

VINEYARD WIND

January 16, 2019

Via Email

To: Lanny Dellinger, Chairman, Fisheries Advisory Board
Grover Fugate, Executive Director, CRMC

RE: Vineyard Wind Fisheries Mitigation Proposal to the FAB

Dear Lanny, Dear Grover:

As discussed in yesterday's FAB meeting, Vineyard Wind is pleased to forward our proposal of a full package of mitigation to avoid and minimize potential fisheries impacts. This package includes a commitment to reduce the total turbine area by over 20% from our original proposed project design. We are also proposing an escrow fund for financial compensation for direct fisheries impact claims. In addition, Vineyard Wind is proposing a substantial contribution to an "Ocean SAMP Fisheries and Wind Fund". Vineyard Wind is proposing that this fund be used to further the goals of the Ocean SAMP by providing funds necessary to assess and provide for measures and technologies that promote safe and effective fishing around and through offshore wind structures and developments.

Vineyard Wind considers this proposed package a significant and comprehensive package that addresses concerns raised by the FAB, while recognizing economic exposures based on best available data of fisheries patterns and impacts.

Further details of our mitigation proposal follow below. We look forward to hearing from you regarding scheduling a meeting time to discuss the proposal with the FAB and CRMC staff.

Sincerely,



Lars Pedersen
Chief Executive Officer

Vineyard Wind Fisheries Mitigation Proposal to the FAB

Related to Vineyard Wind's 800MW project located in the northern-most portion of BOEM Wind Lease Area A-501

January 16, 2019

Mitigation Program Overview

Vineyard Wind is committed to providing a financial mitigation package that totals \$30 million over the 30 year life of the project (2 years of construction, 25 years of operation, 1-2 years of decommissioning with 1-2 year(s) extra added as buffer)

As described below, the package is structured in two funds: (1) an escrow fund for financial compensation for direct fisheries impact claims and (2) an Ocean SAMP Fisheries and Wind Fund designed to further the goals of the Ocean SAMP by providing funds necessary to assess and provide for measures and technologies that promote safe and effective fishing around and through offshore wind structures and developments.

In addition, Vineyard Wind is committed to non-compensatory mitigation, which includes the commitment to reduce the project size by over 20% and to align turbines for its future projects within the CRMC CZM Geographic Location Description ("GLD") in an east-west alignment.

I. Direct Compensation Fund

Basis for the Direct Compensation Fund

As previously reported to the FAB, Vineyard Wind has had detailed discussions with the Rhode Island Department of Environmental Management (hereinafter referred to as "RIDEM") to seek a common understanding of how to appropriately assess any potential impact of the proposed project to existing fisheries in Rhode Island, based on best available data.

As reported yesterday, we have not been able to reach a common understanding with RIDEM on how to best evaluate such impacts. Yesterday we provided the FAB and CRMC with a discussion draft report prepared by a fisheries economist, Dr. Dennis King (the "King Report"). In our view, this report, which incorporates findings of RIDEM's previous studies, among others, and also data on lobster and Jonah crab, provides a solid basis for identifying potential fisheries impacts. Based on the King Report, Vineyard Wind is committed to providing \$ 6.2 million to compensate for direct impacts from the project.

The report published by RIDEM on January 14, in which RIDEM assessed the economic exposure of the proposed project, relies on a number of assumptions that, in Vineyard Wind's opinion, are not substantiated. Vineyard Wind disagrees with the following main assumptions:

1. RIDEM assumes that all fishing will cease for the duration of the project within the project area. Based on our experience and conversations with New England fishermen, we strongly believe that fishing will continue in the project area to some degree.
2. The RIDEM report does not account for the fact that Vineyard Wind has reduced its project area by over 20%.
3. RIDEM's analysis includes buffer zones around the project area, on the assumption that fishing vessels cannot approach within 1 or even 2 nautical miles of the turbines. But given the fishermen's stated need for 1 nm between rows, it is clear that fishermen intend to fish within at least a half mile of the turbines, if not closer.
4. RIDEM's methodology assumes that all catch value of any historic trip (each trip consisting of multiple tows) is considered to never happen again in the next 30 years if any portion of a tow, however small, intersected the project area and the applied buffer zones. In previous RIDEM studies, it was acknowledged by RIDEM that this method overstates potential fisheries impacts.
5. The addition of buffer zones and the methodology described above has the combined effect of including the richest fishing grounds north of the proposed project area in the potential impact assessment, and therefore significantly overstates potential impacts of the project.

All of these studies are identifying ex-vessel values, which is widely considered a reasonable estimation of potential impacts, or economic exposure. Economic exposure does not equal loss of profit, since any future adaptation of the fisheries to continue fishing, including fishing in areas outside of the project area, would compensate for potential losses. Moreover, economic exposure does not equal loss of profit since landing values have to be offset against cost of operation, salaries, and other expenses.

The recent RIDEM report also references so-called shoreside multipliers to be added to potential impacts. However, since the estimated impacts of Vineyard Wind's project, even in the RIDEM report, is a very small portion of the total RI fish landings, Vineyard Wind would not consider such impacts to be significant for this project, especially since economic exposure is already overstating likely actual impacts, for the reasons described above. We recognize that the FAB and Vineyard Wind most likely disagree on the right methodology and therefore propose to use ex-vessel values as a pragmatic and fair solution to bridge the differing views of how to translate economic exposure to financial compensation.

Structure of the Direct Compensation Fund

The following processes would be used to disburse the financial compensation:

- a) Funding to be held in trust to compensate for any claims of direct impacts to fisheries in the project area. This mitigation is in consideration that the turbine row alignment of the project, not being in an east-west direction, is expected by the FAB to impact the level of fishing activity in the project area. Therefore, for future projects which have an east-west layout turbine row lay-out, our understanding is that no compensatory mitigation will be expected by the FAB during the operational phase of a project.
- b) Vineyard Wind to make annual funding payments to a trust or escrow fund.
 - i) First payment made prior to the calendar year in which offshore construction is planned to begin.
 - ii) Annual payments for 30 years total, with a 2.5% annual inflator.
 - iii) Initial, annual funding payment amount of \$140,464, based on fisheries exposure identified in the King Report (total funding of \$6.2 million, final year payment of \$287,189)
- c) The trust or fund will be administered by a third-party to be selected in consultation with CRMC and FAB.
 - i) Fishermen and fishing companies can submit claims of direct impacts or losses during any phase of the project (construction, operation, decommissioning) to the trust administrator.
 - ii) A claims review and decision process to be established.
 - iii) Paid claims accompanied by a release of liability.
 - iv) Funds remaining after making claims payments for any given year will be set aside for any future claims or for fisheries related purposes, following provisions determined at the time the fund is established and in consultation with the CRMC and FAB.

II. Ocean SAMP Fisheries and Wind Fund

The Rhode Island Ocean SAMP is the nation's first regulatory structure whose principal purposes include providing a framework for addressing the compatibility of the offshore wind and fishing industries through its goal of supporting offshore wind development while promoting and enhancing existing uses. The Ocean SAMP also recognizes that Rhode

Island's fisheries industry is especially important to Rhode Island, as well as the need for offshore wind to address climate change.

In order for Vineyard Wind, the nation's first large-scale offshore wind project, to better align with and support the purpose and objectives of the Ocean SAMP, Vineyard Wind will provide funding to an Ocean SAMP Fisheries and Wind Fund for this project totaling \$23 million.

This funding will be used to further the goals of the Ocean SAMP by providing funds necessary to assess and provide for measures and technologies that promote safe and effective fishing around and through offshore wind structures and developments. The measures and activities supported by this fund will be designed to benefit those who fish in the Ocean SAMP's geographic location description (GLD). Examples of such measures might include improvements in fishing vessels and gear, supporting widespread deployment of navigational equipment, or development of new gear types or fishing methods.

The activities supported by the Ocean SAMP Fisheries and Wind Fund are intended to enable safe, effective, and profitable fishing to continue throughout the Ocean SAMP's GLD while the offshore wind industry in the region continues to grow. As such, Vineyard Wind's contributions to the Ocean SAMP Fisheries and Wind Fund are being made because of Vineyard Wind's desire to contribute to and support Rhode Island's leadership role in ocean planning and management, and developing approaches for fisheries and offshore wind to continue profitably alongside each other.

Vineyard Wind's contributions to this fund are not intended as fisheries mitigation, and as such Vineyard Wind's contribution to this Ocean SAMP Fisheries and Wind Fund should not be considered a precedent or model for direct fisheries impacts mitigation programs, which should be based on best available fisheries data and reasonable estimates of possible or potential fisheries impacts based on this data (as described in Section I for determining level of funding for the Direct Compensation Fund).

Structure of the Ocean SAMP Fisheries and Wind Fund

- a) Vineyard Wind will make annual payments to an Ocean SAMP trust, foundation, or similar entity, as directed by CRMC, with an initial amount of \$544,536 per year for 30 years, with a 2.5% annual escalator (total funding of \$23 million, final year payment of \$ 1,114,342.)
- b) The programs and activities supported by the Ocean SAMP Fisheries and Wind Fund to be decided by a board or panel, the structure and composition of which to be determined by CRMC in consultation with the FAB.

III. Avoidance and minimization of impacts (non-compensatory mitigation)

- a) Vineyard Wind to minimize the “non E-W”-area by selecting world’s largest commercially available turbine, reducing project area for the 800MW Vineyard Wind 1 project by over 20%.
- b) Vineyard Wind commits to an E-W turbine row alignment in all future developments within the CRMC CZM Geographic Location Description (GLD), thereby negating the need for any compensatory mitigation for these future developments.
- c) Gear loss/damage compensation program throughout all phases of the project, and for any future projects in the GLD.
- d) Vineyard Wind commits to a target cable burial depth sufficient to allow fishing to continue over cables, and to implement a long-term monitoring plan to ensure continued burial.
- e) Vineyard Wind commits to an on-going fisheries communications program, including offshore communications and communications during construction, designed in consultation with the FAB and other fishermen.
- f) Other measures as described in the project’s Construction and Operations Plan.

Summary

Vineyard Wind believes this mitigation package provides a substantial financial contribution to the impacted fishermen. It also provides a unique opportunity for Rhode Island’s CRMC to ensure the long-term success of commercial fishing and offshore wind development in the SAMP GLD, through the Ocean SAMP Fisheries and Wind Fund. This is a once only proposal by Vineyard Wind in recognition of the important role the Ocean SAMP has played in supporting offshore wind development while promoting and enhancing existing uses.

If the mitigation package is agreeable to the Fisheries Advisory Board, the package is contingent on the following:

1. The Fisheries Advisory Board voting to recommend to CRMC, prior to the CRMC meeting on January 29, that Vineyard Wind should be granted a federal consistency determination;
2. Vineyard Wind being granted a federal consistency determination by CRMC by January 31, 2019; and
3. Vineyard Wind achieving financial close (expected in late 2019) and thereby progressing towards actual construction.