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Decision of the Martha's Vineyard Commission

DRI 732 - New England Wind 1 Connector Cable

1. SUMMARY

<u>Referring Board:</u>	Edgartown Conservation Commission	
<u>Subject:</u>	Development of Regional Impact #732 - New England Wind 1 Connector Cable	
<u>Project:</u>	Installation of two undersea export cables associated with the Park City Wind project south of the Island.	
<u>Owner:</u>	Commonwealth of Massachusetts	
<u>Applicant:</u>	New England Wind, LLC (partnership between Park City Wind and Commonwealth Wind); Vineyard Power (Richard Andre)	
<u>Applicant Address:</u>	Richard Andre P.O. Box 1077 West Tisbury, MA 02575	Hans van Lingen 125 High Street 6 th Floor Boston, MA 02110
<u>Project Location:</u>	Waters off of Edgartown, including Muskeget Channel	
<u>Decision:</u>	The Martha's Vineyard Commission (the Commission) approved the application for the project as a Development of Regional Impact with conditions, at a vote of the Commission on September 1, 2022.	
<u>Written Decision:</u>	This written decision was approved by a vote of the Commission on September 15, 2022.	

The permit-granting authorities of the Town of Edgartown may now grant the request for approval of the Applicant's proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law, or may deny the request for approval.

2. FACTS

The exhibits listed below including the referral, the application, the notice of the public hearing, the staff report, the plans of the project, and other related documents are incorporated into the record herein by reference. The full record of the application is kept on the premises of the Martha's Vineyard Commission.

2.1 Referral

The project was referred to the Commission on April 1, 2022, by the Conservation Commission of the Town of Edgartown, MA for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act) and the Commission's Standards and Criteria Administrative Checklist for Developments of Regional Impact, DRI Checklist Items: 5.1b *Development within 25' of the ocean*, and 9.2b *Wind energy facilities in an ocean zone*. The Commission later determined that Checklist item 9.2b does not apply. On June 17, 2022, the Applicant opted to bypass the MVC concurrence review and proceed to a public hearing.

2.2 Hearings

Notice: Public notice of the hearing on the Application was published in the MV Times on June 30 and July 7, 2022; notice was also published in the Vineyard Gazette on July 1 and 8, 2022. Abutters within 300 feet of the property were notified by mail on June 28, 2021.

Hearings: The Commission held a duly noticed public hearing on the Application that was conducted pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on July 14, 2022. The hearing was closed that night with the exception of the written record, which was left open until July 21, 2022 at 5:00 p.m. and closed at that time. The hearing was held entirely using remote conference technology as allowable under Chapter 20 of the Acts of 2021.

2.3 The Plan

The following plans and documents submitted by the Applicant and contained in the Commission's project file constitute "the Plan." All pages are 8.5" x 11" unless otherwise noted.

- P1. Application Package for New England Wind 1 Connector submitted by Park City Wind LLC to the Martha's Vineyard Commission prepared by Epsilon Associates, Inc., consisting of two hundred fifty-seven (257) pages, dated June 17, 2022, including: Cover Letter; Table of Contents; DRI Application Form; Executive Summary; 1.0 Introduction; 2.0 Project Purpose and Public Benefits; 3.0 Existing Offshore Conditions; 4.0 Cable Installation Activities, Impacts, and Mitigation Measures; 5.0 Mitigation Measures; 6.0 Benefits and Detriments; Attachment A - Figures; Attachment B - Marine Survey Chart - Edgartown Waters; Attachment C - Fisheries Communication Plan; Attachment D - MVC DRI Decision on Vineyard Wind Connector Cable; Attachment E - Secretary's Certificate on the Final Environmental Impact Report.

2.4 Other Exhibits

- E1. Referral to the Martha's Vineyard Commission from the Edgartown Conservation Commission, received April 1, 2022.
- E2. Vineyard Wind - NGO Agreement between Vineyard Wind, LLC and the National Wildlife Federation, the Natural Resources Defense Council, and the Conservation Law Foundation, consisting of twelve (12) pages, dated January 22, 2019.
- E3. Martha's Vineyard Commission Decision for DRI 688 Vineyard Wind Undersea Cable, consisting of ten (10) pages, dated May 16, 2019.
- E4. Permit to Conduct Archaeological Field Investigation, Permit #4006, consisting of one (1) page, issued May 12, 2020.
- E5. Approval of Modifications to State Archaeologist's Permit #4006 to include archaeological monitoring of geotechnical soil borings, issued by the Massachusetts Historical Commission, consisting of one (1) page, dated March 2, 2021.
- E6. Approval of Special Use Permit 21-006 for conducting marine archaeological reconnaissance survey of the state waters portion of proposed offshore export cable corridor, issued by the Board of Underwater Archaeological Resources Department of the Executive Office of Energy and Environmental Affairs, consisting of one (1) page, dated December 22, 2021.
- E7. Certificate of the Secretary of Energy and Environmental Affairs on the Final Environmental Impact Report for New England Wind 1 Connector for Park City Wind LLC, consisting of one hundred fifty-one (151) pages, dated January 28, 2022.
- E8. Notice of Intent Filing submitted to the Edgartown Conservation Commission for New England Wind 1 Connector, consisting of sixty-six (66) dated March 23, 2022.
- E9. Order of Conditions issued by the Nantucket Conservation Commission for Park City Wind Offshore Linear Project, consisting of twenty-five (25) pages, dated May 23, 2022.
- E10. Emails between Hans van Lingen, Park City Wind, and Alex Elvin with responses to staff questions, consisting of three (3) pages, dated May 4 to June 13, 2022.
- E11. Staff Report for C.R. 7-2022 New England Wind 1 Connector, consisting of five (5) pages, dated June 10, 2022; updated to DRI 732 New England Wind 1 Connector, consisting of four (4) pages, dated June 28, 2022; and updated again to consist of six (6) pages, dated July 13, 2022.
- E12. Staff Presentation to the Land Use Planning Committee on C.R. 7-2022 New England Wind 1 Connector Cable, consisting of thirty-four (34) pages, dated June 14, 2022.
- E13. Emails between Holly Carlson Johnston, Epsilon Associates, and Alex Elvin with responses to LUPC questions, consisting of six (6) pages, dated June 17 to July 6, 2022.
- E14. Offers for New England 1 Connector, consisting of one (1) page, received July 13, 2022.

- E15. Staff Presentation to the Martha's Vineyard Commission on DRI 732 New England Wind 1 Connector Cable, consisting of thirty-eight (38) pages, dated July 14, 2022.
- E16. Applicant's Presentation to the Martha's Vineyard Commission for New England Wind 1 Connector, consisting of six (6) pages, dated July 14, 2022.
- E17. Emails between Alex Elvin and Hans van Lingen, Park City Wind with answers to Commissioner questions, consisting of two (2) pages, dated July 21, 2022.
- E18. Letter from the Edgartown Energy Committee, consisting of two (2) pages, dated July 13, 2022.
- E19. Letter from the Edgartown Climate Committee, consisting of two (2) pages, dated July 13, 2022.
- E20. Letter from Richard W. Price, M.D., consisting of one (1) page, dated July 14, 2022.
- E21. Letter from Ellen Price, consisting of one (1) page, dated July 14, 2022.
- E22. Minutes of the Land Use Planning Committee's Concurrence Review, June 14, 2022.
- E23. Minutes of the Commission's Public Hearing, July 14, 2022.
- E24. Minutes of the Land Use Planning Committee's Post-Public Hearing Review, August 8, 2022.
- E25. Minutes of the Commission's Deliberation & Decision, September 1, 2022.
- E26. Minutes of the Commission's Approval of the Written Decision, September 15, 2022.

2.5 Reports

- R1. Provincetown Center for Coastal Studies Marine Megavertebrates and Fishery Resources in the Nantucket Sound - Muskeget Channel Area - Ecology and Effects of Marine Renewable Energy Installations, consisting of ninety-five (95) pages, dated September 2010.
- R2. OCS Study BOEM 2019-049 Evaluation of Potential EMF Effects on Fish Species of Commercial or Recreational Fishing Importance in Southern New England; U.S. Department of the Interior, Bureau of Ocean Energy Management, and Office of Renewable Energy Programs, consisting of sixty-two (62) pages, dated August 2019.
- R3. First Cape Cod Resource Integration Study - Redacted Non-CEII Version, Final Report, consisting of twenty-nine (29) pages, dated July 30, 2021.

2.6 Summary of Testimony

The following gave testimony during the public hearing on July 14, 2022:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Presentation of the project by Pat Johnson, Manager of External Affairs for Park City Wind; Holly Carlson Johnston, Epsilon Associates; Hans van Lingen, State Permitting Manager for Park City Wind; and Richard Andre and Erik Peckar, Vineyard Power.

- Oral testimony from Public Officials speaking for their Boards: Alan Strahler, Chair of the Edgartown Energy Committee and Julia Livingston, Chair of the Edgartown Climate Committee.
- Oral testimony from the Public: Robert Hannemann, Director of Vineyard Power.
- Closing statement by Pat Johnson.

3. FINDINGS

3.1 Project History and Description

New England Wind (formerly Vineyard Wind South) is a partnership between Park City Wind and Commonwealth Wind (both 100% owned by Avangrid Renewables), with Vineyard Power acting as a community partner on behalf of the Island. Park City Wind is developing a wind project in federally designated lease area OCS-A 0534, located about 19 miles south of the Island, which will provide about 800 MW of energy to residents of Connecticut. Commonwealth Wind is developing a wind farm in the same lease area, which will provide about 1,200 MW of energy to Massachusetts.

The New England Wind lease area is contiguous with the Vineyard Wind lease area (OCS-A 0501) to the north, which will provide about 800 MW of energy to Massachusetts. (Vineyard Wind ownership is 50% Avangrid and 50% Copenhagen Infrastructure Partners.) A similar undersea cable as the one proposed by New England Wind was recently permitted for Vineyard Wind, and installation is expected to begin in 2022. The Vineyard Wind cable project had been referred to the MVC under Checklist 5.1, which at the time required mandatory review and referral. Checklist 5.1 now requires MVC concurrence. The MVC approved the Vineyard Wind project (DRI 688) with conditions in 2019.

The proposal is to develop two 275 kV offshore export cables connecting the proposed Park City Wind project to the ISO New England grid. The proposed cable corridor includes about 12.4 linear miles in the waters off Edgartown, and generally corresponds to the corridor used for the Vineyard Wind cable. However, the existing corridor will be widened about 985 feet to the west, and the portion within the Muskeget Channel will be widened about 985 feet to the east as well. The total width of the corridor will range from about 3,100 to 5,100 feet and is intended to provide flexibility in terms of routing the cable and avoiding sensitive habitat on the ocean floor. Each cable will be about 10" in diameter and lie within an approximately 3' wide trench. At its closest point, the cable will be about one mile from Edgartown. The New England Wind 1 Connector project includes onshore transmission and a new substation in Barnstable, which are outside the MVC's jurisdiction.

3.2 Statutory Authority

The purpose of the Commission, as set forth in Section 1 of the Act, is to "protect the health, safety, and general welfare of island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific and cultural values of Martha's Vineyard which contribute to public enjoyment, inspiration, and scientific study by protecting these values from development and uses which would impair them, and by promoting the enhancement of sound local economies."

The Commission has reviewed the proposal as a Development of Regional Impact, using the procedures and criteria that the Commission normally uses in evaluation the benefits and detriments of such a proposal. The Commission has considered the Application and the information presented at the public hearing, including listening to all testimony presented and reviewing all documents submitted during the hearing and review period.

3.3 Benefits and Detriments

Based on the record and testimony presented therein, the Commission finds the following pursuant to Sections 14 and 15 of the Act.

A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT WOULD EXCEED THE PROBABLE DETRIMENTS, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(a) OF THE ACT.

A1. The Commission finds that the proposed development at this location is essential and appropriate in view of the available alternatives (Section 15(a) of the Act.)

The Commission finds that the probable benefits of the project outweigh the probable detriments, as described below. On balance, with respect to impacts upon the environment (Section 15(b) of the Act), the Commission finds the project will have a beneficial impact. With respect to impacts upon persons and property (Section 15(c) of the Act), the Commission finds the project would have a neutral impact. The Commission also finds that the project would not adversely affect the provision of municipal services or the burden on taxpayers, would not unduly burden existing public facilities, and would not interfere with local, regional, or state planning objectives.

A2. The Commission finds that the proposed development would have a beneficial impact upon the environment relative to other alternatives (Section 15(b) of the Act).

The Commission finds that while the project would have a detrimental impact on benthic habitat, those impacts would be outweighed by longer-term environmental benefits resulting from large-scale wind energy generation. The Commission also notes the following:

Ecology and habitat (considered a primary factor in the decision)

- Park City Wind is under National Environmental Policy Act Review led by the Bureau of Ocean Energy Management with other federal and state agencies. The state-level environmental review is led by the Executive Office of Energy and Environmental Affairs (EEA), MA Environmental Policy Act Office, and the Energy Facilities Siting Board. Other federal and state environmental review agencies include the US Army Corps of Engineers, US Environmental Protection Agency, MA Department of Environmental Protection, MA Division of Marine Fisheries, and Natural Heritage and Endangered Species Program. Approval is also being sought under the MA Wetlands Protection Act for the alteration of Land Under the Ocean and Land Containing Shellfish within Edgartown's offshore waters. A Final Environmental Impact Statement (FEIR) required as part of the federal review was submitted to EEA in 2021.

- The applicant has stated that using a common corridor, and widening the corridor will help to maximize the success of the buried cable and minimize environmental impacts by offering more options for where the cable can be laid.
- The applicant has stated that the project will avoid core habitat for right whales and minimize impacts to hard/complex seafloor habitats, which are considered sensitive habitat areas. Complex habitat covers the full width of the corridor in some areas. Hard-bottom habitat covers the full width of the proposed corridor within Muskeget Channel.
- The corridor within Edgartown waters contains suitable habitat for surf clams and blue mussels, and is mapped as NHESP-designated priority habitat for state-listed rare species.
- The corridor was routed in part to avoid any eelgrass beds.
- Potential environmental impacts from the project would result from the installation of the cables, including preliminary clearing of objects, dredging, vessel anchoring, cable burial, and placement of cable protection, as described in the Notice of Intent and DRI application package. Some complex habitat with sand waves may require targeted dredging in order to lay the cables.
- The applicant estimates the length of possible dredging in Edgartown waters to be about 2.3 miles, with about 58,000 cubic meters of dredged material that would be deposited in other areas with existing sand waves. (The applicant stated at the LUPC meeting on 6/14/22 that the sand would not be available for beach nourishment on the Island, since Coastal Zone Management requires it to stay in the same area.)
- Vessel anchoring is expected along the entire length of the cable path, with up to nine anchor points at a time, and up to six vessels used for installation on a given day.
- The cables have a targeted burial depth of 5-8 feet below the seabed to protect them from anchor strikes and fishing activities over time. Burial methods may include jetting or plowing (most common), mechanical trenching, or shallow-water methods using a vehicle. The trench width would generally be about 1.3-3.3 ft with jetting and at least a 3.3 ft with plowing, and the installation tool may be fixed to a skid or tracks about 5 ft wide that slide along the seafloor and could also disturb the benthic habitat.
- Displaced sediments may extend about 12 feet on either side of the trench, based on studies related to the Block Island Wind Farm, and the trench would backfill naturally. The applicant has stated that the “least environmentally impactful” method will be used for each segment of installation.
- In areas where adequate burial depths cannot be achieved (most likely in areas of hard-bottom habitat), the cable may be protected with rocks, rock bags, concrete slabs, or half-shell pipes. The concrete slabs would be about 10 feet wide and include polyethylene fronds resembling seaweed to encourage sedimentation. (The applicant stated at the LUPC meeting on 6/14/22 that the fronds were included as a possibility but were not strictly necessary.) Rock placements would be about 30 feet wide, and rock bag placements about 10 feet wide. The applicant aims to minimize the need for cable protection, but conservatively estimates that a total of about 3.4 miles of cable protection may be required for the project within Edgartown waters. The cable

protection is considered the only permanent impact from the project, but would itself potentially serve as hard-bottom habitat.

- The installation process (expected in 2025) would take about nine months and would be the same for each of the two proposed cables, which would be spaced about 165-330 feet apart and to the west of the Vineyard Wind cable.
- The applicant also expects up to three additional cables associated with Commonwealth Wind to be sited within the proposed corridor at some time in the future. According to a draft Construction and Operations Plan dated October 2021, the three additional cables would be west of the ones currently proposed. The applicant has stated that due to the permitting schedule of each project, it would not be possible to install all of the proposed and future cables at once and avoid repeated impacts, and that there could be no new cable development within the corridor after the Commonwealth Wind cables are installed.
- The Notice of Intent states that the areas affected by the proposed New England Wind cable burial are expected to recolonize in a relatively short amount of time.
- The eventual decommissioning of the cables after about 30 years would likely involve similar environmental impacts as installation, with the exception of dredging.
- The Notice of Intent states that there would be “unavoidable temporary impacts to offshore wetland resources (Land Under the Ocean and Land Containing Shellfish), which the applicant seeks to minimize through the siting of the cable route, along with installation methods and scheduling. Various time-of-year restrictions for the project have been proposed in discussion with federal and state agencies.
- Mitigation for unavoidable impacts on marine resources would be in accordance with the Massachusetts Ocean Management Plan and 301 CMR, and would include an Ocean Development Mitigation Fee, which is proposed in the FEIR. (The base fee is \$287,500, which would be deposited into the Commonwealth’s Ocean and Waterways Trust, and the state would determine how the funds are spent.)
- A Benthic Habitat Monitoring Plan will be developed, but a timeframe for carrying out the plan has not been determined.
- The cables will generate electromagnetic fields during operation, although the applicant has stated that because the cables would be buried, they would generate only magnetic fields above the ocean floor, and those would decline significantly within about 20 feet of the cable. A BOEM report titled *Evaluation of Potential EMF Effects on Fish Species of Commercial or Recreational Importance in Southern New England* concludes: “The operation of offshore wind energy projects is not expected to negatively affect commercial and recreational fishes within the southern New England area. Negligible effects, if any, on bottom-dwelling species are anticipated. No negative effects on pelagic species are expected due to their distance from the power cables buried in the sea floor.”
- The applicant has stated that it has conducted outreach with the Martha’s Vineyard Fisherman’s Preservation Trust (MVFPT), although no stakeholder groups have provided direct comments about the New England Wind 1 Connector project.

- A Fisheries Communication Plan developed between 2011 and 2020 as part of the Vineyard Wind project has been provided and will be updated to include the New England Wind project.

Climate change resilience (considered a primary factor in the decision)

- The proposed cable would be integral to the Park City Wind project, which would provide about 800 MW of renewable energy to Connecticut, increasing the reliability and diversity of the New England grid. The applicant has stated that power would also be provided to southeastern Massachusetts.
- A 2021 ISO New England study on the transmission upgrades necessary to connect offshore wind resources to the grid has been provided.
- The applicant estimates this could reduce greenhouse gas emissions in the ISO New England grid by about 1.59 million tons per year, or about equivalent of 310,000 automobiles, along with reductions in nitrogen oxide and sulfur dioxide.
- The applicant has stated that its power purchase agreement for the project is for 25-30 years, which would correspond to the expected lifespan of the wind farm.
- As part of its Community Benefit Agreement with Vineyard Power, New England Wind has committed more than \$8 million over seven years (contingent on successful permitting of the Park City Wind project) to fund the Island's goal of eliminating fossil fuel use and becoming 100% renewable by 2040. The applicant has stated that this process will be incorporated into the Martha's Vineyard Climate Action Plan, and the funds managed by Vineyard Power.

A3. The Commission finds that the proposed development on balance would have a neutral effect upon other persons and property (Section 15(c) of the Act).

The Commission notes the following with respect to impacts on persons and property:

Cultural resources

- Archaeological review and monitoring for the project is required by the MA Board of Underwater Archaeological Resources (MBUAR), which has identified Nantucket Sound a sensitive resource area with shipwrecks and Native American resources.
- The project area includes Nantucket Sound Wampanoag Traditional Cultural Property, including features that were identified as part of the review for the Vineyard Wind cable, and Chappaquiddick Island Traditional Cultural Property.
- The applicant has stated that it has conducted outreach to the Mashpee and Aquinnah Wampanoag Tribes, and that both tribes were appreciative of the plans to use the same general corridor as the Vineyard Wind cable. However, no stakeholder groups have provided direct comments as part of the review process.

Economic development

- The applicant has stated that the project would create economic opportunities for the region, including maritime activities and new jobs associated with offshore wind, although the Park City Wind project itself would not create any new jobs on the Island.
- As part of its Community Benefit Agreement with Vineyard Power, New England Wind has committed more than \$8 million over seven years (contingent on successful permitting of the

Park City Wind project) to fund the Island's goal of eliminating fossil fuel use and becoming 100% renewable by 2040. According to the applicant: "The funds will be used to support Martha's Vineyard's transition to a 100% renewable energy community. An example is the development and funding of an Energy Transition Program that will educate and support residents, businesses, and the building trades in a transition towards a 100% renewable energy economy including a 100% reduction in fossil fuel usage by 2040. This program will build on the framework set in the 2022 Climate Action Plan in meeting the increased renewable and greenhouse gas reduction targets, including but not limited to building weatherization, energy efficient construction, electric vehicles, and other aspects of transportation and electricity consumption."

- The project may involve temporary disturbance to fishing activities in the vicinity of the construction and cable installation vessels, but the applicant has stated that the cables would have no impact on the continued use of mobile fishing gear or anchoring in the area.
- Among other efforts related to local fisheries, the applicant is developing a Navigational Risk Assessment for the project, and fisheries liaisons and representatives will be employed to coordinate with local fishermen. A Fisheries Communication Plan developed between 2011 and 2020 as part of the Vineyard Wind project (including roles and responsibilities of the liaisons and representatives) has been provided and will be updated to include the New England Wind project.
- The Martha's Vineyard Fisherman's Preservation Trust is listed in the current plan as one of the representatives, along with New Bedford Seafood Consulting, the New Bedford Port Authority, and the Massachusetts Lobstermen's Association.

A4. The Commission finds that the impacts associated with the supply of needed low- and moderate-income housing for Island residents (Section 15(d) of the Act) do not apply to the project.

A5. The Commission finds that impacts associated with the provision of municipal services and the burden on taxpayers (Section 15(e) of the Act) do not apply to the project.

A6. The Commission finds that impacts associated with existing public facilities (other than municipal) or those that are to be developed within the succeeding five years (Section 15 (f) of the Act) do not apply to the project.

A7. The Commission finds that the project as proposed generally does not interfere with the ability of the municipality to achieve objectives set forth in the municipal general plan, and would not contravene land development objectives and policies developed by regional or state agencies (Sections 14(b), 15(g), and 15(h) of the Act), respectively.

The project generally aligns with the Island Plan and Wind Energy Plan for Dukes County.

A8. The Commission finds that the proposed development as conditioned is consistent with municipal ordinances and by-laws (Section 14(c) of the Act).

B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WOULD BE CONSISTENT WITH THE LAND DEVELOPMENT OBJECTIVES OF THE COMMISSION, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(b) OF THE ACT.

The requested project in general advances the Commission's land development objectives, as outlined in Section A7 of this Decision.

C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH MUNICIPAL DEVELOPMENT ORDINANCES AND BY-LAWS, TO THE BEST OF THE COMMISSION'S KNOWLEDGE.

The project is subject to approval by the Edgartown Conservation Commission.

D. THE COMMISSION FINDS THAT THE SITE IS IN CONFORMANCE WITH THE REGULATIONS OF DISTRICTS OF CRITICAL PLANNING CONCERN, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(d) OF THE ACT.

The project site is not within any District of Critical Planning Concern.

In sum, after careful review of the plan and its attendant submittals and the testimony presented by the Applicant and others, and the addition of conditions and offers, the Commission has concluded that the probable benefits of this proposed development in this location exceed its probable detriments in light of the considerations set forth in section 15 of the Act.

4. DECISION

The Martha's Vineyard Commission deliberated about the application at a duly noted meeting of the Commission held on September 1, 2022 and made its decision at the same meeting.

The following Commissioners, all of whom participated in the hearing and deliberations, participated in the decision on September 1, 2022:

Voting to approve the project: Jeff Agnoli, Jay Grossman, Fred Hancock, Joan Malkin, Greg Martino, Kathy Newman, Ben Robinson, Doug Sederholm, Brian Smith, Ernie Thomas, Jim Vercruysse

Voting against: None

Abstentions: Trip Barnes

Absent: Kate Putnam and Linda Sibley

Ineligible: Christina Brown, Michael Kim and Peter Wharton

Based on this vote, the Commission approved the application for the project as a Development of Regional Impact with conditions.

This Written Decision is consistent with the vote of the Commission on September 1, 2022 and was approved by a vote of the Commission on September 15, 2022.

5. CONDITIONS

After reviewing the proposal for this Development of Regional Impact, the Commission imposes the following conditions in order to minimize the potential detriments and maximize the potential benefits:

As offered by the Applicant:

1. All reports pertaining to conditions within the OECC or marine surveys/monitoring required by MassDEP or other state permitting authority shall be submitted to the Commission.
2. Should the Applicant decide to remove the cable from the ocean floor, the Proponent must submit an application to and receive approval by the Commission. The application must include information on impacts expected during that removal.
3. The Proponent shall provide the Commission with the following final approvals for the Project that apply to the Waters of Martha's Vineyard: the Record of Decision issued by BOEM, Letter of Authorization (LOA) issued by the National Marine Fisheries Service, Chapter 91 License and Water Quality Certification issued by the MassDEP, and Order of Conditions issued by the Edgartown Conservation Commission. The Proponent has already provided the Executive Office of Energy and Environmental Affairs Secretary's Certificate on the Final Environmental Impact Report (FEIR).
4. The Proponent will undertake a Benthic Habitat Monitoring Program ("Program") to document potential disturbance to and subsequent recovery of marine habitat and benthic communities following construction within the cable corridor. The final Program, which the applicant anticipates will be memorialized in the 401 Water Quality Certification that will be issued by the Massachusetts Department of Environmental Protection following review of the plan by the Massachusetts Department of Marine Fisheries, shall be provided to the Commission.

Additional conditions:

5. All documents referred to or required as part of the state, federal, or other review processes for the proposed cables within Edgartown waters, including all reports and permits, shall be submitted to the Commission. This would include but is not limited to the following topics:
 - Changes to the seafloor morphology or structure
 - Changes in the abundance or diversity of aquatic species and/or habitat
 - Benthic habitat monitoring and any required mitigation
6. Representatives of New England Wind shall make themselves available to Commission staff to discuss any of the above documents after they are issued.
7. The Commission reserves the right to require the Applicant to seek a modification if the expected or observed environmental impacts are greater than those represented in the application, or those assumed by any permitting authority.

8. New England Wind shall take the same actions as agreed to by Vineyard Wind in regard to the January 22, 2019 NGO agreement among Vineyard Wind, the National Wildlife Federation, Natural Resources Defense Council, and Conservation Law Foundation regarding the protections of the North Atlantic Right Whale, as it may be amended and as it pertains to the waters within Edgartown.
9. The applicant shall provide a map showing the as-built location of the proposed cables, prior to the start of the Park City Wind operations.
10. An updated Fisheries Communication Plan, to account for the New England Wind project, shall be submitted to the Commission prior to the start of the Park City Wind operations.
11. A plan for decommissioning the cables, including expected environmental impacts, shall be submitted to the MVC for review and approval prior to decommissioning.
12. Any proposed modifications to DRI 732, as approved herein, including any modification resulting in any change in intensity of use, shall be referred to the MVC for prior review and approval.

6. CONCLUSION

6.1 Permitting from the Town

The Applicants must, consistent with this Decision, apply to the appropriate Town of Edgartown Officers and Boards for any local development permits which may be required by law.

The permit-granting authorities of the Town of Edgartown may now grant the request for approval of the Applicant's proposal in accordance with this decision and may place further conditions thereon in accordance with applicable law or may deny the request for approval. Any permit issued by the Town shall incorporate the plan approved by the Commission.

6.2 Notice of Appellate Rights

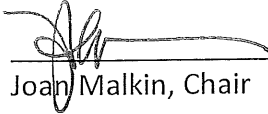
Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Edgartown Town Clerk.

6.3 Length of Validity of Decision

The Applicant shall have two (2) years from the date of receipt of the Decision of the Martha's Vineyard Commission contained in this document to begin substantial construction.

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6.4 Signature Block


Joan Malkin, Chair

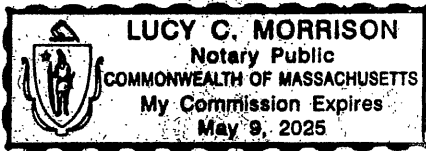
19 Sept. 2022
Date

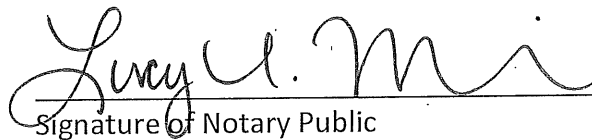
6.5 Notarization of Decision

Commonwealth of Massachusetts

County of Dukes County, Mass.

On this 19th day of September, 2022, before me, Lucy C. Morrison, the undersigned Notary Public, personally appeared Joan Malkin, proved to me through satisfactory evidence of identity, which was personal knowledge to be the person whose name was signed on the preceding or attached document in my presence, and acknowledged to me that she signed it voluntarily for its stated purpose as a free act and deed, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge and belief.




Signature of Notary Public

Lucy C. Morrison

Printed Name of Notary

My Commission Expires May 9, 2025

6.6 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: September 19, 2022

Deed: Book 1636, Page 454

Document Number: 5835