

Considering Ocean Energy in Maine

The regulatory (and planning)
environment

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Existing Regulations

- We have (generally) adequate tools to regulate individual projects, meaning we can make rational if imperfectly informed regulatory decisions
- Three key state regulations:
 - 401 Water Quality Cert (science)
 - C.91 Tidelands Law (public trust/uses)
 - Federal consistency (both)

Existing Regulations

- For off-shore renewables we can apply existing regulations and build the necessary science and incorporate into better decision-making under existing regulations (generally)
- We do not have adequate tools to consider and make intelligent decisions about allocations of/interactions among public trust rights

Blue Water Stumbling Blocks

- Yes to all: poor siting, inadequate information, stakeholder opposition, use conflicts, inter-/intra-governmental disagreement, but:
 - Proponents make rational decisions under existing law
 - Listed objections are expressions of frustration with absence of framework that provides coherence
- We can get the science - blue water siting is fundamentally a public trust issue

Examples

- Cape Wind
 - science in play, public trust unresolved and won't be
- 2 Offshore LNG terminals
 - science resolved, public trust 'resolved' through extraordinary mitigation
- Winthrop beach nourishment
 - science resolved (dispositive), public trust unrequited
- Patriot Wind
 - science unresolved, public trust unresolved

Until Blue Water Planning, What?

- Siting criteria
- Baseline data requirements
- Alternatives analyses
- Direct/indirect impact analyses
- Cumulative impact assessments
- Federal consistency

Massachusetts Oceans Act of 2008

- Comprehensive plan to manage development in state waters, balance natural resource preservation with traditional and new uses, and support renewable energy development
- Secretary of EEA to develop a comprehensive ocean management plan, based on scientific and stakeholder process
- Draft plan by summer of 2009, deadline of December 31, 2009, for final promulgation

Blue Water Plan

- Provides ecological, social and economic coherence
- Provides the context for public trust decisions
- Allows development of iterative approach to the 'plan,' starting from what we know now
- For renewables, establishes basis for investment/implementation

The background is a smooth blue gradient. On the left side, there is a bright, glowing area that resembles a sun or moon reflecting on water, with a soft, white-to-yellow glow that fades into the blue. The overall effect is serene and clean.

Thank you