

Congress of the United States
Washington, DC 20515

February 28, 2013

The Honorable Steven Chu
Secretary of Energy
U.S. Department of Energy (DOE)
1000 Independence Avenue, SW
Washington, DC 20585

Dear Secretary Chu:

On January 25, 2013, we wrote to you regarding DOE's efforts to adopt an Environmental Impact Statement (EIS) for the Cape Wind project¹ despite concerns relating to the development of the EIS,² numerous lawsuits associated with the project,³ and considerable controversy regarding the program as a whole.⁴ In that letter, we asked you to provide staff with a briefing, requested all records associated with the Cape Wind project, and asked for a list of all pending applications under the 1703 and 1705 programs by February 8, 2013. That due date has passed without a reply by you or your office. Please provide the requested materials by no later than 5:00 pm on March 8, 2013, and immediately schedule a briefing at a time that is mutually agreeable. In addition, please make yourself or, since you have expressed intent to resign your position, your appropriate successor available to brief us on DOE's non-compliance with this request.

When producing documents to the Oversight Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. When producing documents to the Science, Space, and Technology Committee, please deliver production sets to the Majority Staff in Room 2321 of the Rayburn House Office Building and the Minority Staff in Room 394 of the Ford House Office Building. We prefer, if possible, to receive all documents in electronic format.

If you have any questions about this request, please contact Mr. Tom Hammond of

¹ Letter from Rep. Paul Broun, Chairman, Subcommittee on Oversight, Committee on Science, Space, and Technology and Rep. James Lankford, Chairman, Subcommittee on Energy Policy, Health Care and Entitlements, Committee on Oversight and Government Reform, to Secretary Steven Chu, Department of Energy, January 25, 2013. See Attachment 1.

² *Cape Wind Associates, LLC*, Investigative Report, Office of Inspector General, Department of Interior, January 8, 2010.

³ *Public Employees for Environmental Responsibility v. Bromwich*, No. 10-cv-01067 (D.D.C. filed June 25, 2010); see also *Town of Barnstable, Massachusetts v. Federal Aviation Administration*, No. 12-cv-1362 (D.C. Cir. filed August 22, 2012) [consolidated with *Alliance to Protect Nantucket Sound v. Federal Aviation Administration*, No. 12-cv-1363 (D.C. Cir. filed August 22, 2012)]

⁴ See <http://oversight.house.gov/wp-content/uploads/2012/10/2012-10-31-Memo-on-DOE-Loan-Guarantee-Program-Oversight.pdf>

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the Science, Space, and Technology Committee staff at (202) 251-3885, or Mr. Joseph Brazauskas of the Oversight and Government Reform Committee staff at (202) 225-5074.

Sincerely,



REP. PAUL BROUN, M.D.
Chairman
Subcommittee on Oversight
Committee on Science, Space,
and Technology



REP. JAMES LANKFORD
Chairman
Subcommittee on Energy Policy,
Health Care, and Entitlements
Committee on Oversight and
Government Reform

CC: REP. LAMAR SMITH
Chairman
Committee on Science, Space,
and Technology

REP. DARRELL ISSA
Chairman
Committee on Oversight and
Government Reform

REP. EDDIE BERNICE JOHNSON
Ranking Member
Committee on Science, Space,
and Technology

REP. ELIJAH CUMMINGS
Ranking Member
Committee on Oversight and
Government Reform

REP. DAN MAFFEI
Ranking Member

Subcommittee on Oversight
Committee on Science, Space,
and Technology

REP. JACKIE SPEIER
Ranking Member
Subcommittee on Energy Policy,
Health Care, and Entitlements
Committee on Oversight and
Government Reform

Congress of the United States
Washington, DC 20515

January 25, 2013

The Honorable Steven Chu
Secretary of Energy
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Secretary Chu:

On December 31, 2012, the Department of Energy (DOE) published a notice adopting an Environmental Impact Statement (EIS) for the Cape Wind project filed by the Mineral Management Service on January 21, 2009.¹ The adoption of an EIS for the project is a necessary requirement before issuing a loan guarantee under Section 1703 of Title XVII of the Energy Policy Act of 2005. We are concerned that the Department is moving forward with this loan guarantee despite the extensive controversy surrounding departmental management and decision-making associated with the program. Adding to this overarching concern is the cost of the project, the numerous Cape Wind-related lawsuits, and the fact that the DOE appears to have submitted a three year old Final EIS that the Department of Interior (DOI) Office of Inspector General found “prevented [agencies] from being as thorough in their reviews as they would have desired.”²

As you know, DOE’s Loan Program Office (LPO) is mired in controversy following the bankruptcies of Solyndra, Abound Solar, and Beacon Power. Various investigations have demonstrated how the LPO became hijacked by political interests at the expense of the taxpayer.³ These high-profile failures, and the commensurate “subordination” of taxpayer investment, prompted the U.S. House of Representatives to pass H.R. 6213, the No More Solyndras Act last fall.

Specifically, the Cape Wind project is also the subject of much controversy, including numerous lawsuits filed by the Wampanoag Tribe of Gayhead/Aquinnah, Public Employees for Environmental Responsibility, the Town of Barnstable, and the Alliance to Protect Nantucket Sound. These lawsuits challenge determinations by the DOI, the Fish and Wildlife Service, the Federal Aviation Administration, the Army Corps of Engineers, and the Coast Guard, among other agencies, for violations of the National Environmental Policy Act, the Endangered Species Act, the National Historic Preservation Act, and the Outer Continental Shelf Lands Act.

¹ See <http://energy.gov/nepa/downloads/eis-0470-final-environmental-impact-statement>

² *Cape Wind Associates, LLC*, Investigative Report, Office of Inspector General, Department of Interior, January 8, 2010.

³ See <http://oversight.house.gov/wp-content/uploads/2012/10/2012-10-31-Memo-on-DOE-Loan-Guarantee-Program-Oversight.pdf>

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Given the circumstances surrounding DOE management of loan guarantees, as well as the Cape Wind Project itself, we question the wisdom of moving forward with this loan guarantee prior to further consideration and resolution of the associated issues and lawsuits. Approving such a controversial loan would further undermine the public's trust in DOE, and sacrifice the opportunity to fund other viable projects. In order to better understand DOE's intentions regarding the Cape Wind project, please provide Committees' staff with a briefing as well as the following records (as defined by the attachment):

- 1) All records related to the Cape Wind Project, including DOE's decision to submit the January 9, 2009 DOI Final Environmental Impact Statement (FEIS) for approval;
- 2) A list of all pending applications under the 1703 and 1705 programs, including proposed project costs and status.

We ask that you provide the requested documents and information as soon as possible, but no later than 5:00 p.m. on February 8, 2012. When producing documents to the Oversight Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. When producing documents to the Science, Space, and Technology Committee, please deliver production sets to the Majority Staff in Room B374 of the Rayburn House Office Building and the Minority Staff in Room 394 of the Ford House Office Building. We prefer, if possible, to receive all documents in electronic format.

If you have any questions about this request, please contact Tom Hammond of the Science, Space, and Technology Committee staff at (202) 251-3885, or Joseph Brazauskas of the Oversight and Government Reform Committee staff at (202) 225-5074.

Sincerely,



REP. PAUL BROUN, M.D.
Chairman
Subcommittee on Oversight
Committee on Science, Space,
and Technology



REP. JAMES LANKFORD
Chairman
Subcommittee on Energy Policy,
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Committee on Oversight and
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CC: REP. LAMAR SMITH
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Subcommittee on Energy Policy,
Health Care, and Entitlements
Committee on Oversight and
Government Reform

ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.
2. The terms "relating," "relate," or "regarding" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.