the first offshore wind farm in the United States. If people were interested in seeing the wind farms, they would be

³⁰ Williams and Whitcomb, xvii.

³¹ Williams and Whitcomb, 107.

³² Gemmel, 8:30.

able to ferry out there and view them from a close range. While they may not have had the support of big-name politicians or donors with deep pockets, Clean Power Now received small donations from local citizens. However, monetarily they were no match for the Alliance to Protect Nantucket Sound. They needed to figure out another way to be effective.

Conclusion

There was a large variety of stakeholders who had something to lose from the creation of Cape Wind. Many of these individuals owned property on the Nantucket Sound shoreline, and they opposed the windmills primarily because they feared their views would be obstructed. The wealthy elites who were against Cape Wind banded together and created a foundation that they could use to fundraise and consolidate themselves into one unified front. This front enabled them to pursue court cases that allowed them to continually delay the production of Cape Wind. The next chapter discusses two more stages of the timeline of Cape Wind: the regulatory process and the legal battles. The Alliance to Protect Nantucket Sound continued to play a prominent role in the ongoing Cape Wind saga.

Chapter 2: The Regulatory Process, Issues in Congress, Legal Battles, and Bankruptcy

Throughout the 17 years of the Cape Wind fight, opponents to its creation used the regulatory process and their funds to delay the construction of the wind turbines for over a decade until there were no funds left and Gordon was forced to cancel the project. Because Cape Wind was the first proposed offshore wind farm in the United States, there was no established regulatory process. As a result, elites were able to use their money and influence to challenge each victory Cape Wind had that brought them closer to construction. Had the opposition, namely the Alliance to Protect Nantucket Sound, not had the money to fund a variety of legal battles and advertisements that spread misleading information about Cape Wind, it is likely that there would currently be a fully functioning wind farm off the coast of Massachusetts. This chapter will discuss the different government regulations that the Cape Wind project needed to follow, as well as the legal battles that were fought along the way. Emphasis will be placed on the elites' ability to hijack environmental policy and mold it to fit their standards.

The Coastal Zone Management Act

To understand the legal battles surrounding Cape Wind, it is necessary to first learn the government entities and regulations that were involved. The first such regulation is the Coastal Zone Management Act (CZMA). When Gordon proposed the Cape Wind farm, he suggested that the turbines be in Nantucket Sound's Horseshoe Shoal. Horseshoe Shoal is a sandbar that was once above water thousands of years ago, so the water remains relatively shallow compared to the ocean surrounding it.³³ These shallow waters were selected because it allows for the easiest and most economically efficient construction of the turbines. The first challenge that Gordon would face was obtaining the proper permit.

³³ Layzer, 428.

Under the CZMA, the United States maintains territorial control of the ocean for 12 nautical miles from the coastline, and the individual states control the first three nautical miles from their individual coastline. The federal government maintains control of the remaining nine miles of water.³⁴ Horseshoe Shoal is located five nautical miles off the coast of Massachusetts, meaning that the project is in federal waters. However, to use the power generated, there would need to be cable transmission lines built from the turbines themselves to the local power grid in Cape Cod and through state jurisdiction. The CZMA is set up so that states must create what are known as Coastal Zone Management Plans, or CZMP's, that describe how the state plans to use and manage the coastline.

Regarding offshore wind power, Massachusetts could create a CZMP that would not permit the construction of the transmission lines.³⁵ The CZMA states that CZMP's must provide, "adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance."³⁶ At the time, if Massachusetts were able to prove that Horseshoe Shoal is an area that is of such great local significance, they would potentially be able to use this to halt the construction of Cape Wind. However, this would prove to be almost impossible. In 1981, there had been an attempt to make Nantucket Sound a federal sanctuary, which would prevent new development. The Massachusetts Office of Coastal Zone Management stated that the sound did not meet the criteria for a federal sanctuary because it lacked outstanding resources. The Office concluded, "Adequate resources exist in Nantucket Sound; however, the majority of those resources

³⁴ Adam Vann, "Wind Energy: Offshore Permitting", last modified March 8, 2021, <https://crsreports.congress.gov/product/pdf/R/R40175/15>.

³⁵ Timothy H. Powell, "Revisiting Federalism Concerns in the Offshore Wind Industry in Light of Continued Local Opposition to the Cape Wind Project", *Boston University Law Review* vol. 92 (2012): 2023-2053, <https://www.bu.edu/law/journals-archive/bulr/volume92n4/documents/POWELL.pdf>.

³⁶ *Coastal Zone Management Act of 1972 as amended through Pub. L. No. 109-58, the Energy Policy Act of 2005*. 92nd Cong., 2nd sess.

are more readily definable in state waters and not in the central area of the Sound.”³⁷ Overturning this decision would become increasingly difficult, because of the need to provide evidence that something regarding the resources in the middle of Nantucket Sound had changed between the 1980’s and the 2000’s.

The United States Army Corps of Engineers

Because Cape Wind was going to be located in federal waters, there needed to be federal oversight by some entity. As stated, there was not yet a specified process for offshore wind development in the United States. It was decided that under the Rivers and Harbors Act of 1899, the United States Army Corps of Engineers had the authority regarding Cape Wind’s development.³⁸ On November 20th, 2001, Cape Wind Associates submitted an application to the United States Army Corps of Engineers for the construction of a data tower in Horseshoe Shoal. This tower would gather data on wind speeds in the area to fully determine that Horseshoe Shoal was the proper place for the wind farm.

The following day, they submitted a permit request for the full construction of the 170 wind turbines.³⁹ At the beginning of December 2001, the Army Corps announced that they would begin to consider allowing Cape Wind to build their data tower, and subsequently set January 8th, 2002, as a date for a public hearing. After review, the United States Army Corps of Engineers granted the permit to Cape Wind Associates to allow them to build their data tower. They issued this permit issued under section 10 of River and Harbors Appropriation Act of 1899.⁴⁰ Immediately following the announcement, opponents of Cape Wind scoured through federal laws and regulations to assess

³⁷ Williams and Whitcomb, 73.

³⁸ “Cape Wind Archived | Bureau of Ocean and Energy Management,” *BOEM*, October 2019, <https://www.boem.gov/renewable-energy/studies/cape-wind-archived>.

³⁹ *Alliance to Protect Nantucket Sound v. U.S. Dept. of Army*, No. CIV.A.02-11749-JLT (D. Mass. Sep. 18, 2003).

⁴⁰ *Alliance to Protect Nantucket Sound v. U.S. Dept. of Army*, No. CIV.A.02-11749-JLT (D. Mass. Sep. 18, 2003).

what claims they could bring to court. Two major lawsuits followed this announcement, which will be discussed later in this chapter.

Draft Environmental Impact Statement

Under the National Environmental Policy Act (NEPA) rules, the United States Army Corps of Engineers was required to conduct a full review of all potential environmental impacts, which is known as an Environmental Impact Statement. While Cape Wind Associates were able to construct the data tower with no need for an Environmental Impact Statement (EIS), the same could not be said for the 130 wind turbines they were estimating would be built for the wind farm. Nantucket Sound and the Cape Wind proposal needed to be assessed for potential negative impacts regarding topics like the impact the of drilling to the seabed, which is needed to secure the turbine, would have on its stability. Additionally, the impact that this drilling and new structure would have on the marine life and birds in the area needed to be examined. If the seabed is dramatically changed from the securing of the turbines, it could destroy habitats for many marine creatures. Similarly, the blades have the potential to create deadly hazards for birds flying through the area. Furthermore, because this was the first offshore wind project, it remained unknown if it would impact airways and navigation.

On November 9th, 2004, the Corps released the Draft Environmental Impact Statement (DEIS) that totaled approximately 4,000 pages analyzing every detail of the proposed project.⁴¹ The DEIS predicted that the turbines would kill up to 364 birds per year, a number that was determined would not be hazardous to either endangered species or specific populations of birds that had previously been identified in public discussions. The effects on the fish and shellfish population were found to only be a problem during the construction stage of the project. The DEIS also acknowledged the impact to scenic views in some areas, such as the Kennedy Compound and the

⁴¹ Layzer, 438.

Nantucket Historic District. Despite this, the draft predicted the wind farms would create jobs and generate tourism, and it would yield public health benefits, such as an increase in air quality which would in turn reduce asthma, worth \$53 million.⁴² The release of the DEIS was the biggest win that Cape Wind had seen in its history. A report conducted not by Gordon's own people, but rather the United States government, viewed the Cape Wind farm as having few very negative environmental impacts. After the release of the DEIS, the Corps announced that they would hold three meetings to discuss their findings with the public and take questions and opinions before releasing the finalized Environmental Impact Statement.

Public Reaction to the Draft Environmental Impact Statement

While there may have been a momentary lull in the public sphere regarding debates on the Cape Wind project, that was no longer the case on November 10th. Both Clean Power Now and other advocates for Cape Wind finally felt like they had a bit of the upper hand, whereas the Alliance to Protect Nantucket Sound was ready to fight the results of the DEIS and do whatever they could to delay the project further. The first of these hearings took place on Martha's Vineyard, in a local high school auditorium. Most of the hearing attendees belonged to the Alliance to Protect Nantucket Sound, who were ready to challenge the DEIS. Workers for the Alliance had been hired to hand out water bottles and cupcakes. Others flocked to the sign-up table, jotting down members' names in an attempt to monopolize the speakers to all be members from the Alliance. David McCullough, the well-respected historian, had marched out in anger from the auditorium, shouting as he left, "This is visual pollution!" Congressman William Delahunt significantly went beyond his three minutes allotted for each person to voice the Alliance's opinion on the project. In the first meeting, there was little input from what people would consider "locals."⁴³

⁴² Layzer, 438.

⁴³ Williams and Whitcomb, prologue.

The second meeting did not go much better. The Alliance returned with their cupcakes and “save our sound” buttons, but more importantly the Governor of Massachusetts, Mitt Romney, appeared at the hearing. While he emphasized that Nantucket Sound was a national treasure, an idea that many were expecting to hear, he continued saying, “I’ve seen wind farms. They’re not pretty.” and “There are several areas in the Berkshire region where wind farms have recently been approved for land.” He continued to discuss other coastal areas of Massachusetts where wind farms may be more “appropriate.” This comment drew serious criticism, with the headline “Cape Wind: Too Ugly for the Rich?” running the next day.⁴⁴ After seeing all the stops that the Alliance had pulled out for these public meetings, members of Clean Power Now realized they needed to respond in a spectacular fashion to gain access to the podium and the press. Clean Power Now may not have had the money that the Alliance did, but they certainly did have friends.⁴⁵ At the final hearing at MIT, Clean Power Now had members who decided to dress up in old age yachting costumes, chanting things such as, “Cape Wind makes our Blue Blood Boil! Let’s get our power from Middle East Oil!” Others chanted, “Fighting windmills can’t be that hard! Just keep them out of my backyard!”⁴⁶ Finally getting the chance to let their voices be heard, supporters of Cape Wind were able to voice the various benefits they thought the project would bring them. Gordon noticed in this hearing that non-local attendees who expressed support for the Cape Wind project backed their comments with scientific evidence.⁴⁷

⁴⁴ Williams and Whitcomb, 228.

⁴⁵ Williams and Whitcomb, 230.

⁴⁶ Williams and Whitcomb, 232-233.

⁴⁷ Williams and Whitcomb, 236.

Figure 3: Protestors for Clean Power Now



A group of Clean Power Now protesters dressed as yachters highlight the hypocrisy of the Alliance’s arguments.⁴⁸

The Energy Policy Act of 2005

In August 2005, less than a year after the United States Army Corps of Engineers released their DEIS and grappled with around 5,000 public comments, Congress Passed the Energy Policy Act of 2005. The Energy Policy Act was enacted to create grants, tax incentives, and other initiatives to increase renewable energy in the United States. Regarding offshore wind farms, the Energy Policy Act put one specific agency in charge of the permitting process, in the hopes of reducing confusion.⁴⁹ It also established a mechanism whereby the federal government could charge renewable energy projects a fee for the use of federal waters. However, this did not affect Cape

⁴⁸ Williams and Whitcomb, 233.

⁴⁹ Dominic Spinelli, “Historic Preservation & Offshore Wind Energy: Lessons Learned from the Cape Wind Saga,” *Gonzaga Law Review*, Vol. 46 no. 3 (2011): 741-770, <http://blogs.gonzaga.edu/gulawreview/files/2011/09/Spinelli.pdf>.

Wind, which was “grandfathered in” because they had applied for the permit prior to the new legislation being enacted.⁵⁰ Despite all of this good news for Cape Wind, the Energy Policy Act of 2005 did create some more setbacks. It was determined that instead of the Army Corps, the project would be managed by the Department of the Interior, specifically the Mineral Management Service (MMS). The MMS now had the full authority over issuing leases, easements, or rights-of-way for renewable energy projects. The MMS determined that they would be conducting a new Draft Environmental Impact Statement.⁵¹ Cape Wind Associates could do nothing but wait for the new DEIS to be released.

Troubles in Congress

Just one month after the passage of the Energy Policy Act, a Republican Senator from Alaska and the Transportation and Infrastructure Committee Chair, Don Young, was working on a bill that would reauthorize the operations of the United States Coast Guard. While the bill seemed innocent enough, Young was looking to add a “floor manager’s amendment” that would require the Coast Guard to issue an opinion about whether any proposed offshore wind farm would pose a hazard to navigation.⁵² Although this amendment failed to pass, in December the Senator offered another amendment that would “prohibit the establishment of any offshore wind energy facility within 1.5 nautical miles of a shipping channel or commonly used route for a... ferry system”.⁵³ This applied directly to Cape Wind, as the turbines were set to be situated within 1 mile of a ferry path and within 1,500 feet of a shipping lane.⁵⁴ This move received very bad press, especially from the East Coast, where newspapers furiously attacked the Senator. Even though the bill never passed

⁵⁰ Layzer, 439.

⁵¹ Spinelli, 744.

⁵² Williams and Whitcomb, 250.

⁵³ Williams and Whitcomb, 256.

⁵⁴ Layzer, 439.

with this amendment attached, it made Gordon and other Cape Wind supporters nervous, and with good reason.

In April of 2006, Republican Senator Ted Stevens from Alaska proposed adding language that would allow for state leaders to veto a project if they felt that it would obstruct navigation. Once again, the proposed amendment caused significant criticism and many, including the environmental non-profit Greenpeace and the *Boston Globe*, stated that Stevens was proposing this amendment at the behest of fellow senator Ted Kennedy.⁵⁵ Even more outrage came from the New England area when they heard of this proposition. Television ads of Senator Kennedy funded by Greenpeace were run across New England that showed him hitting wind turbines in Nantucket Sound as if it were a game of whack-a-mole.⁵⁶ Finally in May 2006, after the amendment lost what little support it had in Congress, it seemed that keeping the state veto would jeopardize the passage of the entire bill. As a result, it was dropped and a provision that would give the Coast Guard veto power if they felt there were threats to navigation and public safety, was passed instead. Cape Wind proponents could continue to move on without fear of being shut down and wait for the DEIS report to become public.⁵⁷

State Cooperation

While Cape Wind was facing trouble down in Washington D.C, they had success back home in Massachusetts. Even though the wind turbines themselves would be located entirely in federal waters, the transmission cables that move the harnessed wind power from the site and to the homes of the residents would have to travel through the three miles of state waters, meaning that in addition to the federal permits from the MMS, Cape Wind was also required to obtain permits from the state of Massachusetts. As a result, Cape Wind was subject to review under the Massachusetts

⁵⁵ Layzer, 440.

⁵⁶Williams and Whitcomb, 113.

⁵⁷ Layzer, 440.

Environmental Policy Act (MEPA). Much like the National Environmental Policy Act, the Massachusetts Environmental Policy Act requires its own version of an EIS, known as an Environmental Impact Review (EIR). In addition to an EIR, the project was also required to go through the Cape Cod Commission's process known as the Development of Regional Impact (DRI).⁵⁸ In December of 2006, the Massachusetts State Supreme Court held that the cables to connect Cape Wind to the electrical grid were a viable option and could not be shut down.⁵⁹ This was a significant win for Cape Wind, and so long as they could get a favorable DEIS from the MMS, it seemed as though they would finally be able to begin construction sometime soon.

The Mineral Management Service and Their New Draft Environmental Impact Statement

The Mineral Management Service (MMS) had planned to have the new DEIS out by the end of 2006, but this was not the case. Unsurprisingly, they dealt with a variety of delays that resulted in the DEIS not being released until January 18th of 2008.⁶⁰ Overall, the report seemed generally favorable. However, the Mineral Management Service's DEIS also acknowledged that the turbines would likely create some sort of visual hazard. This was something that Cape Wind Associates had expected to hear. Like the first Draft Environmental Impact Statement conducted by the Army Corps of Engineers, the MMS scheduled several dates for the public to comment on what had occurred. The public comment period for the new DEIS was set for March 2008, and much like the last time, thousands of people turned out to give their opinion on Cape Wind. Clean Power Now had their members turn out in large numbers, with someone even dressing as a polar bear and singing, "All we are saying is give wind a chance!" In addition, the Alliance had decided to join in on the costume game and had "Pirate Jim" who was taking Nantucket Sound from the people "without

⁵⁸ Danielle E. Horgan, "Reconciling the Past with the Future: The Cape Wind Project and the National Historic Preservation Act," *Vermont Law Review* vol. 36 (2011): 409-432, <https://lawreview.vermontlaw.edu/wp-content/uploads/2012/02/16-Horgan-Book-2-Vol.-36.pdf>.

⁵⁹ Layzer, 441.

⁶⁰ Horgan, 411.

paying a dime.”⁶¹ Some families even came from Appalachian West Virginia, where mountaintop removal is the most popular form of mining. The coal that was generated from the mountaintop removal is the same coal that is used in the power plants surrounding Cape Cod. They came to the meetings to beg members of the Cape to “be our heroes” and allow the offshore wind farm to be created so they could have access to clean water. They also begged for the creation of wind farms so they would no longer be at risk of losing their house from mountaintop removal.⁶²

Despite these dramatics, there was significant progress made in this round of public hearings. The MMS learned of new groups that were officially opposing Cape Wind. Fishermen came to the hearing in large numbers, saying that they were worried about the statistics that the DEIS had regarding fish and conch landings in particular.⁶³ Another group that came to the hearings to express their displeasure was the Mashpee and Aquinnah Wampanoag tribes. These tribes were concerned about how the turbines would impact their spiritual practices, because they required an unobstructed view of the sunrise. The tribes claimed that the MMS did not engage in government-to-government consultation in the way they are supposed to under federal law. Because they are Native American Tribes, they have status in the United States as sovereign nations.⁶⁴ After the MMS investigated this claim and updated their DEIS on January 16th, 2009, they released their Final Environmental Impact Statement (FEIS), which indicated that the impacts from Cape Wind were expected to be “negligible.”⁶⁵ The Wampanoag tribes were unhappy with this decision. In October of 2009, they decided to request that the Nantucket Sound be placed on the National Register of Historic Places. After evaluating the request, the National Park Services agreed, and in

⁶¹ Gemmel, 38:00.

⁶² Gemmel, 38:00.

⁶³ Layzer, 444.

⁶⁴ Layzer, 444.

⁶⁵ Horgan, 420.

January of 2010, Cape Wind automatically became subject to more review processes, this time under the National Historic Preservation Act.⁶⁶

The National Historic Preservation Act

The National Historic Preservation Act (NHPA) was created to ensure that federal agencies fully evaluate the impact that a new project could have on a site that is considered historic in some form. The Wampanoag tribes are also known as, “The people of first light,” and they were able to place Nantucket Sound on the National Register of Historic Places by making multiple claims. Not only did they state their spiritual traditions require an uninterrupted view of the sunrise, but they also stated that the shallow sands of Horseshoe Shoals are host to an ancient Native American burial ground. The Wampanoag tribes state that their oral history discusses their ancestors buried in these sands. There was debate regarding the evidence of these claims, as Cape Wind claimed that they had been required to take sediment samples of Horseshoe Shoal years before these claims were made, and there was no evidence of life.⁶⁷ Despite this, the tribes still need the unobstructed view of the sun for sun ceremonies, and the National Park Service agreed to have it listed as a site. The NHPA has various responsibilities, including authorizing new sites to the National Register of Historic Places as well as maintaining old ones, establishing what is known as the Section 106 review process. This results in stewardship obligations to preserve historic sites that are owned by the federal government.⁶⁸

Because of the new placement on the National Register of Historic Places, Nantucket Sound and the Cape Wind project were subject to the Section 106 review process. The Section 106 process has been described by some courts as a “stop, look, and listen” process, as well as the “regulatory

⁶⁶ Spinelli, 747

⁶⁷ Evan Lehmann, “Pioneering Wind Farm Faces Another Delay, this Time Over Indian Sites,” *New York Times*, October 5th, 2009, <https://archive.nytimes.com/www.nytimes.com/cwire/2009/10/05/05climatewire-pioneering-wind-farm-faces-another-delay-thi-73053.html>.

⁶⁸ Spinelli, 750.

heart of the NHPA”.⁶⁹ The Advisory Council on Historic Preservation established a four-step process for Section 106 compliance. Two of these bullets state, [OBJ]

To successfully complete Section 106 review, federal agencies must do the following:

determine how those historic properties might be affected; explore measures to avoid or reduce harm (“adverse effect”) to historic properties; and reach agreement with the SHPO/THPO (and the ACHP in some cases) on such measures to resolve any adverse effects or, failing that, obtain advisory comments from the ACHP, which are sent to the head of the agency.⁷⁰

Almost automatically, Cape Wind satisfied the first two bullet points. Under the NHPA, Cape Wind is considered a federal undertaking because it is encompassed in the definition as, “a project, activity, or program ... under the direct or indirect jurisdiction of a federal agency... and those requiring a federal permit, license or approval”.⁷¹ Similarly, as the Nantucket Sound was just placed on the register, Cape Wind now impacts a property directly on the register. Now under Section 106, the two parties, the Wampanoag tribes, and Cape Wind, were required to meet with the MMS in order to discuss and try to decide on appropriate mitigation efforts.

These meetings did not go smoothly, and there were a total of eight Section 106 meetings between the two groups between January 1st, 2010, and March 1st, 2010.⁷² When March 1st approached with no solution being agreed to by either side, the Department of the Interior Secretary, who oversees the MMS, concluded that the decision would need to instead be made by the head of the agency after receiving comments from the Advisory Council of Historic Preservation. On April 2nd, 2010, the Advisory Council recommended to the Interior Secretary Ken Salazar that the Cape Wind plan be rejected. The council concluded that the impact would be “pervasive, destructive... and permanent” and that the damage at the site “cannot be adequately mitigated.”⁷³

⁶⁹ Dominic Spinelli, 756.

⁷⁰ “Protecting Historic Properties: A Citizen’s Guide to Section 106 Review.” *Advisory Council on Historic Preservation*. April 2016. https://www.achp.gov/sites/default/files/documents/2021-01/CitizenGuide2021_011321.pdf

⁷¹ Dominic Spinelli, 760.

⁷² Spinelli, 760.

⁷³ Layzer, 447.

Despite the recommendation, Salazar decided to issue a positive “record of decision” at the end of April, meaning that the MMS and the Department of the Interior were intending to sign the lease for Cape Wind. In a statement, Salazar said, “I find that the public benefits weigh in favor of approving the Cape Wind project at Horseshoe Shoal.”⁷⁴ Finally, after almost 10 years of waiting, Cape Wind obtained its lease to start construction in Horseshoe Shoal. Towards the end of October of 2010, Secretary Salazar, under the Bureau of Ocean and Energy Management (BOEM), signed a twenty-eight-year lease with Cape Wind Associates.⁷⁵ Predictably, there was backlash from many different groups responding to this news.

Legal Actions Taken

During the 17 Years that the Cape Wind advanced through the regulatory approval process, opponents of the project were able to use the different regulations required by a variety of government agencies discussed above to create legal battles and continuously delay the Cape Wind project. There were legal battles that began in 2003 when the project was first seeking a permit from the Army Corps of Engineers, and others that ended in 2016, just one year before Gordon officially filed for bankruptcy.

The first official legal action taken against Cape Wind was brought by the Ten Taxpayers Citizen Group. They described themselves as a group of citizens who “resides in Barnstable County and has great familiarity with the Horseshoe Shoal and Nantucket Sound, and has economic, as well as environmental interests in preserving the integrity of the seabed, water, and airspace over the said Shoal.”⁷⁶ The Ten Taxpayers claimed that Cape Wind Associates should not be allowed to construct the data tower without approval from the Commonwealth of Massachusetts. As described earlier, Horseshoe Shoal is located approximately five miles from the shore. In the *United States v. Maine*

⁷⁴ Spinelli, 766.

⁷⁵ Layzer, 448.

⁷⁶ Timothy H. Powell, 2035.

Supreme Court case, it was established that not only is the water of the Atlantic Ocean under federal regulation when three miles from the coast, but the seabed is as well. It is also confirmed in these cases that Horseshoe Shoal and the rest of the Nantucket Sound falls under these rules.⁷⁷ This allows for the Cape Wind data tower to be secured to the ocean floor. The Ten Taxpayers Citizens Group cited the 1983 amendment to the Magnuson-Stevens Fishery Conservation and Management Act as a reason that the Commonwealth of Massachusetts has regulatory authority over the entire Nantucket Sound fishery, which includes Horseshoe Shoal. The amendment states,

“For the purposes of this chapter... the jurisdiction and authority of a State shall extend -- (A) to any pocket of waters that is adjacent to the State and totally enclosed by lines delimiting the territorial sea of the United States...; [and] (B) with respect to the body of water commonly known as Nantucket Sound, to the pocket of water west of the seventieth meridian west of Greenwich”.⁷⁸

Under Title 310 of the Code of Massachusetts Regulations, which states that applications for any construction or placement of new structures must get a license from the State, the Ten Taxpayers argued that Cape Wind Associates should not be allowed to construct the data tower without this approval. On August 19th, 2003, the Massachusetts State court disagreed. They explained that the Magnuson Act only delegates authority to the state regarding who may fish, by what means they fish, and how much they may fish. Even though the Ten Taxpayers feel that the data tower may be harmful to the fish, the Magnuson Act does not apply to protection for the fish.⁷⁹

The Alliance to Protect Nantucket Sound also tried to use the court system to prevent the building of the data tower. They argued that the United States Army Corps of Engineers acted unlawfully in issuing a permit for the data tower to Cape Wind. They determined that the United States Army Corps did not have the authority to issue a permit for the data tower because the tower did not involve any extraction of resources from the seabed. The Corps issued a permit to Cape

⁷⁷ *Ten Taxpayers Citizen Group v. Cape Wind Associates*, 278 F. Supp. 2d 98 (D. Mass. 2003)

⁷⁸ *Ten Taxpayers Citizen Group v. Cape Wind Associates*.

⁷⁹ *Ten Taxpayers Citizen Group v. Cape Wind Associates*.

Wind under section 10 of the Rivers and Harbors Appropriation Act of 1899. Section 10 states that “a permit from the... Corps... is required for the installation of any structure in the navigable waters of the United States.”⁸⁰ The term “navigable waters” does not include the seabed where the tower would be secured. However, the Outer Continental Shelf Lands Act (OCSLA) extends the Corps’ section 10 authority to include the outer continental shelf, also known as the seabed.⁸¹

In 1978, there was an amendment to the OCSLA, that stated that the Corps had authority for structures with the purpose of “exploring for, developing, or producing resources therefrom,” meaning that the Corps had authority for structures that were extracting resources.⁸² The Alliance to Protect Nantucket Sound argued that because of this 1978 amendment, the Corps now only had authority for structures related to extracting resources, and therefore the issuance of the permit was unlawful. The court once again sided with Cape Wind and stated that the 1978 amendments were not intended to alter the Corps’ jurisdiction regarding the seabed, rather the purpose was to extend their authority to include a broader reference to “fixed structures.” In addition, the court stated that since Congress amended the OCSLA, the interpretation of the amendment has consistently given the Corps jurisdiction over all installations on the seabed, regardless of their purpose. Congress itself explicitly stated that it had no intention of limiting the authority of the Corps of Engineers with the amendment.⁸³

In addition, the Alliance to Protect Nantucket Sound also argued that the Corps failed to follow its obligations under the National Environmental Policy Act (NEPA). NEPA requires that when construction is going to occur, an Environmental Assessment (EA) is conducted, and the environmental impact is assessed. If there is a Finding of No Significant Impact (FONSI), there is

⁸⁰ *Alliance to Protect Nantucket Sound v. U.S. Dept. of Army.*

⁸¹ *Alliance to Protect Nantucket Sound v. U.S. Dept. of Army.*

⁸² *Alliance to Protect Nantucket Sound v. U.S. Dept. of Army.*

⁸³ *Alliance to Protect Nantucket Sound v. U.S. Dept. of Army.*

no requirement for an Environmental Impact Statement (EIS) to be prepared. However, if a FONSI cannot be produced, then an EIS must begin to be drafted.⁸⁴ The Alliance argued that because they did not make the Environmental Assessment and the FONSI public, there was a violation of NEPA. The CEQ states that there are limited circumstances when the agency must make the FONSI public, and one of those circumstances is when the proposed action is without precedent. The Alliance argued that the construction of the data tower in Nantucket Sound constituted “without precedent,” but because it was a temporary structure this was not the case. Similarly, the court concluded that a similar structure was authorized off the coast of Martha’s Vineyard, as well as other similarly-constructed piers along the coast, so the Cape Wind data tower was not unprecedented at all, and therefore they were under no obligation to release the Environmental Assessment and FONSI.⁸⁵ And, as seen earlier, the Army Corps did provide a period for public comment when it first announced they were going to consider Cape Wind. On September 18th, 2003, Cape Wind won their second lawsuit, and the construction of the data tower was allowed to commence.

After the Energy Policy Act of 2005, there was a new agency in charge of Cape Wind and its permitting process. Cape Wind was now under the jurisdiction of the Secretary of the Interior and the Bureau of Ocean and Energy Management (BOEM). In response to the decision by Secretary Salazar and the BOEM to sign the construction lease for Cape Wind and allow them to begin construction of the turbines, many different groups began to file suits against Cape Wind Associates as well as the BOEM as an agency. The two Wampanoag tribes were set to file against Secretary Salazar and the entire BOEM agency. Other groups wanted to file suit as well. The Alliance to Protect Nantucket Sound as well as a group known as Public Employees for

⁸⁴ “National Environmental Protection Act: Section 1501.4.” *United States Congress*.
<https://casetext.com/regulation/code-of-federal-regulations/title-40-protection-of-environment/chapter-v-council-on-environmental-quality/subchapter-a-national-environmental-policy-act-implementing-regulations/part-1501-nepa-and-agency-planning/section-15014-categorical-exclusions>.

⁸⁵ *Alliance to Protect Nantucket Sound v. U.S. Dept. of Army*

Environmental Responsibility intended to sue as well.⁸⁶ On July 6th, 2011, the Wampanoag tribes filed suit in the U.S. District Court for the District of Columbia against the BOEM and Secretary Ken Salazar specifically. The tribe claims that the Section 106 review process was not conducted effectively, because it failed to conduct the meaningful government-to-government consultation with the tribe that is required under Section 106 of the National Historic Preservation Act. They go on to state that the Massachusetts' Office of the State Historical Preservation, the National Park Service, the National Register of Historic Places and the Advisory Council on Historic Preservation were all in agreement that Nantucket Sound deserved a place on the National Register for Historic Places.⁸⁷ They similarly argued that when the Advisory Council on Historic Preservation made their recommendations to Secretary Salazar, they had pointed out that the review process for Cape Wind and the Nantucket Sound was flawed. They included several claims in these comments, such as “Section 106 was initiated late in the review process” as well as that “tribal consultation under Section 106 as conducted by the Corps and by MMS was tentative, inconsistent, and late.”⁸⁸ The tribes argued that this did not constitute “meaningful government-to-government consultation,” and as a result the approval of the Cape Wind farm could not be allowed to continue.

Since there were so many groups and people looking to file against Cape Wind, ultimately the claims that were considered the most legitimate were consolidated into one larger case. The case of the Aquinnah Wampanoag tribe was dropped from this larger case, and as a result their claims against the BOEM and Secretary Salazar were dropped as well. Among the other groups planning to take action against Cape Wind were the Town of Barnstable, Massachusetts, the Alliance to Protect

⁸⁶ *TOWN OF BARNSTABLE, MASSACHUSETTS, ET AL., APPELLEES V. ABIGAIL ROSS HOPPER, ACTING DIRECTOR, U.S. BUREAU OF OCEAN ENERGY MANAGEMENT, ET AL., APPELLEES* No. 14-5301.

⁸⁷ https://infoweb.newsbank.com/apps/news/document-view?p=WORLDNEWS&t=pubname%3AICTON%21Indian%2BCountry%2BToday%2B%2528Oneida%252C%2B%2BNY%2529&sort=YMD_date%3AD&fld-base-0=alltext&maxresults=20&val-base-0=%22Cape%20Wind%22&docref=news/1887FFAAB509D1E0.

⁸⁸ Spinelli, 766

Nantucket Sound, and Public Employees for Environmental Responsibility. In the full case that was sent to the United States Court of Appeals, District of Columbia Circuit, the opponents of the project argued that the government violated various federal statutes, including NEPA, the Shelf Lands Act, NHPA, the Migratory Bird Treaty Act, the Endangered Species Act, and the Coast Guard and Maritime Transportation Act.⁸⁹ In the end, on July 5th, 2016, the Court ruled that the Bureau and Cape Wind violated NEPA and the Endangered Species Act.

The plaintiffs argued that BOEM did not obtain “sufficient site-specific data on seafloor and subsurface hazards” for Nantucket Sound. Because of that, it was argued that this violated NEPA. In previous court decisions, the rulings provided that agencies “must take a ‘hard look’ at the environmental consequences.” According to the plaintiffs, the Bureau’s 2009 FEIS was arbitrary and capricious because the seafloor hazards were not assessed adequately.⁹⁰ They cite evidence in the form of emails between the BOEM’s geologist, Richard Clingan, and the BOEM’s Cape Wind project manager, Rodney Cluck. In these emails, Clingan states that “[t]here is no indication that [Cape Wind] ha[s] adequate data to address” various geological hazards, and that Cape Wind's surveys “don't seem to conform (even loosely) to the ‘Guidance Notes on Site Investigations for Offshore Renewable Energy Projects,’” This evidence was damning for Cape Wind and the Bureau. As a result, the Court ruled that before Cape Wind could begin construction on the turbines, they must supplement the FEIS with adequate geological surveys.⁹¹

⁸⁹ *Public Employees for Environmental Responsibility, et al., Appellants Town of Barnstable, Massachusetts, et al., Appellees v. Abigail Ross Hopper, Acting Director, U.S. Bureau of Ocean Energy Management, et al., Appellees*, No. 14-5301.

⁹⁰ *Public Employees for Environmental Responsibility, et al., Appellants Town of Barnstable, Massachusetts, et al., Appellees v. Abigail Ross Hopper, Acting Director, U.S. Bureau of Ocean Energy Management, et al., Appellees*, No. 14-5301.

⁹¹ *Public Employees for Environmental Responsibility, et al., Appellants Town of Barnstable, Massachusetts, et al., Appellees v. Abigail Ross Hopper, Acting Director, U.S. Bureau of Ocean Energy Management, et al., Appellees*, No. 14-5301

Regarding the Endangered Species Act, the plaintiffs argued that it was the Fish and Wildlife Service that violated it. In their original draft statement to Cape Wind and the Bureau, the Fish and Wildlife Service stated that the turbines would pose potential threats to two endangered species: the roseate tern and the piping plover. To attempt to mitigate these damages, the Fish and Wildlife Service stated that during times of poor visibility, the turbines could be turned off to reduce the risk of collisions between these birds and the turbines.⁹² Cape Wind and the Bureau objected to this recommendation because it would cause the turbines to be off for too many days of the year, so they requested that the recommendation for turning off the turbines be deleted. The Fish and Wildlife Services complied with this request. Because the Fish and Wildlife Service failed to make an “independent determination” about the impacts that Cape Wind would have on the species of Nantucket Sound, they were found to be in violation of the Endangered Species Act.⁹³ Despite this decision, the courts understood that the value of the renewable energy source was so great, that despite these missteps, so long as the BOEM and Cape Wind revised the Final Environmental Impact Statement, the project would be allowed to be built. Similarly, because the Fish and Wildlife service stated that there would only be “potential” risk to the two endangered species, it was decided that benefits outweigh the potential risks. After determining these parameters, the BOEM and Cape Wind had their signed lease allowing them to finally begin the construction of the turbines. The elite members of society who lived on the Cape were funding these court cases that essentially halted construction of Cape Wind for six years, causing the company millions of dollars without any construction of the wind farms having been completed.

⁹² *Public Employees for Environmental Responsibility, et al., Appellants Town of Barnstable, Massachusetts, et al., Appellees v. Abigail Ross Hopper, Acting Director, U.S. Bureau of Ocean Energy Management, et al., Appellees*, No. 14-5301

⁹³ *Public Employees for Environmental Responsibility, et al., Appellants Town of Barnstable, Massachusetts, et al., Appellees v. Abigail Ross Hopper, Acting Director, U.S. Bureau of Ocean Energy Management, et al., Appellees*, No. 14-5301

The End of Cape Wind

Because the court cases against Cape Wind were originally filed in 2011 and 2012 and the case was not decided until mid-2016, Cape Wind was not allowed to begin construction until the cases were decided. When Cape Wind received their lease signed from the BOEM, they also signed contracts with both National Grid and NStar stating that they would begin construction of the turbines by the end of 2014. Because they were still tied up in their court case, the construction did not take place. So, in January of 2015, when no turbines had been built and no construction had started, both companies terminated their contracts with Cape Wind.⁹⁴ This was the beginning of the end for Cape Wind. In February of 2015, Cape Wind requested a two-year suspension of the operations terms of its lease with BOEM.⁹⁵ After the court case had been decided in July of 2016, Cape Wind once again needed to wait before beginning construction. This time, they needed the FEIS supplement regarding the geological survey of the seafloor to be completed. In June of 2017, Cape Wind submitted a request for another two-year suspension of the operations terms as well as a suspension of their payment requirements.⁹⁶ After waiting for one year, in July of 2017 the BOEM had released the report saying that after additional testing,

“The geology of the affected environment of the Cape Wind Project area has not changed for this Final SEIS. Additional geotechnical information reported as part of the revisions to the COP, FDR, and FIR confirmed that the original survey information was valid, and the foundation design and installation methods proposed were appropriate.”⁹⁷

⁹⁴ Layzer, 449.

⁹⁵ “Cape Wind Archived | Bureau of Ocean and Energy Management,” *BOEM*, October 2019, <https://www.boem.gov/renewable-energy/studies/cape-wind-archived>.

⁹⁶ “Cape Wind Archived | Bureau of Ocean and Energy Management,” *BOEM*, October 2019, <https://www.boem.gov/renewable-energy/studies/cape-wind-archived>

⁹⁷ “Cape Wind Archived | Bureau of Ocean and Energy Management,” *BOEM*

Despite this good news, Cape Wind no longer had the funds to complete the project. From the beginning, Jim Gordon had very few investors, and they had all pulled out after January of 2015, when Cape Wind failed to begin building by the deadline of December 31st, 2014.

On December 19th, 2017, Jim Gordon announced that after 16 years of fighting to get offshore wind power off the coast of the Cape, he was officially “pulling the plug” on Cape Wind. Over the course of those 16 years, Gordon had spent over \$100 million of his own money. In an interview with the *New York Times*, Gordon stated, “In my wildest imagination, I never envisioned just how exhaustive, how time consuming and how expensive this would be.”⁹⁸ Cape Wind had 16 years of endless legal battles, regulation delays, and public discourse. Its extensive timeline confirms that there were battles to defeat Cape Wind since it was announced in August of 2001, and the same month a well-funded opposition group was created with the sole purpose of destroying it.

The following chapter will discuss the public opinion regarding the favorability of Cape Wind, and how this opinion evolved over time. In addition, there will be an examination of the Cape Wind project gaining national attention through op-eds in well-known papers such as the *New York Times*.

⁹⁸ Seelye, Katharine Q. “After 16 Years, Hopes for Cape Wind Farm Float Away.” *New York Times*, December 19th, 2017. <https://www.nytimes.com/2017/12/19/us/offshore-cape-wind-farm.html>.

Chapter 3: The Evolution of Public Opinion

Introduction:

“If Nantucket Sound becomes an industrial, electrical generation area, then it’s no longer the national treasure that people feel it is. We look at this as our wilderness, our national park.”⁹⁹ This was the reaction of some residents of the Cape when they first heard of the Cape Wind Proposal. As the project progressed and more information was made available, the opinion of the public began to shift more toward acceptance of the turbines and the associated decrease in energy costs that they would bring as well as the benefits for the environment. Regardless, there were still many citizens who remained adamantly opposed to the project until the day it was canceled. This chapter summarizes the evolution of public opinion regarding the construction of Cape Wind from its proposal in August 2001 to its cancellation in December of 2017. The chapter will not focus on wealthy elites who donated thousands of dollars to the Alliance to Protect Nantucket Sound, or even Clean Power Now. The opinions to be discussed in this chapter come from average citizens of Cape Cod and the greater state of Massachusetts.

The First Years

As detailed in previous chapters, when Jim Gordon announced his plan to place wind turbines in the middle of the Nantucket Sound, there was immediate backlash, and the Alliance to Protect Nantucket Sound was formed. They automatically had several thousand dollars that could be put to immediate use from donors such as Pulitzer Prize winner David McCullough, William Koch of Koch Industries, and other notable donors mentioned in Chapter 1. The most pressing issue for the Alliance was to draw public support away from the idea of a new renewable energy site, and toward their cause of delaying the project until its cancellation. This was accomplished by creating lawn signs and an infomercial about the potential impacts of Cape Wind that would be played

⁹⁹ Layzer, 430.

across Massachusetts. The advertisement called Nantucket Sound a “163-square-mile sanctuary” despite the fact that the Sound had been denied sanctuary status. It also showed whales diving through waters made to look like Nantucket Sound even though whales had not been frequenting the Sound for decades at that point.¹⁰⁰

Figure 4: A Lawn Sign Created by the Alliance to Protect Nantucket Sound



These lawn signs were provided by the Alliance for free to the public¹⁰¹

In addition to the idea of the marine sanctuary being disrupted, another worry that pitted the people of Massachusetts against the idea of Cape Wind was the safety of the birds. A 2001 study conducted by the Fish and Wildlife Services found that over 20% of Americans, 46 million, considered themselves to be bird watchers.¹⁰² In early 2002, the idea of “save the birds” became a rallying cry for those against the wind farm, and Gordon was framed as a villain whose project was going to ruin not only a national pastime, but also an important tourist attraction of the Cape, as it is

¹⁰⁰ Williams and Whitcomb, 145.

¹⁰¹ William Kempton et al., 126.

¹⁰² Williams and Whitcomb, 78.

a well-known spot of seashore bird watching.¹⁰³ Members of the Massachusetts Audubon Society raised concerns at a 2002 public hearing regarding the safety of the birds. Jack Clarke is the director of advocacy for the Massachusetts Audubon society, and he described a situation in Altamont, California, where many birds were dying as a result of collisions with wind turbines. He stated, “Altamont illustrated that if large numbers of turbines are placed in an area where there are many birds, birds will collide with the turbines.”¹⁰⁴ He was particularly concerned with the endangered birds who resided in the Cape, particularly the Roseate Tern and the Piping Plover. After listening to these concerns, Gordon hired a variety of leaders in the field to conduct further research on the impacts that the wind turbines would have on the wildlife in the Nantucket Sound, as well as the government-funded Environmental Impact Statement (EIS) that would be released in 2004.

After the Draft Environmental Impact Statement was released in early November of 2004, the Army Corps held a public hearing in December to hear the views of the public. Between the first article released about Cape Wind in 2001 and the Army Corps hearing in 2005, the public had years to solidify their opinions and develop strategies either in support or opposition to the project. Both Clean Power Now and the Alliance to Protect Nantucket Sound had members who were committed to the cause, and both of them were present at the Army Corps meeting. An article in the *Cape Cod Times* summarized the debate stating that well over 1,000 people were in attendance, including Governor Mitt Romney. There were 300 people who had signed up to speak at the debate, but not all got the chance, due to the volume. According to the *Cape Cod Times*, out of the total number of people to speak at the debate, the majority of them were opposed to the project. Despite this, there

¹⁰³ Williams and Whitcomb, 79.

¹⁰⁴ The Cape Cod Times, “Editorials: Wrong Place for a Wind Farm,” *Cape Cod Times*, January 20th, 2002, <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/0F6ABC4B47764F17>.

were equal numbers of supporter and opponents in attendance.¹⁰⁵ Those who spoke brought up a wide variety of topics. Many raised concerns about potential oil spills into the Sound during the construction period of the wind farm. There were also the well-known concerns about the impact of the turbines on both the view and the many varieties of wildlife that live in the Nantucket Sound. However, as the Army Corps stated in its DEIS, these impacts were found to be negligible.¹⁰⁶ Proponents of the wind farm made their feelings about the concerns of the view well-known. One supporter even created a song that highlighted the importance of wind energy and also created the image that worrying about the impact on the view was self-centered.¹⁰⁷

After this first hearing, tensions surrounding the Cape Wind project increased significantly. People began to seriously start submitting their ideas to various local and regional newspapers to get their voices heard and try to shape the debate. One columnist from the *Boston Globe* wrote an op-ed in which she attacked Mitt Romney and others who owned property on the coastline and were opposed to the project. She continued to discuss what she viewed as the tentative plan of increasing funding against Cape Wind in order to ensure that the turbines are not successfully constructed in Nantucket Sound. She paints these views in a negative light and states that the only reason these members of society have opposition to the wind farm are not because of the damage that it would inflict on the environment or even the economic impact it could have on people such as local fishermen. Rather, she states that the wind farm upsets the views from their mansions, which is why they are upset.¹⁰⁸

After the Energy Policy Act of 2005

¹⁰⁵ John Leaning, "People Pack Wind Farm Forum in Yarmouth," *Cape Cod Times*, December 8, 2004, <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/1072689A1E921F85>.

¹⁰⁶ Leaning "People Pack Wind Farm Forum in Yarmouth".

¹⁰⁷ Leaning.

¹⁰⁸ Joan Vennoch, "Cape Wind: Too Ugly for the Rich?," *Boston Globe*, December 14, 2004, http://archive.boston.com/news/globe/editorial_opinion/oped/articles/2004/12/14/cape_wind_too_ugly_for_the_rich/.

After the Draft Environmental Impact Statement hearings, The United States Army Corps of Engineers decided that Cape Wind would move forward, and a more detailed EIS was going to be released at a later date. However, as previously discussed, in August of 2005, the Energy Policy Act was signed, and the responsibility of presiding over the Cape Wind project now fell to the Department of the Interior, specifically the Mineral Management Service (MMS). The MMS determined that they wanted to conduct their own EIS, which would be much more detailed than its predecessor. This new EIS would not be released until January of 2008. In the three years between the release of the original Draft Environmental Impact Statement and the new Environmental Impact Statement by the MMS, there was a significant shift in the public opinion that favored the approval of Cape Wind.

Throughout the history of the project, both Cape Wind and the Alliance to Protect Nantucket Sound had conducted their own surveys on the project, in an attempt to use the statistics to boost their position and try to convince the general public. However, in February of 2004, approximately one month after the public hearings, the *Cape Cod Times* and WCAI Radio conducted a random phone survey of 588 voters from Cape Cod, Nantucket Island, and Martha's Vineyard regarding Cape Wind. This survey was the most objective of the time because it was conducted by news organizations. In February 2004, *The Cape Cod Times* and WCAI radio station surveyed 588 voters from Cape Cod, Nantucket Island and Martha's Vineyard. The survey asked respondents whether they "favor or oppose the "Cape Wind" project to construct windmills on Nantucket Sound." Of those who responded, 44% stated that they were in favor, 21% were opposed, 20% declined to answer, and 16% were undecided.¹⁰⁹ In additions to surveys, there were also interviews conducted where residents of Massachusetts were asked their views on Cape Wind, and the responses were

¹⁰⁹ Willett Kempton, Jeremy Firestone, Jonathan Lilley, Tracy Rouleau & Phillip Whitaker (2005) The Offshore Wind Power Debate: Views from Cape Cod, Coastal Management, 33:2, 128, DOI: [10.1080/08920750590917530](https://doi.org/10.1080/08920750590917530).

enlightening, as they showed what the general public was concerned with. The surveys revealed that sometimes the issues that groups such as the Alliance to Protect Nantucket Sound raised were not in line with the issues that a majority of the population identified as most important. For example, many locals were concerned with what the wind farm was going to do to their ability to fish in Nantucket Sound, especially because fishing was the livelihood of so many people.¹¹⁰ This concern was not included in the Alliance to Protect Nantucket Sounds main argument, as those who are fishermen are not in the economic position to donate thousands of dollars to the cause. Besides reducing pollution, one concept that was continually discussed among respondents who were in favor of Cape Wind was decreasing the U.S dependence on foreign oil, especially because the Cape Wind debate was taking place in the years directly after 9/11. One respondent stated,

“I see a need for all kinds of alternative energy sources. One of the reasons my son’s over there in Iraq currently is basically because of oil. They can say what they will about it but, one of our concerns about over there is that if we don’t control it, [pause] we just don’t want to lose it. That’s basically one of the reasons that we’re there. Alternate sources of energy to me are something that’s really critical. (CP9)”¹¹¹

Responses such as these highlight concerns that aren’t always considered by the media when reporting on the topic.

In a survey that was conducted by the Civil Society Institute in 2007, results revealed that of the 501 adults surveyed, 61% of the residents of the Cape and the surrounding islands supported the construction of Cape Wind.¹¹² It is important to examine such a dramatic shift in public opinion over just three years. It is noteworthy that one op-ed that was written by Robert F. Kennedy Jr had a considerable impact on public opinion. On December 16th, 2005, just a few days after the public hearings about the Draft Environmental Impact Statement from the Army Corps, the article “An Ill

¹¹⁰ Kempton, Firestone, Lilley, Rouleau & Whitaker,131.

¹¹¹ Kempton, Firestone, Lilley, Rouleau & Whitaker,139.

¹¹² Civil Society Institute, “Cape Wind: What Cape Cod/ Island Residents Think,” Civil Society Institute, October 25, 2007, <http://www.civilsocietyinstitute.org/reports/10250%20CSI%20Cape%20Wind%20survey%20FINAL.pdf>.

Wind Off Cape Cod” was printed in the *New York Times*. While the Cape Wind project had been in the news in Massachusetts and greater New England for a few years, this was the first time that many beyond this region first heard of Cape Wind and the concept of an offshore wind farm in the United States. Having a liberal member of the Kennedy family complain about the wind farms in such a public manner translated into good news for Cape Wind Associates, but detrimental to the Alliance to Protect Nantucket Sound. Kennedy begins his article by stating that he is not against wind power so long as it is in the right area. From there, he attacks every possible component of a wind farm, regardless of where they are placed. He states that the turbines pose a danger to birds who fly overhead, and that the construction of the wind farm would ultimately be detrimental to sea life. This particular argument undermines his initial statement saying he is supportive of offshore wind in general. Regardless of where an offshore wind farm is sited, there will always be a potential impact to sea life.¹¹³ Since Kennedy, a self-proclaimed environmentalist, now criticized a powerful form of renewable energy, his ideas were not well received. People immediately began attacking his position, stating that the only reason he opposed the project is because the Kennedy estate was located on the coast of Cape Cod and he and his family sailed in the Sound.

After reading Kennedy’s op-ed, grassroots environmentalists across college campuses as well as groups such as Greenpeace USA, the Sierra Student Coalition, and the Chesapeake Climate Action Network signed a letter addressed to Kennedy urging him to reconsider his position on Cape Wind.¹¹⁴ There were others who had a problem with the way Kennedy made the argument that the view off the coast of Cape Cod was more valuable than other areas. One Cape Cod letter writer, described Kennedy’s piece as a “stab in the eye of environmental justice” because he suggested

¹¹³ Robert F. Kennedy Jr., “An Ill Wind Off Cape Cod,” *New York Times*, December 16, 2005, <https://www.nytimes.com/2005/12/16/opinion/an-ill-wind-off-cape-cod.html>.

¹¹⁴ Codder, The Cape, “Letter: Saving Environment Means Tradeoffs.” *Cape Codder, The (Orleans, MA)*, January 20, 2006, *NewsBank*, <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/125B97B337EFA038>.

that the wind farm should block someone else's view.¹¹⁵ The Environmental Protection Agency defines environmental justice as “the fair treatment... of all people regardless of race, color, national origin, or income with respect to... environmental laws, regulations, and policies.”¹¹⁶ By suggesting that Nantucket Sound was the wrong place for a wind farm because it would mar the view and the idea that it should be placed instead in a less exclusive location goes against the principles of environmental justice, which Kennedy claimed to support.

Other members of the public used op-ed space in local papers to fact-check some of the claims that Kennedy made against Cape Wind in his *New York Times* article. One author of a letter to the editor entitled, “Give me a Break, RFK Jr.,” tells people to simply look at the Draft Environmental Impact Statement as it refutes many of his points. He uses the DEIS to refute Kennedy's concerns about the impact on the birds as well as concerns about the toxicity of the oil stored in the turbines. The letter states,

“I believe Kennedy knows all of this, but does not like the idea of seeing a wind farm, in clear weather visible a half inch above the horizon, occupying a bit of his view from the Kennedy Compound. Property values near other offshore wind farms have increased; so has tourism. I cannot imagine what he is worried about, unless it is the likelihood of fewer campaign contributions from others with waterfront property on the Sound.”¹¹⁷

One community member who responded to Kennedy's article discussed the specific argument he made that the noise from the turbines would be heard onshore. The author of this letter to the editor, Charles Komanoff, had spent time in upstate New York measuring the noise that comes from wind turbines, and stated that the windmills located offshore would register at less than 30 decibels. In fact, 30 decibels is the equivalent of the sound of a whisper from 40 feet away. This sound would be

¹¹⁵ Chuck Kleekamp, "All Ocean Views are Valuable: Guest Commentary," *The Register (Yarmouthport, MA)*, January 12, 2006: 015, *NewsBank: Access World News – Historical and Current*, <https://infoweb-newsbank-com.ezproxy.trincoll.edu>.

¹¹⁶ Environmental Protection Agency, “Learn About Environmental Justice,” *EPA*, September 6th, 2022, <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.

¹¹⁷ Lesley Miller, "Letter: Give Me a Break, RFK Jr.," *Register, The (Yarmouthport, MA)*, January 19, 2006, *NewsBank: Access World News – Historical and Current*, <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/125B9654C4129A40>.

masked on land anyway with the sound of the wind coming off of the beach. Komanoff also argued that despite what Kennedy said about a negative impact on the marine environment, it is more likely that the clean energy generated by the turbines would aid in the preservation of the marine environment, because Cape Wind was projected to displace over two million barrels a year of oil, the equivalent of 10 Exxon Valdez spills.¹¹⁸

Likewise, when residents of Massachusetts heard of Senator Ted Stevens' amendment to a bill in the Senate that would give the Massachusetts governor Mitt Romney the ability to veto the Cape Wind project, they took to the newspapers to express their discontent. In a letter to the editor, one person mentioned how Cape Wind is largely favored by the residents of Massachusetts, as well as the fact that they have been complying with all of the regulations and reviews that have been required. He continues that allowing Mitt Romney to veto the project would undermine the state, federal, and local legislative processes that had been working together to determine the viability of Cape Wind.¹¹⁹

After Robert F. Kennedy Jr. wrote about his opposition to the Cape Wind project, the proposed wind farm gained major national attention. Soon many who opposed the wind farm received the "NIMBY" nickname. "NIMBY" stands for "Not In My Backyard." Newscasters across the country discussed Cape Wind and how the rich elite who lived on the coast were opposed to the project because it marred their views, despite the fact that the turbines would only be half an inch above the horizon on a clear day. In 2007, *The Daily Show* with Jon Stewart traveled to Cape Cod to film a comedy special about the opposition to Cape Wind. In a satire bit where he discussed Cape

¹¹⁸Charles Komanoff, "Letter: Kennedy Attack 'Myopic'," *Register, The (Yarmouthport, MA)*, January 19, 2006, *NewsBank: Access World News – Historical and Current*, <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/125B9654C4129A40>

¹¹⁹"LETTERS & OPINIONS." *Register, The (Yarmouthport, MA)*, May 18, 2006: 017. *NewsBank: Access World News – Historical and Current*. <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/11EEF8A1EA82E770>.

Wind, he spoke with Alliance to Protect Nantucket Sound spokeswoman Audra Parker. When she stated that there were studies done showing that the construction of the turbines would have a negative impact on property values, he replied with, “Absolutely. I mean would you pay \$3.8 million for the waterfront view with those things? I mean \$3.6 million, maybe, but not \$3.8 million.”¹²⁰ The routine continues when he gets shown a visual simulation of the view from the beach with the turbines on the horizon. Originally, they are so small he can’t see them, but then when she points them out, he starts overreacting saying, “Oh dear god! Jesus! I wish I hadn’t seen that. You know, sometimes as a journalist, there’s things that you have to show the world, that you wish you hadn’t seen yourself.” He then continues to get choked up and says, “Let’s cut the cameras, guys.”¹²¹ This piece gained a lot of attention not only in the press but also online the wider public became aware of the controversy.

The New Draft Environmental Impact Statement

On January 18th, 2008, the Mineral Management Service (MMS) released their Draft Environmental Impact Statement (DEIS), announcing that they would hold hearings in March of the same year. By this time, it had been over three years since the last public meeting regarding Cape Wind construction. The supporters of Cape Wind gained followers and momentum, but those against Cape Wind like the Egan family, who were prominent members of the Republican Party in Massachusetts, and William Koch, whose father had founded Koch Industries, which is an oil company, had increased their donations.¹²² The March hearing was volatile, with both sides geared up for a fight. Even though this public meeting was discussed briefly in the previous chapter, this

¹²⁰ Stewart, John. *The Daily Show with Jon Stewart*. Season 12, “Jason Jones 180: Nantucket. Aired August 7, 2007. <https://www.cc.com/video/nmuqcf/the-daily-show-with-jon-stewart-jason-jones-180-nantucket>, 1:50-1:58.

¹²¹ Stewart, John. *The Daily Show with Jon Stewart*, 2:16-2:30.

¹²² Williams and Whitcomb, 246.

analysis will go into deeper detail regarding the presentations by both supporters and opponents of the project.

The auditorium was packed for this meeting, with a line out the door to get into the building. Despite the chilly January air, people were willing to wait to ensure that they would be able to have their voices heard and hear what others were saying as well. Many who were waiting to be admitted into the building had their own signs and buttons showing either their support or distaste for the Cape Wind project. Members who supported Cape Wind's construction dressed up in traditional yachters outfits and stated that they were against Cape Wind because it was going to "diminish their net worth," as a way to make fun of those opposed. Another group of demonstrators even brought a row boat as part of their demonstration against the construction of the turbines.¹²³ Once the hearing began, there was a lot of conversation from young adults regarding the issue of climate change and how Cape Wind was a project that would be able to save their future, especially since a large proportion of the opponents to Cape Wind were over the age of 50.¹²⁴ Each side of the debate had their share of creative presentations. One member of the group Wind Stop created a song, "Save Our Sound" that discussed their distaste with the idea that a private company had the ability to place their project in the middle of what they felt to be their local land, despite the fact that the portion of land where Cape Wind would be located belongs to the federal government.¹²⁵ Conversely, a proponent of Cape Wind created a "Song Against the NIMBY's." One of their lyrics goes, "It's not as if we're anti-wind farm, to say that would be unfair, We support all clean air options, Just don't build them over there."¹²⁶ This was used to satirize the trivial argument of those who were against

¹²³ Gemmel, 35:50.

¹²⁴ Gemmel, 37:39.

¹²⁵ Gemmel, 40:03.

¹²⁶ The Register, "The windmills that we mind," *Register, The (Yarmouthport, MA)*, November 10, 2005, *NewsBank: Access World News – Historical and Current*. <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/125B964F5F8AB118>.

the wind farm because of the fact that they were building it in Nantucket Sound where the “pristine view” would be impacted.

At the hearing, Rodney Cluck, who was the federal project manager from the MMS for Cape Wind, when talking about the project, stated, “It really is a social phenomenon, I’ve never seen anything like it.”¹²⁷ One member of the Alliance to Protect Nantucket Sound discussed his frustration with the government, stating that they present research and reports regarding the negative impacts of Cape Wind, but they never end up in the final reports that the MMS gives.¹²⁸ Given the Draft Environmental Impact Statement that the MMS released, it is likely that they either already had this data and information and deemed those detriments to be negligible, or the reports and data that were presented to them by the Alliance, were deemed to not be peer-reviewed or credible.

While there were many people at the hearing expressing outrage at the fact that Cape Wind was being permitted to continue to the next step in the regulation process, there were others who were outraged at the fact that it is taking this long for Cape Wind to be approved at all. One resident of Cape Cod at the meeting expressed this stating, “We live in a country where nuclear power gets approved faster than wind? This project has been in the works for over 7 years! That’s ridiculous!”¹²⁹ Other supporters of Cape Wind pointed out that Cape Cod has a long history of windmills dating back to when the Dutch and English settled in New England, and as a result, windmills are seen across Cape Cod. Others pointed out the irony in the fact that the Cape continues to be overdeveloped with forests being destroyed to make space for strip malls, so why is it such a big deal that the construction of something as beneficial as clean energy is being proposed? They answer the question themselves, stating that it is because this new construction is in a place where

¹²⁷Gemmel, 37:00.

¹²⁸ Gemmel, 38:00.

¹²⁹Gemmel, 40:47.

the wealthy would be able to view it, albeit viewing meaning see it approximately half an inch over the horizon.¹³⁰ One woman pointed out the hypocrisy of the Alliance to Protect Nantucket Sound's claim that they were fighting to keep the sound "pristine" by discussing the issue of the ferries that run through Nantucket Sound dumping their untreated waste into the sound without any consequences. She states that if they were truly worried about the Sound, that is where their focus would be.¹³¹ One of the last people to speak at this meeting was a group from West Virginia who live in the Appalachian Mountains. The speaker described the impact that mining for coal in the mountains has had on their drinking water. They brought pictures of their brown water to the meetings showing that the coal that was being shipped to Massachusetts to power the state was having a detrimental impact on them. They urged those against Cape Wind to change their opinions and use their privilege of having a renewable energy source near them to help others who may not be so lucky.¹³² Since the meetings were just public hearings for citizens to present their concerns or support to the MMS, no specific actions followed this expression of public opinion, because there was no evidence from the public that additional research was needed into the impacts of Cape Wind.

Indeed, after the 2008 public hearing, and the litigation that followed, which was previously discussed in chapter 2, there were no more public gatherings for people on both sides to share their opinions. Nevertheless, surveys of public opinion about Cape Wind continued to be taken. For example, in a public opinion analysis, survey samples from 2004 and 2009 were compared. It was found that after the public hearings in 2008, there was a better understanding about the impacts that

¹³⁰ Gemmel, 41:30.

¹³¹ Gemmel, 43:00.

¹³² Gemmel, 46:00.

Cape Wind will have. As a result, the analysis found that,¹³³ One statistic that is especially important to note is that respondent's views about the negative impact on the aesthetics of the ocean view decreased significantly. In 2005, 72% of respondents listed that as a concern, compared to 2009, where only 57% of respondents felt they held the same concern. Similarly, overall support for Cape Wind increased from 36% in 2005 to 57% by 2009. By the conclusion of Cape Wind in 2017, there was overwhelming support for the construction of the turbines. Yet despite this, construction never occurred. It is important to understand how elite members of society not only framed the issue of Cape Wind in a way that is more favorable to their cause, but also analyze the power that elites possess in the realm of public policy. Generally, public policy acts against the will of the majority, and the wealthy "win" in that their interests are the ones that are heard and addressed in policy. This can be seen with Cape Wind. The select few who were against the project were successful in stopping its construction in a variety of ways, which will be discussed in the next chapter.

¹³³ Jeremy Firestone, Willett Kempton, Meredith Blaydes Lilley & Kateryna Samoteskul (2012) Public acceptance of offshore wind power across regions and through time, *Journal of Environmental Planning and Management*, 55:10, 1369-1386, DOI: 10.1080/09640568.2012.682782.

Chapter 4: Elite Influence Over Environmental Policy

Introduction

As seen with the Cape Wind project, elite members of society were able to effectively delay and thwart the implementation of projects that they deem to be unacceptable. However, Cape Wind is not the only instance where this has occurred. The ability of elites to prevent policies or projects favored by the public from going forward is common in the area of environmental policy. Given their resources, those opposed to Cape Wind were able to launch and sustain a campaign that framed the issue to their advantage, resulting in the failure to construct the wind farm. As discussed in the previous chapter, the elites who were against Cape Wind only had a majority-level of support for the first few years. They achieved this support by successfully framing the issue of Cape Wind not in terms of decreasing property values or ocean views. Rather, they emphasized the need to protect the ecosystem of Nantucket Sound, falsely claiming that the introduction of the turbines into the ecosystem would cause damage. Around 2005-2006 when the first Draft Environmental Impact Statement came out and the public learned that scientists stated that the damage to the environment would be negligible, the elite opponents of Cape Wind lost the support of the general public.

After losing this support, the elites realized that they now needed to rely solely on their financial influence and began initiating litigation at every step of the regulatory process, as discussed earlier. This process is not something that is unique to the struggle of Cape Wind, but rather it is something that is relatively common with environmental policy in the United States. There is a large coalition within elite circles that have ties to the fossil fuel industry and other invested parties. As previously discussed, this was also the case with Cape Wind. For example, Douglas Yearly was the head of the Alliance to Protect Nantucket Sound at its beginnings in the early 2000s, and he was known as the CEO of Phelps Dodge Corporation, which had led the country in the incredibly harmful practice of open-pit mining. Additionally, Yearly also sat on the board of directors for

Marathon Oil Corporation, which at the time was building a liquefied natural gas facility in Equatorial Guinea.¹³⁴ Cape Wind is one example showcasing how elites are able to manipulate environmental policy to benefit them and their agenda. When there is no opposition from elites and general public support for an environmental project, it is more likely to be approved, which can be evidenced by the fact that after the cancellation of Cape Wind, there are two currently operational offshore wind farms in the United States, one off of Block Island, and another off the coast of Virginia. In addition, there are a variety of proposed offshore wind projects along the east coast, with some already beginning to lay transmission cables, like the South Fork Wind Farm off the coast of Long Island.¹³⁵ The following chapter will discuss the application of framing to the Cape Wind project as well as examine different environmental projects that have followed the same phenomenon versus those that have not, as well as the Koch family and their influence on policy.

The Alliance to Protect Nantucket Sound and Framing

In order to discuss how the Alliance to Protect Nantucket Sound framed the negative impact of the Cape Wind farm, there must first be a discussion about what is considered framing and how framing works. There are a variety of scholarly theories regarding issue framing and how elites are able to further their agendas. Professor James Druckerman states that framing works by altering what is known as belief importance. Belief importance is the delegation of different considerations suggested by a frame.¹³⁶ With regard to Cape Wind, the Alliance to Protect Nantucket Sound framed the issue by highlighting the importance of perceived danger to birds flying into the turbines and the impact to the marine ecosystem with the installation of the transmission cable, and

¹³⁴ Williams and Whitcomb, 85.

¹³⁵ Benjamin Storrow, "How Offshore Wind Won Over (Most Of) the Hamptons," *E&E ClimateWire*, December 12, 2022, <https://www.eenews.net/articles/how-offshore-wind-won-over-most-of-the-hamptons/>.

¹³⁶ James N. Druckman, "On the Limits of Framing: Who Can Frame?" *The Journal of Politics*, vol. 63, no. 4 (2001), 1041-1066, <http://www.jstor.org/stable/2691806?origin=JSTOR-pdf>.

downplaying the benefits associated with a clean energy source.¹³⁷ By focusing more on perceived possible negative outcomes as opposed to the positive impact of having a clean energy source that would reduce pollution and dependence on fossil fuels, they were able to frame Cape Wind in a negative light at the outset of debate about the project. From this frame, the elites were able to shift something that was originally well-received by the residents of Cape Cod into something that they were willing to coalesce into a group to fight against.

There are many elites who are generationally wealthy, meaning that they were born into their wealth and their name carries weight regarding public opinion. For example, Robert F. Kennedy Jr., who was an active oppositionist to Cape Wind, is the nephew of JFK, who was one of the most popular Presidents in recent history. As a result, the Kennedy name can be equated to royalty in Massachusetts.¹³⁸ There are numerous studies that have shown that a source having some sense of perceived credibility is important in determining the success of one's ability to frame.¹³⁹ Because many of the founding members of the Alliance to Protect Nantucket Sound had similar backgrounds to RFK Jr., it is not surprising that the Alliance was able to establish credibility within the Cape Cod community very quickly. Since they had this established credibility, it was then possible for them to participate in another aspect of framing, specifically known as contesting knowledge. Contesting knowledge is a process where elites fund experts to "disqualify" knowledge that poses a threat to their power base, as well as attack those who produce and uphold potentially "damaging knowledge."¹⁴⁰ The Alliance to Protect Nantucket Sound was successful in this for the first few years of their creation, seeing as one of the main members of the Alliance was the editor of

¹³⁷ Williams and Whitcomb, 77.

¹³⁸ Adrienne Donica, "Robert F. Kennedy Jr." Biography.com, April 6th, 2023, <https://www.biography.com/history-culture/robert-f-kennedy-jr>.

¹³⁹ Druckman, 1045.

¹⁴⁰ Eric Bonds, "The Knowledge-Shaping Process: Elite Mobilization and Environmental Policy," *Critical Sociology* vol. 37, no. 4, (2010), <https://journals.sagepub.com/doi/abs/10.1177/0896920510379440?journalCode=crsb>.

the *Cape Cod Times*, which was the most well-respected local newspaper. By having the editor on the side of the Alliance, they were able to run messages that were not necessarily true, such as claiming that the turbines would kill so many birds they would be the “Cuisinart’s of the air.”¹⁴¹ Additionally, through their funding, the Alliance was able to circulate a report that stated there would be significant economic losses should Cape Wind be constructed, even though outside of the Massachusetts area the report was slammed in the press for not being credible.¹⁴² These tactics helped the Alliance maintain their support for those first few years.

Another important aspect of framing is communication. Without clear, consistent communication, framing cannot be done effectively. In order to effectively frame an issue, the framer needs to know their audience and use language that is appropriate for said audience. Similarly, it is important to use slogans and avoid technical jargon and data without first placing it in context and surrounding it with personal stories and general narratives that incorporate the points they are attempting to make. Without this communication, regardless of their elite status, the framing would not be effective, and they would not gain any additional support.¹⁴³ Within the first few years, the Alliance to Protect Nantucket Sound was able to effectively communicate to the masses. One of the ways they accomplished this was through their slogan, “Save Our Sound.”¹⁴⁴ With these three words they were able to convey the message that the ecosystem of Nantucket Sound was in danger because of a developer coming in to endanger the fish and wildlife. This was particularly effective because of the development that has been plaguing the Cape, specifically by the shore, for decades. Cape Cod was described as “a highly commercial, Disneyesque version of

¹⁴¹ Williams and Whitcomb, 76.

¹⁴² Williams and Whitcomb, 91.

¹⁴³ George Lakoff, “Why it Matters How We Frame the Environment”, *Environmental Communication* (2010), Vol 4:1, 70-81, DOI: 10.1080/17524030903529749.

¹⁴⁴Gemmel, 20:00.

what was once a very lovely seaside area.”¹⁴⁵ Knowing that the issue of commercialization is something that is important to the residents of the Cape, the Alliance was effective in using that as part of their framing of the issue as well. Similarly, they consistently provided visual aids to supplement what they were saying in order to create the context that is essential for their effective framing. In a meeting for the creation of the Alliance to Protect Nantucket Sound, Douglas Yearly gave a presentation and stated, “We aren’t calling it a wind park. We’re calling it an industrial complex.”¹⁴⁶ This is just one example of using language to assist in advancing their narrative regarding commercialization of the Cape.

The Alliance’s Dissolving Public Support

After the first Environmental Impact Statement was released and the public could hear from established scientists about the studies they had done on how Cape Wind will specifically impact Nantucket Sound, support from the general public for the Alliance diminished and there was a dramatic shift towards acceptance of the Cape Wind proposal, as discussed in the previous chapter. It was after hearing directly from these scientists themselves and being able to ask the questions they had at the first public meeting, that the large majority of the public changed their attitude and were able to question the validity of the Alliance’s claims about the problems with the Cape Wind project. From this point forward, the Alliance received more public criticism. In anonymous interviews conducted in 2006, there were two particularly interesting statements that effectively showcased how the public had begun to question the Alliance's claims and could therefore adopt new attitudes toward the project. For example, one individual stated,

“The obvious problem is that there are a lot of very wealthy people who are going to do everything in their power not to have these little half- inch toothpicks sticking up on their horizon. That’s the only problem—to be honest I am hoping that this succeeds, because it is . . . very symbolic of the struggle between the rich and the

¹⁴⁵ Williams and Whitcomb, xv.

¹⁴⁶ Williams and Whitcomb, 86.

public, the people. And the way that the rich are pulling the strings to prohibit something that really does make sense. (CT2)”¹⁴⁷

Likewise, another person remarked,

“The Alliance will come out with blanket statements saying that most people don’t support it, and there is no evidence to support that view. The main reason that people don’t support it is because they don’t have the right information, they are being fed misinformation by well-funded organizations who can afford to send that information out. (CT3)”¹⁴⁸

Additionally, in a public interview and debate on Fox News, Jim Gordon, and Ernie Corrigan, who was a representative for the Alliance to Protect Nantucket Sound, were discussing the Cape Wind project. The moderator of the debate, John Gibson, posed the question of “would I be wrong to suspect that the rich people on Martha's Vineyard and Nantucket -- now Nantucket where the billionaires are pushing the millionaires off -- just do not want to look out there and see these things no matter what the benefit is?”¹⁴⁹ Later on in the interview he reiterates this point and asks, “If it were just the fishermen, would we be having this discussion? Or is the fact that Senator Edward Kennedy is opposed; the rock stars at Martha's Vineyard are opposed; rich people who generally get their way are opposed?”¹⁵⁰ With such a quick fall of support, the Alliance quickly realized that they needed to rely solely on their monetary assets once they no longer had public opinion on their side.

Using Their Money and Prestige to Their Advantage

The Alliance to Protect Nantucket Sound included a variety of famous politicians who were not in support of Cape Wind. One tactic that they were able to utilize was to “hijack” the public meetings that were set up by the Army Corps of Engineers and later the Minerals Management Service by having their public figures come to these meetings and monopolize time that was reserved for the public to raise comments and concerns. At one particular meeting, the room was so

¹⁴⁷ Kempton et al., 141.

¹⁴⁸ Kempton et al., 142.

¹⁴⁹ Gibson, “Interview with John Gordan and Ernie Corrigan”.

¹⁵⁰ Gibson.

crowded that despite people only getting a microphone for two minutes to speak their piece, there were still going to be many in the crowd who were unable to speak. The Alliance used their political connections to have large numbers of families of politicians come and fill up the time slots allotted for speeches so those who were supporting Cape Wind got little, if any, time to speak. At one particular meeting Mitt Romney, who was the Governor of Massachusetts at the time, gave little warning before going up to the stage where the debate was occurring and monopolizing more than his fair share of time, since it was impossible to limit the governor of the state to a two-minute speech.¹⁵¹ After he spoke, the Army Corps was again given little warning as to who would be speaking next. They had the Attorney General Tom Reilly speak next. He was supposed to be limited to the two minutes that the rest of the general public was getting, but he went past his time, which frustrated the public and led to catcalls during the rest of his speech.¹⁵² By monopolizing time for the general public to speak about reasons they supported or other concerns they may have had, the Alliance was able to mute supporters as the project began to drag on.

With the number of political figures and rich elites, it is no secret that the Alliance was well-funded. As mentioned in previous chapters, they had millions of dollars in donations at their disposal.¹⁵³ With the sole focus of the Alliance to Protect Nantucket Sound being to ensure that Cape Wind be canceled, it was in their interests to continually delay the project. In a 2013 interview with *CommonWealth*, William Koch, who was a significant donor to the Alliance, was asked how he, as an opponent, would aim to block Cape Wind. In his response he stated that one of the strategies was “delay, delay, delay” and that “hopefully we can win some of the bureaucrats over.”¹⁵⁴ This is exactly what they did. Over the 16-year lifespan of Cape Wind, the Alliance to

¹⁵¹ Williams and Whitcomb, 225.

¹⁵² Williams and Whitcomb, 229.

¹⁵³ Williams and Whitcomb, 91.

¹⁵⁴ Bruce Mohl, “William Koch: Delay, Delay, Delay,” *CommonWealth*, April 9, 2013, <https://commonwealthmagazine.org/environment/005-interview-with-bill-koch/>.

Protect Nantucket Sound and other interested parties that they partnered with, such as the Wampanoag Tribe, brought 4 major suits against Cape Wind and the State and Federal Government along with countless smaller suits that were either dismissed outright or coalesced into other larger suits.¹⁵⁵

From the beginning of 2005 to 2017, the furthest that Cape Wind got to any construction of a turbine was a data tower to analyze the conditions out in Nantucket Sound and their power contracts with NStar and the National Grid, both of which were destroyed by 2017. Jim Gordon himself stated that at the end of 2017 when the project was officially terminated, he had spent over \$100 million of his own investments. He noted, “In my wildest imagination, I never envisioned just how exhaustive, how time consuming and how expensive this process would be.”¹⁵⁶ During the same interview, a former state Secretary of Energy and Environmental Affairs Ian Bowles said, “The project unfortunately demonstrated that well-funded opposition groups can effectively use the American court system to stop even a project with no material adverse environmental impacts.”¹⁵⁷ While Cape Wind may have been the first wind farm blocked from completion in the United States, it was neither the first environmental project nor policy that has been destroyed due to the interference of elites and politicians. In many instances, Americans want renewable energy in their neighborhoods and powering their homes. But they are often left with coal, oil, or natural gas.

The Role of Big Oil

Many of the large donors from the Alliance to Protect Nantucket Sound came from families with backgrounds in the fossil fuel industry. Douglas Yearly, as previously mentioned, once sat on the board of directors at Marathon Oil Corporation and was named “Copper Man of the Year” for

¹⁵⁵ Katharine Q. Seelye, “After 16 Years, Hopes for Cape Wind Farm Float Away”.

¹⁵⁶ Katharine Q. Seelye.

¹⁵⁷ Katharine Q. Seelye.

his work in mining.¹⁵⁸ In addition, William Koch and his donations to the Alliance come from his Koch Industries money. Koch Industries is an oil refinery company.¹⁵⁹ Other Alliance donors included Nancy L. Garraghan, who was the head of Heritagenergy, which was a New-York based fuel-oil business, as well as the Albert J. and Diane E. Kaneb family fund. Albert Kaneb was at one point the president and co-owner of Northeast Petroleum Industries.¹⁶⁰ While these are only the names that are available publicly that can be connected to the fossil fuel industry, it is possible that there are other donors who remained private yet still have connections. When the Alliance says that they support wind power, just not on the Cape, they are not revealing that a large portion of their funds come from donors who benefit from the continued burning of fossil fuels.

The fossil fuel industry is one of the most prosperous in the nation. Understandably, they have influence that reaches into every sector of the United States government, and as a result can influence a variety of environmental policies. One of the most accessible ways for big oil to influence politicians and in turn the environmental legislative agenda, is through the American Legislative Exchange Council, also known as ALEC. ALEC defines itself as “a forum for state legislatures and stakeholders to exchange ideas and develop real, state-based solutions to encourage growth, preserve economic security and protect hardworking taxpayers.”¹⁶¹ However, others describe ALEC as an organization that can, “reap huge rewards for companies, because ALEC operates in all 50 states, and helps pass legislation to lower taxes, weaken labor unions, and push back against environmental regulations wherever it can.”¹⁶² Many politically conservative elites either have companies that are members of ALEC or have contributed to ALEC themselves.

¹⁵⁸ Williams and Whitcomb, 84.

¹⁵⁹ Williams and Whitcomb, 91.

¹⁶⁰ Williams and Whitcomb, 93.

¹⁶¹“About ALEC,” American Legislative Exchange Council, Accessed April 20, 2023, <https://alec.org/about/>.

¹⁶² “How ALEC Helped Enron,” FutureHindsight, Accessed April 20, 2023, <https://www.futurehindsight.com/blog/how-alec-helped-enron>.

Currently, the largest donating funder of ALEC is Koch Industries. Due to a whistleblower campaign, ALEC is no longer as prominent as it was during the early 2000s, but they are still responsible for drafting some of the most environmentally damaging bills.¹⁶³ While it is true that not all of these bills are able to pass and become laws, it remains that ALEC and the oil companies and their CEOs that support it are responsible for a considerable amount of environmental degradation in the United States.

One of their most damaging pieces of legislation proposed by ALEC is designed to deregulate states' renewable portfolio standards (RPS). An RPS is a state regulation that requires a state to increase the percentage of their energy that is coming from renewable resources, such as wind or solar. For example, a state may pass an RPS that requires 40% of total energy to come from renewable resources by the year 2040. The goal of an RPS is to ease states into a carbon-neutral future, meaning there is no net release of carbon dioxide into the atmosphere.¹⁶⁴ Lobbying organizations like ALEC and big oil companies like Exxon and Peabody Energy have drafted model bills for state legislatures to enact that effectively repeal an RPS by allowing some non-renewable sources of energy.¹⁶⁵ With oil executives still having significant power over state legislators, it will be difficult to implement renewable energy sources and work towards a carbon-neutral future, which is the goal of the Biden Administration.

Offshore Wind Since 2017

Despite the fact that Cape Wind was the first offshore wind farm proposed and never built, it was not a total failure. Cape Wind paved the way for other offshore wind projects to take hold in the

¹⁶³ Lisa Graves, "ALEC, 'Model Legislation', and Preemption," Local Solutions Support Center, March 15, 2023, <https://www.supportdemocracy.org/the-latest/alec-model-legislation-and-preemption>.

¹⁶⁴ "Renewable Portfolio Standards," National Renewable Energy Laboratory, Accessed April 20 2023, <https://www.nrel.gov/state-local-tribal/basics-portfolio-standards.html>.

¹⁶⁵ "American Legislative Exchange Council," Energy and Policy Institute, Accessed April 20, 2023, <https://www.energyandpolicy.org/american-legislative-exchange-council/>.

United States. The Biden Administration has set a goal of having 30 GW of offshore wind power by 2030. The coast of the United States has the potential for more than 2,000 GW of energy, which is two times the present generation of the U.S. electric grid.¹⁶⁶ As stated before, there are only two fully operational offshore wind farms in the U.S. However, there are 20 currently proposed wind farms, most of them along the east coast.¹⁶⁷ There are two prime examples that are reminiscent of Cape Wind.

The first of these shows how having the cooperation of elites allows for the process of offshore wind development to move smoothly. Off the coast of the Hamptons developers are currently laying transmission cables under the road, causing construction sites throughout the usually pristine Hamptons. The Hamptons are home to wealthy year-round residents as well as well as celebrities during the summer. Compared with Cape Wind, there is already more progress made in 1 year compared with the 16 years for Cape Wind. The town board for East Hampton approved the laying of the transmission line in an easy 4-1 vote.¹⁶⁸ When discussing getting the town residents on board, year-round resident Peter Van Scoyoc stated, “I think it was a matter of just socializing the idea and, you know, weighing benefits versus detriments.”¹⁶⁹ For people who had an idea of the debacle that had occurred with Cape Wind, the success here is breath of fresh air.

Conversely, there is an offshore wind proposal off the coast of Martha’s Vineyard in Massachusetts that is facing opposition in the form of 4 separate lawsuits. Despite not being located in the Nantucket Sound and instead being further out in the Atlantic Ocean, there are still a litany of

¹⁶⁶ Miriam Goldstein, Mike Williams, & Alexandra Carter, “The Road to 30 Gigawatts: Key Actions to Scale an Offshore Wind Industry in the United States,” *Center for American Progress*, March 14, 2022, <https://www.americanprogress.org/article/the-road-to-30-gigawatts-key-actions-to-scale-an-offshore-wind-industry-in-the-united-states/>.

¹⁶⁷ Miriam Goldstein, Mike Williams, & Alexandra Carter, “The Road to 30 Gigawatts: Key Actions to Scale an Offshore Wind Industry in the United States,”.

¹⁶⁸ Storrow, “How Offshore Wind Won Over (Most of) the Hamptons.”

¹⁶⁹ Storrow.

lawsuits coming their way. Two of these cases are from landowners on Martha's Vineyard, and the other two are from fishermen. Similarly to the Alliance to Protect Nantucket Sound, there is a new opposition group called Nantucket Residents Against Wind Turbines that is incredibly similar in the make-up of its members and their concerns about wind farms impacting their views.¹⁷⁰ This is unsurprising considering the success that the Alliance to Protect Nantucket Sound had against Cape Wind.¹⁷¹

Overall, Cape Wind was an example of what occurs when elites mobilize against an environmental project because it will inconvenience them in some way, regardless of the overall benefits it would provide for the rest of the citizens and overall public support. Offshore wind is an evolving energy source that will undoubtedly become more and more common in the coming decades as the United States continues to fight off climate change.

¹⁷⁰ Storrow, Benjamin. "4 Lawsuits Threaten Vineyard Wind." *ClimateWire*. March 29, 2023. <https://www.eenews.net/articles/4-lawsuits-threaten-vineyard-wind/>.

¹⁷¹ "Stakeholders." Alliance to Protect Nantucket Sound. Accessed April 20, 2023. <http://saveoursound.org/stakeholders/>.

Conclusion

The failure of Cape Wind to construct any turbines on Nantucket Sound shows the ability of elite members of society and politicians to manipulate public policy so that it benefits them, regardless of public opinion. This hijacking of the policy process by those with the money to do so is not a new phenomenon. However, this is something that is particularly prevalent in the environmental public policy arena. This is extremely troubling, considering the warnings that scientists have given regarding climate change. Without action taken to limit global warming to 1.5 degrees Celsius by 2040, there will be irreversible damage to the planet, which will cost billions of dollars.¹⁷² Cape Wind was set to be the first offshore wind farm in the United States, and it was over a decade from the proposal of Cape Wind until a second wind farm off the coast of the United States was even considered. The significant backlash to Cape Wind as well as the amount of money it cost the developers made others wary of proposing other offshore wind farms. It is highly likely that had Cape Wind followed a normal timeline for the construction of a wind farm, the United States would have more than 2 fully operational wind farms currently.

As the first proposed offshore wind farm in the United States, Cape Wind laid the groundwork for the regulatory process for an offshore wind farm. After the Energy Policy Act of 2005, the Department of the Interior, specifically the Mineral Management Service, oversees approving a permit for these wind farms, conducting the environmental studies, preparing the Draft Environmental Impact Statement, holding the public hearings, releasing the Final Environmental Impact Statement, and giving the final permit for construction.

President Biden recently approved a controversial drilling project in Alaska that has been called a “carbon bomb” that would release a projected 280 million metric tons of CO₂ into the

¹⁷² Jeff Turrentine, “Global Warming 101.”

atmosphere.¹⁷³ The main reason that Biden approved the project was the power and money that the oil company, ConocoPhillips, has. It was projected that were Biden to block the Willow Project and ConocoPhillips filed suit against them, it would cost the government an estimated \$5 billion in legal fees.¹⁷⁴ Despite the fact that President Biden stated in his Presidential bid that there would be “No more drilling on federal lands, period. Period, period, period,” the intimidation of money caused him to backtrack on this promise and allow drilling that will cause excessive emissions into the atmosphere, but in a landscape that is in danger due to melting ice caps from global warming.¹⁷⁵ However, when there is not any elitist opposition to projects or threats from large corporations, environmental projects have been successfully completed and have been creating renewable energies for the United States and working on reducing greenhouse gasses. For example, in the United States there are two currently operating offshore wind farms, and over 20 that are in varying stages of the approval/construction process.¹⁷⁶

The 20 proposed offshore wind farms are currently at differing phases of the process, but it is unlikely that any of them will have the numerous court battles at every step of this process that faced Cape Wind. In the past few years, there has been a considerable increase in polling numbers regarding pursuing offshore wind and other forms of renewable energy. Across all demographics there is broad support (66%) for the government to incentivize the production of wind and solar energy as a way for the United States to be carbon neutral by 2050.¹⁷⁷ Cape Wind did not have this

¹⁷³ Lisa Friedman, “How Biden got from ‘No More Drilling’ to Backing a Huge Project in Alaska,” *New York Times*, March 13, 2023, <https://www.nytimes.com/2023/03/13/climate/willow-biden-oil-climate.html>.

¹⁷⁴ Friedman.

¹⁷⁵ Friedman.

¹⁷⁶ Miriam Goldstein, Mike Williams, & Alexandra Carter, “The Road to 30 Gigawatts: Key Actions to Scale an Offshore Wind Industry in the United States,” *Center for American Progress*, March 14, 2022, <https://www.americanprogress.org/article/the-road-to-30-gigawatts-key-actions-to-scale-an-offshore-wind-industry-in-the-united-states/>.

¹⁷⁷ Alec Tyson, Cary Funk, and Brian Kennedy, “What the Data Says About Americans’ Views of Climate Change.”

level of support when it was first proposed. Had Cape Wind followed a normal timeline, it is likely that it would have been effectively producing carbon-free energy for 75% of Cape households, and maybe even more if the turbines were continuously updated with new technology.¹⁷⁸

The failure of Cape Wind is in part due to excessive legal costs that resulted in bankruptcy. These costs accumulated from the continuous obstacles that prevented the construction of the turbines from the Alliance to Protect Nantucket Sound. The Alliance had various donors and supporters, from former Massachusetts Governor Mitt Romney, to then Senator Ted Kennedy, as well as Robert F. Kennedy Jr., and Congressman William Delahunt to name the most well-known supporters. They also had the support of socialites who owned property on the Cape and were looking to maintain their pristine view. Their arguments were not supported by the general public, and support soon turned away from them and towards Cape Wind. The average residents of the Cape were ready for offshore wind energy as an alternative to the power plant located near them. The Cape had the worst air quality in the state of Massachusetts, and it was continuing to deteriorate as the power plant continued to pump greenhouse gases and other pollutants into the air.¹⁷⁹ Despite these facts, Cape Wind was defeated because of the ability of the opposition to fund continuous legal battles.

Overall, Cape Wind serves as a lesson as well as a warning for what can occur when elite members of society are successful in manipulating environmental policy to suit their needs, regardless of what it means for the greater good. Despite the rocky start for offshore wind in the United States, it is now headed in a better direction, especially with the current plan that President Biden has in place, aiming for 30 GW of offshore wind energy by the year 2030.¹⁸⁰ With the

¹⁷⁸ Spinelli, 745.

¹⁷⁹ Williams and Whitcomb, 8.

¹⁸⁰ Miriam Goldstein, Mike Williams, & Alexandra Carter, "The Road to 30 Gigawatts: Key Actions to Scale an Offshore Wind Industry in the United States,".

support of the federal government, especially with government incentives, it is possible the offshore wind will soon become a dominant form of clean energy for the United States and become an instrumental partner in decreasing our carbon footprint as a country.

Bibliography

- “About ALEC.” American Legislative Exchange Council. Accessed April 20, 2023.
<https://alec.org/about/>.
- “American Legislative Exchange Council.” Energy and Policy Institute. Accessed April 20, 2023.
<https://www.energyandpolicy.org/american-legislative-exchange-council/>.
- Bonds, Eric. “The Knowledge-Shaping Process: Elite Mobilization and Environmental Policy.” *Critical Sociology* vol. 37, no. 4, (2010). <https://journals.sagepub.com/doi/abs/10.1177/0896920510379440?journalCode=crsb>.
- “Cape Wind Archived | Bureau of Ocean and Energy Management.” *BOEM*. October 2019.
<https://www.boem.gov/renewable-energy/studies/cape-wind-archived>.
- Civil Society Institute. “Cape Wind: What Cape Cod/ Island Residents Think.” Civil Society Institute. October 25, 2007, <http://www.civilsocietyinstitute.org/reports/10250%20CSI%20Cape%20Wind%20survey%20FINAL.pdf>.
- Coastal Zone Management Act of 1972 as amended through Pub. L. No. 109-58, the Energy Policy Act of 2005*. 92nd Cong., 2nd sess.
- Codder, The Cape. “Letter: Saving environment means tradeoffs.” *Cape Codder, The (Orleans, MA)*, January 20, 2006. *NewsBank: Access World News – Historical and Current*.
<https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/125B97B337EFA038>.
- Donica, Adrienne. “Robert F. Kennedy Jr.” Biography.com. April 6th, 2023.
<https://www.biography.com/history-culture/robert-f-kennedy-jr>.
- Druckman, James N. “On the Limits of Framing: Who Can Frame?” *The Journal of Politics*, vol. 63, no. 4 (2001), 1041-1066. <http://www.jstor.org/stable/2691806?origin=JSTOR-pdf>.
- “Editorials: Wrong place for a wind farm.” *Cape Cod Times (Hyannis, MA)*, January 20, 2002. *NewsBank: Access World News – Historical and Current*. <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/0F6ABC4B47764F17>.
- Environmental Protection Agency. “Learn About Environmental Justice.” *EPA*. September 6th, 2022. <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.
- Firestone, Jeremy, Kempton, Willett, Blaydes Lilley, Meredith, & Samoteskul, Katerynal (2012) “Public acceptance of offshore wind power across regions and through time”, *Journal of Environmental Planning and Management*, 55:10, 1369-1386, DOI: 10.1080/09640568.2012.682782.

Friedman, Lisa. "How Biden got from 'No More Drilling' to Backing a Huge Project in Alaska." *New York Times*. March 13, 2023. <https://www.nytimes.com/2023/03/13/climate/willow-biden-oil-climate.html>.

Graves, Lisa. "ALEC, 'Model Legislation', and Preemption." Local Solutions Support Center. March 15, 2023. <https://www.supportdemocracy.org/the-latest/alec-model-legislation-and-preemption>

Gemmel, Robbie. *Cape Spin: An American Power Struggle*. Directed by Libby Handros, Robbie Gemmel, John Kirby & Daniel Coffin. 2011. Documentary.

Gibson, John. "Interview With John Gordon and Ernie Corrigan." *Big Story with John Gibson, The [Fox News] (USA)*, January 17, 2005. *NewsBank: Access World News – Historical and Current*. <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/1541CAE55771B968>.

Goldstein, Miriam, Williams, Mike, & Carter, Alexandra. "The Road to 30 Gigawatts: Key Actions to Scale an Offshore Wind Industry in the United States". *Center for American Progress*. March 14, 2022. <https://www.americanprogress.org/article/the-road-to-30-gigawatts-key-actions-to-scale-an-offshore-wind-industry-in-the-united-states/>.

Hartman, Liz. "Computing America's Offshore Wind Energy Potential." *Energy.gov*. September 9th, 2016. <https://www.energy.gov/eere/articles/computing-americas-offshore-wind-energy-potential>.

History.com Editors. "Climate Change History." History.com. A&E Television Productions, August 8th, 2022. <https://www.history.com/topics/natural-disasters-and-environment/history-of-climate-change>.

Horgan, Danielle E. "Reconciling the Past with the Future: The Cape Wind Project and the National Historic Preservation Act." *Vermont Law Review* vol. 36 (2011): 409-432. <https://lawreview.vermontlaw.edu/wp-content/uploads/2012/02/16-Horgan-Book-2-Vol.-36.pdf>.

"How ALEC Helped Enron." *FutureHindsight*. Accessed April 20, 2023. <https://www.futurehindsight.com/blog/how-alec-helped-enron>.

Kennedy, Robert F. "An Ill Wind Off Cape Cod." *New York Times*. December 16th, 2005. <https://www.nytimes.com/2005/12/16/opinion/an-ill-wind-off-cape-cod.html>.

Kempton, Willett, Firestone, Jeremy, Liley, Jonathan, Rouleau, Tracy & Whitaker, Phillip. "The Offshore Wind Debate: Views from Cape Cod." *Coastal Management (2005)*, 33:2, 119-149. DOI: [10.1080/08920750590917530](https://doi.org/10.1080/08920750590917530).

Kleekamp, Chuck. "All Ocean Views are Valuable: Guest Commentary." *Register, The (Yarmouthport, MA)*, January 12, 2006: 015. *NewsBank: Access World News – Historical and Current*. <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/11ED2C115B264D58>.

- Komanoff, Charles. "Letter: Kennedy Attack 'Myopic'." *Register, The (Yarmouthport, MA)*. January 19, 2006. *NewsBank: Access World News – Historical and Current*, <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/125B9654C4129A40>.
- Lakoff, George. "Why it Matters How We Frame the Environment", *Environmental Communication* (2010), Vol 4:1, 70-81, DOI: 10.1080/17524030903529749.
- Layzer, Judith A. *The Environmental Case*. Los Angeles: Sage Publications, 2016.
- Leaning, John. "People Pack Wind Farm Forum in Yarmouth." *Cape Cod Times (Hyannis, MA)*, December 8, 2004. *NewsBank: Access World News – Historical and Current*. <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/1072689A1E921F85>.
- Lehmann, Evan. "Pioneering Wind Farm Faces Another Delay, this Time Over Indian Sites" *New York Times*. October 5th, 2009. <https://archive.nytimes.com/www.nytimes.com/cwire/2009/10/05/05climatewire-pioneering-wind-farm-faces-another-delay-thi-73053.html>.
- "LETTERS & OPINIONS." *Register, The (Yarmouthport, MA)*, May 18, 2006: 017. *NewsBank: Access World News – Historical and Current*. <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/11EEF8A1EA82E770>.
- Miller, Lesley. "Letter: Give Me a Break, RFK Jr.," *Register, The (Yarmouthport, MA)*, January 19, 2006. *NewsBank: Access World News – Historical and Current*. <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/document-view?p=WORLDNEWS&docref=news/125B9654C4129A40>.
- Mohl, Bruce. "William Koch: Delay, Delay, Delay." *CommonWealth*. April 9, 2013. <https://commonwealthmagazine.org/environment/005-interview-with-bill-koch/>.
- "National Environmental Protection Act: Section 1501.4." *United States Congress*. <https://casetext.com/regulation/code-of-federal-regulations/title-40-protection-of-environment/chapter-v-council-on-environmental-quality/subchapter-a-national-environmental-policy-act-implementing-regulations/part-1501-nepa-and-agency-planning/section-15014-categorical-exclusions>.
- "Per Capita Income by State." World Population Review. Accessed February 12th, 2023. <https://worldpopulationreview.com/state-rankings/per-capita-income-by-state>.
- "Protecting Historic Properties: A Citizen's Guide to Section 106 Review." *Advisory Council on Historic Preservation*. April 2016. https://www.achp.gov/sites/default/files/documents/2021-01/CitizenGuide2021_011321.pdf
- Powell, Timothy H. "Revisiting Federalism Concerns in the Offshore Wind Industry in Light of Continued Local Opposition to the Cape Wind Project". *Boston University Law Review* vol. 92 (2012): 2023-2053. <https://www.bu.edu/law/journalsarchive/bulr/volume92n4/documents/POWELL.pdf>.

- Register, The. "The windmills that we mind." *Register, The (Yarmouthport, MA)*, November 10, 2005. *NewsBank: Access World News – Historical and Current*. <https://infoweb-newsbank-com.ezproxy.trincoll.edu/apps/news/documentview?p=WORLDNEWS&docref=news/125B964F5F8AB118>.
- "Renewable Portfolio Standards." National Renewable Energy Laboratory. Accessed April 20, 2023, <https://www.nrel.gov/state-local-tribal/basics-portfolio-standards.html>.
- Seelye, Katharine Q. "After 16 Years, Hopes for Cape Wind Farm Float Away." *New York Times*, December 19th, 2017. <https://www.nytimes.com/2017/12/19/us/offshore-cape-wind-farm.html>.
- Seelye, Katharine Q. "Koch Brother Wages 12-Year Fight Over Wind Farm." *New York Times*, October 22nd, 2013. <https://www.nytimes.com/2013/10/23/us/koch-brother-wages-12-year-fight-over-wind-farm.html>.
- Spinelli, Dominic. "Historical Preservation & Offshore Wind Energy: Lessons Learned from the Cape Wind Saga." *Gonzaga Law Review* 46, no.3 (2011): 741-770, <http://blogs.gonzaga.edu/gulawreview/files/2011/09/Spinelli.pdf>.
- "Stakeholders." Alliance to Protect Nantucket Sound. Accessed April 20, 2023. <http://saveoursound.org/stakeholders/>.
- Stewart, John. *The Daily Show with Jon Stewart*. Season 12, "Jason Jones 180: Nantucket. Aired August 7, 2007. <https://www.cc.com/video/nmuqcf/the-daily-show-with-jon-stewart-jason-jones-180-nantucket>.
- Storrow, Benjamin. "How Offshore Wind Won Over (Most Of) the Hamptons." *E&E ClimateWire*. December 12, 2022. <https://www.eenews.net/articles/how-offshore-wind-won-over-most-of-the-hamptons/>.
- Storrow, Benjamin. "4 Lawsuits Threaten Vineyard Wind." *ClimateWire*. March 29, 2023. <https://www.eenews.net/articles/4-lawsuits-threaten-vineyard-wind/>.
- "Ted Kennedy Dies of Brain Cancer at Age 77." *ABC News*. August 26, 2009. <https://abcnews.go.com/Politics/TedKennedy/story?id=6692022>.
- Turrentine, Jeff. "Global Warming 101." *National Resource Defense Council*. April 7, 2021. <https://www.nrdc.org/stories/global-warming-101#warming>.
- Tyson, Alec, Funk, Cary, and Kennedy, Brian. "What the Data Says About Americans' Views of Climate Change." *Pew Research Center*. April 18, 2023. <https://www.pewresearch.org/short-reads/2023/04/18/for-earth-day-key-facts-about-americans-views-of-climate-change-and-renewable-energy/>.
- Vann, Adam. "Wind Energy: Offshore Permitting". Last Modified March 8, 2021. <https://crsreports.congress.gov/product/pdf/R/R40175/15>.

Vennoch, Joan. "Cape Wind: Too Ugly for the Rich?" *Boston Globe*, December 14, 2004.

http://archive.boston.com/news/globe/editorial_opinion/oped/articles/2004/12/14/cape_wind_too_ugly_for_the_rich/.

Williams, Wendy and Whitcomb, Robert. *Cape Wind: Money, Celebrity, Class, Politics, and the Battle for Our Energy Future on Nantucket Sound*. New York: Public Affairs Books, 2007.