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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

March 14, 2008

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The Honorable Dirk Kempthorne
Secretary
U.S. Department of the Interior
1849 C Street N.W.
Washington, D.C., 20240

Dear Secretary Kempthorne:

Section 388(a)(8) of the Energy Policy Act of 2005 called upon the Secretary of the Interior to promulgate regulations to govern a program to site off-shore renewable energy projects within 270 days of enactment, or by May 5, 2006. Nearly two years after that statutory deadline, the Department has not published proposed regulations.

I would appreciate it if you would provide information to me on the status of the Department's development of the regulations. As you know, there has been significant interest in the development of new projects in recent months, and such regulations will be critical to ensuring that consideration and approval of these projects is not done on a piecemeal basis and is consistent with appropriate environmental standards.

For instance, concerns have been raised that the draft EIS on the Cape Wind Energy Project may be deficient in its consideration of the effect of the project on bird and bat species. From my experience with wind energy projects in West Virginia, I know that this is a common concern that has been raised with respect to other projects.

Along these lines, the U.S. Fish and Wildlife Service (FWS) has recommended in its interim guidelines for wind energy developers to compile baseline information necessary to evaluate project impacts, including site-specific radar studies that could be completed at reasonable cost. The FWS has continued to request these studies and believes that available data are insufficient to evaluate impacts to avian wildlife.

Honorable Dirk Kempthorne

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In responding to this request, it would be helpful if you would provide me with a summary of the consultations between the Minerals Management Service and the FWS to address the bird and bat impact issue. I would also like you to provide me with a legal analysis of how the incidental take of migratory birds that could occur with offshore renewable energy projects on the Outer Continental Shelf might be addressed through your authority under the Migratory Bird Treaty Act to regulate the taking of protected bird species.

Thank you, in advance, for considering this request. I look forward to working with you to develop an effective offshore renewable energy project that ensures adequate protection to marine ecosystems and resources.

With warm regards, I am

Sincerely,

A handwritten signature in black ink, appearing to read "Nick Rahall". The signature is fluid and cursive, with a large initial "N" and "R".

NICK J. RAHALL, II

Chairman

Committee on Natural Resources