UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

January 7, 2007

Ms. Maureen Bornholdt
Alternative Energy and Alternative Use Team
Offshore Minerals Management
Minerals Management Service
U.S. Department of the Interior
381 Elden Street
Herndon, Virginia 20710-4817

Re: Request for information and nominations (*72 FR 62673; November 6, 2007*)

Dear Ms. Bornholdt:

The National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) is providing comments on the Minerals Management Service (MMS) ***Request for Information and Nominations of Areas for Leases Authorizing Alternative Energy Resource Assessment and Technology Testing Activities***. NOAA strongly supports Administration interest in advancing growth in renewable energies and is committed to working with MMS, other Federal agencies, industry and the public to effectively address the Nation's energy needs through new ocean-based technologies. In May of last year NOAA commented on the MMS draft programmatic environmental impact statement for alternative energy development on the outer continental shelf (OCS). We noted that development of emerging alternative energy generation technologies on the OCS presented many uncertainties with respect to the impacts on living marine resources and their habitats, and stated that scientific investigations associated with the development of these new technologies would strengthen understanding of impacts and inform business and resource management decisions.

The pursuit of wind, wave, tidal and ocean current energy entails the application of new technologies in new operating environments and represents a potentially important future source of clean power. The proliferation of nearshore alternative energy proposals during the past few years demonstrates keen industry interest despite pronounced engineering and technical challenges. With greater depths and distances from shore, energy development on the OCS further increases project difficulty and presents proponents with a higher degree of complexity and economic risk. Given the significant level of uncertainty associated with ocean energy endeavors, NOAA believes the MMS *Interim Policy for Authorization of Resource Data Collection and Technology Testing Facilities* is a laudable first step towards improving knowledge regarding alternative ocean energy technologies and potential adverse effects, both individually and cumulatively. Our comments at this initial phase of OCS alternative energy development are intended to encourage strong interagency coordination and provide for improved scientific information gathering and exchange. NOAA believes experience gained

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under this interim policy will serve as a useful foundation for subsequent MMS alternative energy program development and associated rulemaking.

Integrating interagency coordination as MMS considers issuing leases will enhance information exchange, protection of living marine resources, and predictability of the regulatory process. We recommend MMS:

- Formalize a process for interagency coordination in the interim policy,
- Coordinate with NMFS regional staff to determine what site-specific information should be gathered and what could be provided by NOAA, and
- Coordinate with NMFS regional staff to identify triggers for modification or termination of technology testing projects.

MMS is responsible for compliance with all applicable legal mandates for the alternative-energy-related leases it is proposing to issue, including, in addition to those mentioned in the notice, the Magnuson-Stevens Fishery Conservation and Management Act and National Marine Sanctuaries Act. To ensure efficient compliance with all applicable authorities, NOAA recommends that MMS include an interagency coordination process in the interim policy. The interim policy should include early coordination during MMS' pre-lease activities. NOAA is particularly concerned that in-water technology testing may have impacts on marine species and associated habitats. Absent early coordination, applicants may become involved in a siting effort without the knowledge of marine species and habitat concerns necessary to navigate regulatory processes. Early coordination with NMFS regional staff would help license applicants avoid committing significant resources toward anticipated projects that are later found to pose serious problems for living marine resources and habitat.

For areas of the OCS where applicants show interest in developing hydrokinetic energy projects, environmental monitoring concurrent with meteorological and oceanic data collection would be essential for detecting the presence and abundance of Federally-managed species, type and extent of benthic habitat, and other ecological information. NOAA has ecological and oceanographic data that can be provided to MMS and applicants, but must caution that the scale of this information may be too general to be meaningful for site-specific analyses. Applicants and MMS should work with NMFS regional staff to determine what information should be gathered and what could be provided by NOAA. Since little is known about the potential environmental impacts of alternative energy projects and NOAA may have significant concerns for certain commercial-scale projects, it is important to take every opportunity to gather baseline data for future analyses in areas where such projects may be developed. MMS should require lease applicants to gather ecological information, along with meteorological and oceanographic data, under the lease stipulations and then use the information in determining the feasibility of commercial-scale projects within particular locations.

Where leases allow the testing of technology, unforeseen and unacceptable environmental impacts to living marine resources are possible. In the related context of alternative energy development in nearshore areas, NOAA supports the Federal Energy Regulatory Commission (FERC) policy of requiring pilot project alteration, suspension, or termination if unacceptable environmental impacts are found. NOAA believes certain environmental effects may warrant

such actions and recommends MMS consider a similar requirement in their leases. We are interested in working with MMS to develop such a list of effects at project-level consultations or reviews. While a single, isolated instance of an effect might not ordinarily be considered "unacceptable," their occurrence as part of a technology test would be a significant cause for concern. Such impacts from a test suggest that the same devices at larger scales would cause problems for populations of species and habitats.

The MMS notice calls on commenters to identify prospective locations for alternative energy resource assessment or technology testing leases. Under its various living marine resource stewardship mandates, NMFS designates and/or manages extensive areas of the marine environment for special area-based management purposes. These areas include Federal fisheries management zones (*e.g.*, spawning area closures, gear restricted areas), Federal fishery habitat conservation zones (*e.g.*, habitat areas of particular concern, essential fish habitat), Federal threatened and endangered species critical habitats, and Federal marine mammal protected areas. NOAA is interested in working with MMS to identify areas where leasing as proposed under this notice could be inappropriate, because of either environmental implications or potential conflict with existing uses. Given the current stage of technology development, we understand potential leases would primarily be limited to offshore waters from three nautical miles to the 100-meter isobath and to the 500-meter isobath on the Atlantic coast of Florida. We anticipate that responses to the MMS notice will result in identification of the areas of interest by offshore alternative energy developers. The information may indicate particular areas and types of alternative energy projects that may be proposed in the near future. As MMS receives information and considers leases, we strongly encourage you to contact NMFS regional offices as early in the leasing process as possible. Contact names provided in the attachment can supply specific geospatial information and work with MMS on marine resource issues in any specific tracts identified for leasing.

NOAA appreciates the opportunity to comment and looks forward to working with MMS and FERC in advancing environmentally-sound renewable ocean energy development and production. We support a common objective of reducing regulatory uncertainty for an evolving industry and assuring environmental protection in light of the limited technological and ecological information available. Please contact Thomas Bigford, Chief, Habitat Protection Division, NMFS Office of Habitat Conservation at (301) 713-4300 x131 if you have questions or require additional information.

Sincerely,

Samuel D. Rauch III
Deputy Assistant Administrator for
Regulatory Programs

ATTACHMENT

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