

Litigation History of Cape Wind (in chronological order)

May 2, 2014

1	<p>Court: Federal District Court of Massachusetts Case: Ten Taxpayers v. Cape Wind Associates, LLC, 278 F. Supp. 2d 98 (2003) Determination: Commonwealth of MA has no jurisdiction to require state permits for data tower located in federal waters of Nantucket Sound. Date: August 19, 2003 Outcome: Favorable Ruling for Cape Wind</p>
2	<p>Court: Federal District Court of Massachusetts Case: Alliance to Protect Nantucket Sound v. Department of the Army, 288 F.Supp. 2d 64 (2003) Determination: Army Corps of Engineers had jurisdiction to issue permit for data tower in Nantucket Sound, followed proper procedures. Date: September 18, 2003 Outcome: Favorable Ruling for Cape Wind</p>
3	<p>Court: First Circuit Court of Appeals Case: Ten Taxpayer Citizens Group v. Cape Wind Assocs., LLC, 373 F.3d 183 (2004) Determination: Upheld District Court decision that state permitting requirements cannot apply to federal waters in Nantucket Sound where wind park will be located. Date: June 28, 2004 Outcome: Favorable Ruling for Cape Wind</p>
4	<p>Court: First Circuit Court of Appeals Case: Alliance to Protect Nantucket Sound v. Department of the Army, 398 F.3d 105 (2005) Determination: Upheld District Court decision that Army Corps of Engineers had jurisdiction to issue permit for data tower in Nantucket Sound. Date: February 16, 2005 Outcome: Favorable Ruling for Cape Wind</p>
5	<p>Court: Massachusetts Supreme Judicial Court Case: Alliance to Protect Nantucket Sound v. Energy Facilities Siting Bd., 448 Mass. 45 (2006) Determination: Affirmed Energy Facilities Siting Board decision approving transmission lines Date: December 18, 2006 Outcome: Favorable Ruling for Cape Wind</p>
6	<p>Court: Barnstable Superior Court Case: Alliance to Protect Nantucket Sound and Town of Barnstable v. Cape Wind BACV2008-00399 Determination: Challenge to MEPA Cert; withdrawn by plaintiffs Date: August 1, 2008 Outcome: Favorable Outcome for Cape Wind; withdrawn by plaintiffs</p>

7	<p>Court: Barnstable Superior Court Case: Ten Taxpayer Citizens Group v. Cape Wind Associates, LLC, BACV 2007-00296 Determination: Challenge to MA MEPA CERT., Judge Nickerson dismissed lawsuit for lack of subject matter jurisdiction. Date: September 10, 2008 Outcome: Favorable Ruling for Cape Wind</p>
8	<p>Court: Barnstable Superior Court Case: Town of Barnstable v. Mass. Energy Facilities Siting Board, Cape Wind, BACV2008-00281 Determination: Town filed declaratory judgment action seeking determination that EFSB does not have authority to issue a Certificate of Public Interest and Environmental Impact with regard to Cape Cod Commission's Development of Regional Impact. Judge dismissed case. Date: May 5, 2009 Outcome: Favorable Ruling for Cape Wind</p>
9	<p>Court: Barnstable Superior Court Case: Alliance to Protect Nantucket Sound and Town of Barnstable v. Cape Wind et al., Civil Action No. 2009-001009 Determination: Complaints challenging MA Coastal Zone Management's Consistency Determinations; dismissed by Judge Rufo. Date: February 18, 2010 Outcome: Favorable Ruling for Cape Wind</p>
10	<p>Court: Barnstable Superior Court Case: Ten Residents of Massachusetts, et al. v. Cape Wind et al., Civil Action No. 2009-00107 Determination: Complaints challenging MA Coastal Zone Management's (CZM) Consistency Determinations; dismissed by Judge Rufo. Date: February 18, 2010 Outcome: Favorable Ruling for Cape Wind</p>
11	<p>Court: Barnstable Superior Court Case: Alliance to Protect Nantucket Sound and Town of Barnstable v. Cape Wind BACV2007-00506-A Determination: Most counts dismissed by Judge Kane on June 17, 2008, remaining 2 counts dismissed by Judge Rufo on April 27, 2010 Date: April 27, 2010 Outcome: Favorable Ruling for Cape Wind</p>

12	<p>Court: Massachusetts Supreme Judicial Court</p> <p>Case: Alliance to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Bd., 457 Mass. 663 (2010)</p> <p>Determination: Affirmed EFSB decision granting Certificate of Public Interest and Environmental Impact with respect to Cape Cod Commission Determination of Regional Impact.</p> <p>Date: August 31, 2010</p> <p>Outcome: Favorable Ruling for Cape Wind</p>
13	<p>Court: Massachusetts Appeals Court</p> <p>Case: Town of Barnstable v. Cape Wind 2010-P-1236</p> <p>Determination: Appeal of Barnstable Superior Court decision, Withdrawn</p> <p>Date: September 17, 2010</p> <p>Outcome: Favorable Outcome for Cape Wind; withdrawn by plaintiffs</p>
14	<p>Court: Massachusetts Appeals Court</p> <p>Case: Alliance to Protect Nantucket Sound v. Cape Wind, 2010-P-1127</p> <p>Determination: Appealed Barnstable Superior Court decision on CZM; withdrawn by plaintiff</p> <p>Date: September 27, 2010</p> <p>Outcome: Favorable Outcome for Cape Wind; withdrawn by plaintiff</p>
15	<p>Court: Massachusetts Appeals Court</p> <p>Case: Town of Barnstable v. Cape Wind, 2010-P-1194</p> <p>Determination: Appealed Barnstable Superior Court decision on CZM; withdrawn by plaintiff</p> <p>Date: September 27, 2010</p> <p>Outcome: Favorable Outcome for Cape Wind; withdrawn by plaintiff</p>
16	<p>Administrative Body: Environmental Appeals Board</p> <p>Case: Cape Wind Associates, OCS Appeal No. 11-01</p> <p>Determination: EPA acted appropriately in granting Cape Wind a permit</p> <p>Date: May 11, 2011</p> <p>Outcome: Favorable Ruling for Cape Wind</p>
17	<p>Court: U.S. Court of Appeals for the District of Columbia</p> <p>Case: Town of Barnstable v. FAA, No. 10-1276</p> <p>Determination: On Petitions for Review of an Order of the FAA, the Court of Appeals vacated and remanded the FAA's 3rd Determination of No Hazard directing the FAA to better explain its decision.</p> <p>Date: October 28, 2011</p> <p>Outcome: Unfavorable Ruling for Cape Wind (temporary in nature and now moot)</p>
18	<p>Court: Massachusetts Supreme Judicial Court</p> <p>Case: Alliance to Protect Nantucket Sound v. Department of Public Utilities, SJ-2010-0564</p> <p>Determination: Affirmed MA Department of Public Utilities Final Order 10-54 approving long term Power Purchase Agreement between Cape Wind and National Grid.</p> <p>Date: December 28, 2011</p> <p>Outcome: Favorable Ruling for Cape Wind</p>

19	<p>Court: Massachusetts Supreme Judicial Court</p> <p>Case: Associated Industries of Massachusetts v. Department of Public Utilities, SJ-2010-0538</p> <p>Determination: Affirmed MA Department of Public Utilities Final Order 10-54 approving long term Power Purchase Agreement between Cape Wind and National Grid.</p> <p>Date: December 28, 2011</p> <p>Outcome: Favorable Ruling for Cape Wind</p>
20	<p>Court: Massachusetts Supreme Judicial Court</p> <p>Case: New England Power Generators Association v. Department of Public Utilities, SJ-2010-0537</p> <p>Determination: Affirmed MA Department of Public Utilities Final Order 10-54 approving long term Power Purchase Agreement between Cape Wind and National Grid.</p> <p>Date: December 28, 2011</p> <p>Outcome: Favorable Ruling for Cape Wind</p>
21	<p>Court: Massachusetts Supreme Judicial Court</p> <p>Case: TransCanada v. Department of Public Utilities, SJ-2010-0555</p> <p>Determination: Affirmed MA Department of Public Utilities Final Order 10-54 approving long term Power Purchase Agreement between Cape Wind and National Grid.</p> <p>Date: December 28, 2011</p> <p>Outcome: Favorable Ruling for Cape Wind</p>
	<p><i>(Note: The 4 cases above were consolidated under the caption Alliance to Protect Nantucket Sound, et. al. v. Department of Public Utilities, SJC-10934)</i></p>
22	<p>Court: Massachusetts Supreme Judicial Court</p> <p>Case: Alliance to Protect Nantucket Sound, et. al. v. Department of Public Utilities, No. SJC-11000</p> <p>Determination: Affirmed DPU determination to not re-open record in DPU 10-54</p> <p>Date: December 28, 2011</p> <p>Outcome: Favorable Ruling for Cape Wind</p>
23	<p>Administrative Body: Federal Energy Regulatory Commission</p> <p>Complaint: Complaint filed by Californians for Renewable Energy (CARE) and Barbara Durkin, challenging MA DPU 10-54, approval of PPA between Cape Wind and National Grid</p> <p>Determination: FERC issued tolling order rejecting complaint</p> <p>Date: January 3, 2012 (and again on May 17, 2012 rejected CARE's request for rehearing)</p> <p>Outcome: Favorable Ruling for Cape Wind</p>
24	<p>Court: Massachusetts Supreme Judicial Court</p> <p>Case: Alliance to Protect Nantucket Sound v. Department of Public Utilities, No. SJ-2012-171</p> <p>Determination: None; (APNS had appealed DPU's approval of MOU in DPU 12-19)</p> <p>Date: April 11, 2012</p> <p>Outcome: Favorable Outcome for Cape Wind (complaint withdrawn by plaintiff)</p>

25	<p>Administrative Body: Federal Energy Regulatory Commission</p> <p>Complaint: CARE, Michael Boyd and Robert Sarvey filed Petition for Enforcement to Section 210(h) of PURPA at FERC challenging DPU's decision in DPU 10-54, PPA between National Grid and Cape Wind.</p> <p>Determination: FERC issued Notice of Intent Not to Act in which FERC declined to initiate an enforcement action against the MA DPU.</p> <p>Date: August 29, 2012</p> <p>Outcome: Favorable Ruling for Cape Wind</p>
26	<p>Court: U.S. Court of Appeals for the District of Columbia</p> <p>Case: Town of Barnstable v. FAA, No. 12-1362 (2012)</p> <p>Determination: FAA's 4th Determination of No Hazard Upheld</p> <p>Date: January 22, 2014</p> <p>Outcome: Favorable Ruling for Cape Wind</p>
27	<p>Court: U.S. Court of Appeals for the District of Columbia</p> <p>Case: Alliance to Protect Nantucket Sound v. FAA, No. 12-1363 (2012)</p> <p>Determination: FAA's 4th Determination of No Hazard Upheld</p> <p>Date: January 22, 2014</p> <p>Outcome: Favorable Ruling for Cape Wind</p>
	<p><i>(Note: the above 2 cases were consolidated under the caption Town of Barnstable et al., v. FAA Case No. 12-1362)</i></p>
28	<p>Court: U.S. District Court, District of D.C.</p> <p>Case: Alliance to Protect Nantucket Sound et al. v. Salazar et al., C.A. No. 1:10-cv-01079 (RMU) (filed June 25, 2010)</p> <p>Determination: The U.S. Department of the Interior acted appropriately in approving Cape Wind.</p> <p>Date: March 14, 2014</p> <p>Outcome: Favorable Ruling for Cape Wind</p>
29	<p>Court: U.S. District Court, District of D.C.</p> <p>Case: Town of Barnstable v. Salazar et al., C.A. No. 1:10-cv-01073 (GK) (filed June 25, 2010)</p> <p>Determination: The U.S. Department of the Interior acted appropriately in approving Cape Wind.</p> <p>Date: March 14, 2014</p> <p>Outcome: Favorable Ruling for Cape Wind</p>
30	<p>Court: U.S. District Court, District of D.C.</p> <p>Case: Public Employees for Environmental Responsibility et al. v. Salazar et al., C.A. No. 1:10-cv-01067</p> <p>Determination: The U.S. Department of the Interior acted appropriately in approving Cape Wind.</p> <p>Date: March 14, 2014</p> <p>Outcome: Favorable Ruling for Cape Wind</p>

31	<p>Court: U.S. District Court, District of Columbia Case: The Wampanoag Tribe of Gay Head (Aquinnah) v. Salazar et al., Determination: The U.S. Department of the Interior acted appropriately in approving Cape Wind. Date: March 14, 2014 Outcome: Favorable Ruling for Cape Wind</p>
	<p><i>(Note: the above 4 cases were consolidated under the caption Public Employees for Environmental Responsibility v. Beaudreau, Civil No. 10-cv-01067 (RW))</i></p>
32	<p>Court: Federal District Court of Massachusetts Case: Town of Barnstable, MA et. al., v. Ann G. Berwick et. al. (Challenge of NSTAR PPA, 2014) Determination: Judge dismissed the litigation challenging the Cape Wind / NSTAR PPA because the lawsuit would violate the 11th Amendment; and for several other shortcomings. Date: May 2, 2014 Outcome: Favorable Ruling for Cape Wind</p>

32 Cases in Total filed by opponents of Cape Wind, of which:

26 Rulings in Favor of Cape Wind

5 Cases withdrawn by plaintiffs

1 Ruling against Cape Wind (which was temporary and is now moot)