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## **Court decisions propel wind projects forward**

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Two court cases decided in July 2010 have helped to propel wind projects, which have been in the works for years. The first, *The Alliance for Protect Nantucket Sound, Inc. v. Energy Facilities Siting Board*, involves Cape Wind, which will be the nation's first off-shore wind project, with 130 turbines to be installed in Nantucket Sound. The challenge in the case involved which agency had the authority to issue approval for the underground and undersea electronic transmission cables that will connect the windfarm to the regional electric power grid. The opponents, which consisted of local citizens group, regional planning commissions and various municipalities, brought suit after the Energy Facilities Siting Board (the Board) issued an approval to Cape Wind. The court ruled that the Board not the Cape Cod Commission or the local towns, had the authority to make such a decision. This ends eight-years of deliberations. In a second case, *Ten Local Citizen Group v. New England Wind, LLC*, the court found the opponents had failed to present sufficient evidence to overturn wetlands approvals issued for a windfarm project. The approvals concerned the crossing of wetland buffer zones and banks along two access roads, to be built to reach 20 proposed wind turbines that will be located on hilltops in the western Mass. towns of Florida and Monroe. Here the opponents, local and statewide citizens groups, used the appeal process associated with wetlands permitting to press for more protections of potentially impacted wetlands. The court stated that the ultimate decision for wetlands approvals rests with the Mass. DEP to which the court deferred and found its decision was "supported by substantial evidence,...not arbitrary or capricious, or based on error of law." Thus the nearly seven-year permitting and appeal process seems to have come to an end.

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