



**BEFORE THE SECRETARY OF THE UNITED STATES  
DEPARTMENT OF THE INTERIOR AND DIRECTOR OF  
THE BUREAU OF OCEAN ENERGY MANAGEMENT**

Seafreeze Shoreside, Inc.,  
Long Island Commercial Fishing Association, Inc.,  
XIII Northeast Fishery Sector, Inc.  
Heritage Fisheries, Inc.  
NAT W., Inc., and  
Old Squaw Fisheries, Inc.

*PETITIONERS*

**SUPPLEMENT TO PETITION DATED JULY 29, 2025 TO  
RECONSIDER VINEYARD WIND 1's CONSTRUCTION AND  
OPERATIONS PLAN (LEASE NO. OCS-A 0501), AS AMENDED  
JANUARY 17, 2025, AND TO ISSUE AN ORDER SUSPENDING  
FURTHER CONSTRUCTION AND ENERGY GENERATION  
ACTIVITIES AT THE PROJECT SITE PENDING  
RECONSIDERATION**

## **INTRODUCTION & EXECUTIVE SUMMARY**

On July 29, 2025, Petitioners filed an administrative petition requesting the Secretary of the Interior to (1) direct BOEM to investigate and reconsider the approval process of the Construction and Operations Plan (“COP”) for the Vineyard Wind 1 offshore wind project on the Outer Continental Shelf (“OCS”) located within Lease Area No. OCS-A 0501; (2) immediately issue an order suspending any further construction and energy generation activities at the project area pending the investigation and reconsideration; and (3) if the investigation and reconsideration shows that the COP approval was not in accordance with law (a) rescind the COP and (b) order Vineyard Wind, LLC, and its successors to dismantle and remove any and all equipment and other objects from the Vineyard Wind 1 project area installed under color of the COP approval and to place the entire project area back into the condition it was in prior to the COP’s approval.

After Petitioners submitted their original administrative petition, BOEM made motions in certain pending lawsuits asking courts to remand to the agency previously approved COPs in connection with other offshore wind projects, while it reviews them for legal deficiencies. In two specific instances, BOEM had already issued stop work orders before Petitioners filed their administrative petition. Through its remand motions and stop work orders, BOEM is treating six offshore wind projects in the same way Petitioners asked BOEM to treat the Vineyard Wind 1 project. Accordingly, for the reasons set forth herein and in the original administrative petition, Petitioners again respectfully ask BOEM to suspend construction and energy generation activities at the Vineyard Wind 1 site pending a review of legal deficiencies.

## **BACKGROUND**

Petitioners’ original petition sets forth in detail the factual and procedural background through July 2025. In brief, the petition arises from the Biden

Administration’s ambitious initiative to diminish demand for fossil fuels by approving dozens of offshore wind projects on the Outer Continental Shelf. To accomplish this enormous task, the Department of the Interior’s Bureau of Ocean Energy Management led a whole-of-government effort to approve as many offshore wind projects as possible, as quickly as possible. The first approval under this massive program was the Vineyard Wind 1 Project, located in the North Atlantic off the coast of Massachusetts. Vineyard Wind 1 provided a model for approving other projects and leases on all three coasts. These approvals continued into the waning days of the Biden Administration, with one approval coming just three days before President Trump took office.

During the approval process, the Departments of the Interior, Commerce, and Defense, acting through their sub-agencies and officers, acknowledged that the Vineyard Wind Project would harm safety, the environment, and national security. Yet they permitted the project anyway, skirting their mandatory duties under the Outer Continental Shelf Lands Act (“OCSLA”), National Environmental Policy Act (“NEPA”), the Endangered Species Act (“ESA”), the Clean Water Act (“CWA”), and the Clean Air Act (“CAA”).

Skipping or shortcutting these reviews led to real-world consequences. One of the blades from a Vineyard Wind 1 windmill (the size of a football field) crashed into the ocean in July 2024. This blade failure scattered fiberglass debris across the Rhode Island, Massachusetts, and Long Island, New York coastlines, closing beaches during the peak summer season. On the heels of this massive failure the Biden Administration issued yet another rushed COP approval—three days before President Trump took office—that allowed Vineyard Wind to continue construction and operation and did not remedy any of the previously identified legal errors.

The original petition sets forth at least 13 violations of federal law associated with the COP approval, providing ample justification for the requested stop order

pending reconsideration of the COP. One overarching deficiency in Vineyard Wind 1's COP approval is BOEM's reliance on M-Opinion 37067.<sup>1</sup>

### *The Battling Solicitor Opinions*

In December 2020, during President Trump's first term, the Department of the Interior's Solicitor issued M-Opinion 37059 stating that one of OCSLA's twelve factors (preventing unreasonable interference, 43 U.S.C. § 1337(p)(4)(I)) requires preventing any interference that is not de minimis.<sup>2</sup> In April 2021 a then-new Solicitor appointed by President Biden after the presidential election replaced M-Opinion 37059 with M-Opinion 37067.

M-Opinion 37067 adopted a balancing approach that allowed the Secretary to "rationally balance" each of OCSLA's twelve factors rather than ensure each factor is met. M-Opinion 37067 at 4–5. This approach allowed the Secretary to ignore or discount OCSLA's mandatory statutory factors; essentially rewriting the statute. The Supreme Court has made clear that "an agency may not rewrite clear statutory terms to suit its own sense of how the statute should operate." *Util. Air Regulatory Grp. v. EPA*, 573 U.S. 302, 328, (2014).

Recognizing this problem, the Department of the Interior's Acting Solicitor Gregory Zerzan issued M-Opinion 37086,<sup>3</sup> which withdraws M-Opinion 37067's

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<sup>1</sup> Office of the Solicitor, U.S. Dep't of the Interior, Memorandum Opinion No. 37067, Secretary's Duties under Subsection 8(p)(4) of the Outer Continental Shelf Lands Act When Authorizing Activities on the Outer Continental Shelf (Apr. 9, 2021), <https://tinyurl.com/3tzip4ahv> [hereafter "M-Opinion 37067"].

<sup>2</sup> Office of the Solicitor, U.S. Dep't of the Interior, Memorandum Opinion No. 37059, Secretary's Duty to Prevent Interference with Reasonable Uses of the Exclusive Economic Zone, the High Seas, and the Territorial Seas in Accordance with Outer Continental Shelf Lands Act Subsection 8(p), *Alternate Energy-related Uses on the Outer Continental Shelf* 15 (Dec. 14, 2020), <https://tinyurl.com/mu8b77m5> [hereinafter "M-Opinion 37059"].

<sup>3</sup> Office of the Solicitor, U.S. Dep't of the Interior, Memorandum Opinion No. 37086, Withdrawal of Solicitor's Opinion M-37067 and Reinstatement of M-Opinion 37059, *Secretary's Duty to Prevent Interference with Reasonable Uses of the Exclusive Economic Zone, the High Seas, and the Territorial Seas in Accordance with Outer*

balancing approach and reinstates M-Opinion 37059. *See* M-Opinion 37086 at 3. M-Opinion 37059 holds that 43 U.S.C. § 1337(p)(4)(I) requires preventing any interference that is not de minimis. M-Opinion 37059 at 15. M-Opinion 37086 makes it clear that the Secretary must meet each of § 1337(p)(4)’s factors (including preventing interference) and not to the detriment of any other factor. M-Opinion 37086 at 3. M-Opinion 37086 also recommends reevaluating any actions that used the balancing approach set forth in the now-withdrawn M-Opinion 37067. *Id.* BOEM has reevaluated five projects listed below pursuant to M-Opinion 37086. The Vineyard Wind 1 COP is an additional project that should be reevaluated in light of M-Opinions 37086 and 37059.

*President Trump’s Executive Order*

Reviewing BOEM’s offshore wind approval process at the Vineyard Wind 1 project, coupled with an order stopping construction and energy generation pending the review, aligns with the Trump Administration’s stated policies. On his first day in office, President Trump ordered a temporary withdrawal of offshore wind leasing on all areas on the OCS. *See* Temporary Withdrawal of All Areas on the Outer Continental Shelf From Offshore Wind Leasing and Review of the Federal Government’s Leasing and Permitting Practices for Wind Projects, 90 Fed. Reg. 8363 (Jan. 29, 2025) [hereinafter “Offshore Wind Memorandum”].<sup>4</sup> Among other things,

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*Continental Shelf Lands Act Subsection 8(p)*, Alternate Energy-related Uses on the Outer Continental Shelf (May 1, 2025), <https://tinyurl.com/ys7pynks> [hereinafter “M-Opinion 37086”].

<sup>4</sup> On December 8, the U.S. District Court for the District of Massachusetts vacated the Acting Secretary of the Interior’s January 20, 2025, order suspending permit issuance for offshore wind projects. *New York v. Trump*, No. 25-cv-11221-PBS, 2025 U.S. Dist. LEXIS 252857, at \*55 (D. Mass. Dec. 8, 2025). Although the Acting Secretary’s 2025 order was predicated on President Trump’s Offshore Wind Memorandum, the court’s decision did not vacate the Memorandum itself. Furthermore, the Memorandum deals with offshore wind leasing *per se*, while the Administrative Petition and this Supplement ask for a stop work order on Vineyard Wind 1’s construction and operations based on the legal infirmities of BOEM’s

the executive order directed the Secretary of the Interior to lead a comprehensive review of offshore wind leasing that addresses “alleged legal deficiencies” with the prior Administration’s permits. *Id.* at 8363–64. The President’s executive order covered all renewable energy leases on the OCS, but it did not by its terms suspend construction activities at projects which have already received COP approvals, such as Vineyard Wind 1. *Id.* at 8363. However, BOEM has cited the Offshore Wind Memorandum as a basis to remand COPs or stop work at five offshore wind sites, and EPA relied upon it to remand a CAA OCS permit at a sixth site.

*The Current State of Construction and Operations at the Vineyard Wind 1 Project Area*

The Vineyard Wind 1 project is nearing completion. According to an article in the New Bedford Light, 60 of the 62 towers have either been installed or are in the process of construction. Anastasia E. Lennon, *Seventeen Months On, Vineyard Wind Blade Break Investigation Isn’t Done*, New Bedford Light (Dec. 3, 2025), <https://tinyurl.com/4ftvpr9u>. There are also 33 blades and two nacelles (the unit at the top of the tower connecting the blades to the tower) that have yet to be installed. *Id.* This is in addition to an unknown number of blades that must be removed and replaced following the July 2024 blade failure. *Id.* This level of progress indicates Vineyard Wind 1 could finish construction in 2026. It is imperative that BOEM act before the project is completed to prevent further safety impacts and environmental damage to the project area.

Construction is continuing despite the Bureau of Safety and Environmental Enforcement’s (“BSEE”) continuing investigation into the July 2024 blade failure. BSEE has yet to determine what caused a blade at Vineyard Wind 1 the size of a

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approval of the COP and not on any issues regarding the Vineyard Wind 1 lease itself. Accordingly, *New York v. Trump*, which deals solely with issues relating to offshore wind leases, is irrelevant to the relief requested in the Administrative Petition and this Supplement.

football field to separate and fall into the ocean. *Id.* The Biden Administration allowed Vineyard Wind to continue construction so long as it removed blades manufactured at one specific factory. But BSEE never determined whether blades from other factories may have the same defect. The New Bedford Light article includes satellite imagery showing that Vineyard Wind removed at least two blades manufactured at another factory. *Id.* BOEM’s investigation should not be limited to the Biden Administration’s initial approval. BOEM’s investigation must also include the July 2024 blade failure and the Biden Administration’s hastily-approved revised COP issued just three days before President Trump took office.

## **ARGUMENT**

Subsequent to the Petitioners filing their original petition, BOEM and EPA have taken several actions on other offshore wind projects. BOEM has cited the Offshore Wind Memorandum as a basis to remand COPs or stop work at five offshore wind sites: U.S. Wind (remand), Revolution Wind (stop work order), SouthCoast Wind (remand), New England Wind (remand), and Empire Wind (stop work order). EPA relied upon the Offshore Wind Memorandum to remand a CAA OCS permit at the Atlantic Shores South wind project. These recent BOEM actions, which are set forth in detail below, support the petition’s request that BOEM immediately review the legal sufficiency of the Vineyard Wind 1 COP’s approval and issue a stop work order pending such review.

### **I. U.S. Wind (Maryland)**

The U.S. Wind project is located off the Maryland coast. BOEM issued a Record of Decision (“ROD”) in September 2024 and approved a COP in December. Ocean City, Maryland sued the Department of the Interior to challenge BOEM’s approval of U.S. Wind’s ROD and COP. The operative complaint in that lawsuit alleges violations of OCSLA, NEPA, ESA, the Administrative Procedure Act (“APA”), and several other statutes. *See* First Am. Compl., *City of Ocean City, Md. v. U.S. Dep’t of the Interior*,

No. 1:24-cv-03111, Dkt. No. 32 (D. Md. filed Jan. 6, 2025). Petitioners raise many of the same violations with regard to Vineyard Wind 1.

On September 12, 2025, BOEM moved to remand with vacatur U.S. Wind's COP. *Id.* at Dkt. No. 81. The motion notes that “[i]n approving the COP, the Department relied on M-Opinion 37067.” *Id.* at 3. As explained above, Acting Solicitor Zerzan withdrew M-Opinion 37067 and called for a review of any project that relied on it. *See id.* at 4. BOEM then admits that its assessment of U.S. Wind's COP (using M-Opinion 37067) was deficient. *Id.* at 6. If the court grants BOEM's motion, the COP will be vacated.

Vineyard Wind 1's COP also relied on M-Opinion 37067. The original petition discusses this matter on pages 6–7 and 25–28. BOEM's position on vacating U.S. Wind's COP should lead it to a similar conclusion here: Vineyard Wind 1's COP relied on legally deficient grounds and should be rescinded.

## **II. Revolution Wind (Rhode Island)**

The Revolution Wind project is located off the Rhode Island coast. BOEM approved its COP in 2023. The COP, as approved, contemplates construction of up to 65 wind turbine generators, inter-array cables, two offshore substations, and other off-shore and on-shore components. This COP also relied on the now-withdrawn M-Opinion 37067. Pursuant to M-Opinion 37086, BOEM began reviewing Revolution Wind's COP to ensure it complies with law. During this review, BOEM raised “concerns related to the protection of national security interests of the United States and prevention of interference with reasonable uses” of the Outer Continental Shelf (“OCS”). Bureau of Ocean Energy Mgmt., Director's Order to Revolution Wind 1 (Aug. 22, 2025), <https://tinyurl.com/4fpakvm4>. Those concerns led BOEM to issue an order halting all ongoing activities at Revolution Wind while BOEM reviewed the COP. *Id.* BOEM later explained in litigation that its order is partly based on whether the COP complied with OCSLA's requirements. Defs.' Mem. in Opp. to Mot. for Prelim. Inj. at



12–14, *Revolution Wind, LLC, v. Burgum*, No. 1:25-cv-02999, Dkt. No. 17 (D.D.C. Sept. 12, 2025).

Following BOEM’s Director’s Order, Revolution Wind filed suit to vacate the order. *See id.* at Dkt. No. 1. The Court orally granted a preliminary injunction following a hearing on September 22. The order does not address the case’s merits, though in a conclusory fashion it holds that “Revolution Wind has demonstrated likelihood of success on the merits.” *See id.* at Dkt. No. 36. Proceedings in this case are ongoing.

Like Revolution Wind’s COP, Vineyard Wind 1’s COP also relied on M-Opinion 37067. The original petition discusses this matter on pages 6–7 and 25–28. BOEM’s Director’s Order for Revolution Wind should lead it to a similar conclusion here: Vineyard Wind 1’s COP relied on legally deficient grounds, and all activities should be stopped pending a full review.

### **III. SouthCoast Wind (Massachusetts)**

The SouthCoast Wind project is located off the Massachusetts coast adjacent to the Vineyard Wind 2 lease area. BOEM approved SouthCoast Wind’s COP in January 2025: three days before President Trump took office. The COP calls for constructing up to 147 wind turbines and large undersea cables that connect to the power grid in Somerset, Massachusetts. This is another COP that relied on the now-withdrawn M-Opinion 37067.

The Town and County of Nantucket, Massachusetts sued the Secretary of the Interior to challenge BOEM’s approval of SouthCoast Wind’s ROD and COP. The complaint alleges violations of NEPA, APA, and the National Historic Preservation Act. *See Complaint, Town & County of Nantucket, Mass. v. Burgum*, No. 1:25-cv-00906, Dkt. No. 1 (D.D.C. Mar. 27, 2025). Petitioners raised similar NEPA violations in its original petition challenging Vineyard Wind 1.

On September 18, 2025, BOEM moved to remand SouthCoast Wind’s COP. *Id.* at Dkt. No. 21. Like the motion in Ocean City’s case, the brief noted that “[i]n approving the COP, the Department relied on M-Opinion 37067.” *Id.* at 3. As explained above, the new Department of the Interior’s Solicitor withdrew M-Opinion 37067 and called for a review of any project that relied on it. *See id.* at 4–5. BOEM then admits that its assessment of SouthCoast Wind’s COP (using M-Opinion 37067) was deficient. *Id.* at 7. However, unlike the motion in Ocean City’s case, BOEM did not ask for the COP to be vacated. That is because the SouthCoast Wind project still lacks other federal approvals, so it has not yet begun construction. *Id.* at 9. BOEM intends to issue a new agency action that fully complies with OCSLA and other relevant authorities. *Id.* at 7. BOEM also asked the court to stay the case until it completes its reconsideration of the COP. *Id.* at 12. The court granted BOEM’s motion for remand and stay on November 4. *Id.* at Dkt. No. 30.

Vineyard Wind 1’s COP also relied on M-Opinion 37067. The original petition discusses this matter on pages 6–7 and 25–28. BOEM’s position on remanding SouthCoast Wind’s COP for further review should lead it to a similar conclusion here: Vineyard Wind 1’s COP relied on legally deficient grounds and should be reviewed. Until that review is complete, BOEM should issue an order stopping all ongoing activity at Vineyard Wind 1.

#### **IV. New England Wind (Massachusetts)**

The New England Wind project is located off the Massachusetts coast adjacent to Vineyard Wind 1. BOEM approved New England Wind’s COP in July 2024. The COP calls for constructing up to 150 wind turbines and up to five large undersea cables that connect to the power grid in Barnstable, Massachusetts. Like the U.S. Wind, Revolution Wind, and SouthCoast Wind projects, this is yet another COP that relied on the now-withdrawn M-Opinion 37067.

ACK for Whales, Inc., the Wampanoag Tribe, and several others sued the Departments of Commerce and Interior to challenge BOEM's approval of New England Wind's ROD and COP. The complaint alleges violations of OCSLA, ESA, NHPA, APA, and the Marine Mammal Protection Act ("MMPA"). *See* Complaint, *ACK for Whales, Inc. v. Dep't of Commerce*, No. 1:25-cv-01678, Dkt. No. 1 (D.D.C. May 27, 2025). Petitioners raised similar OCSLA and ESA violations in its original petition challenging Vineyard Wind 1.

On September 3, BOEM gave notice that it intends to file a motion for remand and a separate motion to vacate the COP. *Id.* at Dkt. No. 16 at 1. The court approved a briefing schedule that set an October 10 deadline to file these motions. Although these deadlines did not change, the government shutdown affected BOEM's ability to file these motions.

On December 2, 2025, BOEM moved to remand New England Wind's COP. *Id.* at Dkt. No. 18. Like the motions in the Ocean City and SouthCoast Wind cases, the brief notes that "BOEM has determined that its prior COP approval may not have fully complied with the § 1337(p)(4) factors." *Id.* at 6. As explained above, the new Department of the Interior's Solicitor withdrew M-Opinion 37067 and called for a review of any project that relied on it. *See id.* BOEM then admits that its assessment of New England Wind's COP (using M-Opinion 37067) was deficient. *Id.* at 6, 10. Like the motion in SouthCoast Wind's case, BOEM did not ask for the COP to be vacated. That is because the New England Wind project will not start construction until Quarter 2 of 2026 at the earliest. *Id.* at 16. BOEM intends to issue a new agency action that fully complies with OCSLA and other relevant authorities. *Id.* at 9–10. BOEM also asks the court to stay the case until it completes its reconsideration of the COP. *Id.* at 13.

Vineyard Wind 1's COP also relied on M-Opinion 37067. The original petition discusses this matter on pages 6–7 and 25–28. BOEM's position on remanding New

England Wind's COP for further review should lead it to a similar conclusion here: Vineyard Wind 1's COP relied on legally deficient grounds and should be reviewed. Until that review is complete, BOEM should issue an order stopping all ongoing activity at Vineyard Wind 1.

## **V. Empire Offshore Wind (New York)**

The Empire Wind project is located off the New York coast south of Long Island. BOEM approved its COP in February 2024. BOEM later revised the COP and issued two separate approvals for Empire Wind 1 and Empire Wind 2 in December 2024. The Empire Wind COP calls for constructing 174 wind turbines, two offshore substations, two offshore electrical cable routes, up to three export cable landfall sites, up to three onshore electrical cable routes, and two onshore substations. The original petition discusses Empire Wind on pages 8 and 21–24.

BOEM announced in April 2025 that it was suspending all ongoing activities at the Empire Wind project. *See* Director's Order, Bureau of Ocean Energy Mgmt. (Apr. 16, 2025), <https://tinyurl.com/2t4k8jab>. BOEM ordered this suspension to implement the President's Offshore Wind Memorandum. The order specifically notes that BOEM seeks to review environmental analyses completed in the November 2023 ROD. *See id.*

BOEM lifted this suspension in May 2025. Press reports indicate that the review and suspension at Empire Wind ended as part of a deal with New York's governor to permit a natural gas pipeline elsewhere in New York state. *See* Nichola Groom & Nora Buli, *US Lifts Ban on New York Offshore Wind Project After Natgas Pipe Compromise*, Thomson Reuters (May 20, 2025), <https://tinyurl.com/4ksu45v6>. However, the Director's Order that lifted the halt on activities indicated that the review remains ongoing. *See* Director's Order, Bureau of Ocean Energy Mgmt. (May 19, 2025), <https://tinyurl.com/bdfsc54a>.

Save Long Beach Island, Inc. is leading a coalition of organizations and individuals suing Departments of Commerce and Interior to challenge the National Marine Fisheries Service's approval of the Incidental Take Authorization and BOEM's ROD and COP approval for the Empire Wind project. The complaint alleges violations of OCSLA, NEPA, APA, and MMPA. *See* Complaint, *Save Long Beach Island, Inc. v. Dep't of Commerce*, No. 1:25-cv-02214, Dkt. No. 1 (D.D.C. July 11, 2025). Petitioners raised similar OCSLA and NEPA violations in its original petition challenging Vineyard Wind 1.

On October 24, the district court denied a motion for a preliminary injunction to stop work at Empire Wind. The court found that the Save Long Beach Island had not established that Empire Wind's activities were causing irreparable harm to marine mammals such as dolphins. The court did not address whether Save Long Beach Island is likely to succeed on the merits. The case remains ongoing, as does construction at Empire Wind.

## **VI. Atlantic Shores Wind (New Jersey)**

The Atlantic Shores Wind project is located off the New Jersey coast. BOEM approved Atlantic Shores South's COP in October 2024. The COP calls for constructing nearly 200 wind turbines, offshore substations, and undersea transmission cables that connect to the power grid in Atlantic City and Sea Girt, New Jersey. Before BOEM approved the COP, the Environmental Protection Agency ("EPA") had approved a Clean Air Act OCS permit for the project.

Save Long Beach Island, Inc. petitioned for review of the OCS permit. *In re Atlantic Shores Offshore Wind, LLC*, OCS Appeal No. 24-01 at 1 (EAB Mar. 14, 2025), <https://tinyurl.com/48983yhm>. After filing a response to the petition, EPA filed a motion for voluntary remand. *Id.* at 2. This voluntary remand was based on the same reason as the motions for remand in the U.S. Wind, SouthCoast Wind, and New England Wind cases. That is, to allow the agency to review its prior decision for legal

deficiencies in light of the President’s Offshore Wind Memorandum. *Id.* at 2–3, 5. EPA’s Environmental Appeals Board granted the motion for voluntary remand. *Id.* at 8–9. This had the effect of halting all ongoing activities at the Atlantic Shores South site.

The Offshore Wind Memorandum’s review also applies to Vineyard Wind 1. The original petition discusses CAA violations at Vineyard Wind 1 on pages 39–43. Vineyard Wind 1’s CAA OCS permit should be reviewed for the same reasons as Atlantic Shores Wind’s permit. All activities should be stopped at Vineyard Wind 1 pending a full review.

## **VII. BOEM’s Failure to Require a Decommissioning Plan and Bond Means Any Further Construction Risks Permanent Damage to Project Area**

As the original petition explains on pages 17–18, BOEM impermissibly waived all required decommissioning payments from Vineyard Wind, LLC during the first 15 years of the Project’s operation. *See* Appellants’ Opening Br. at 61–62, *Seafreeze Shoreside Inc. v. U.S. Dep’t of the Interior*, 123 F.4th 1 (1st Cir. 2024), Doc. No. 118086295 (citing to the administrative record BOEM\_0077110). Additionally, Vineyard Wind 1 has no approved decommissioning plan, and has never demonstrated that one exists. *See id.* at Appx. 01409.

BOEM’s failure to require a decommissioning plan and bond means that Vineyard Wind may not be able to remediate the damage its tower construction has caused. It is imperative that BOEM act swiftly on the original petition and suspend any further construction activities that may, due to the lack of a decommissioning plan and bond, inflict irreparable harm to the ocean environment.

## **CONCLUSION**

Since filing the original petition, BOEM has proposed remanding four COPs for wind projects and vacating two of them. A fifth project was allowed to carry on construction while BOEM’s review continues under the Offshore Wind Memorandum.

EPA was granted a remand of its CAA OCS permit, effectively pausing operations at a sixth site. All six of these actions relied upon the President's Offshore Wind Memorandum, and at least four relied upon M-Opinion 37086's directive to review COPs that relied upon a flawed Biden Interior opinion. Both the Offshore Wind Memorandum and M-Opinion 37086 justify reviewing Vineyard Wind 1's COP.

Based upon BOEM's actions in the U.S. Wind, SouthWind, and New England Wind lawsuits, it appears that BOEM's strategy is to use agency remands to quickly address projects that are subject to a pending lawsuit. This strategy will not work at Vineyard Wind because the lawsuit against that project has closed. Moreover, at least two decisions in the U.S. District Court for the District of Columbia have refused to stop work despite evidence of flaws in the prior administration's review and approval process. BOEM must address those flaws itself, as it has the inherent power to do. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016) ("Agencies are free to change their existing policies as long as they provide a reasoned explanation for the change.").

Accordingly, Petitioners respectfully request the Secretary of the Interior to (1) direct BOEM to investigate the approval process of the Vineyard Wind 1 COP, (2) immediately issue an order suspending any further construction and energy generation activities at the Vineyard Wind 1 project area, and (3) if the investigation shows that the COP approval was not in accordance with law (a) rescind the COP and (b) order Vineyard Wind, LLC, and any of its successors, to dismantle and remove any and all equipment and other objects from the Vineyard Wind 1 project area installed under color of the COP approval and to place the entire project area back into the condition it was in prior to the approval of the COP.

DATE: December 18, 2025

Respectfully submitted,

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