

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ALLCO RENEWABLE ENERGY LIMITED, et al.,

Plaintiffs,

v.

DEB HAALAND, in her official capacity of Secretary of
the Interior, et al.,

Defendants.

Case No. 1:21-cv-11171

**PLAINTIFFS' ASSENTED TO
MOTION TO DISMISS
CERTAIN CLAIMS**

On July 18, 2021, Plaintiffs, Allco Renewable Energy Limited, Allco Finance Limited and Thomas Melone filed a complaint against the Defendants in the above-captioned matter. [ECF No. 1]. The Complaint was amended by the First Amended Complaint (“FAC”) as of right under Fed. R. Civ. Proc. 15 [ECF No. 58]. Plaintiffs now move to (1) dismiss with prejudice and without costs Counts V, VII, VIII, IX, X and XVIII (first), and (2) add Counts VI, XI and XII to the list of counts dismissed without prejudice by the June 30, 2022, order [ECF No. 127], because Counts VI, XI and XII relate only to the Outer Continental Shelf Lands Act (“OCSLA”) and the Endangered Species Act (“ESA”) (and to not add those to such list would be inconsistent with reasoning of the June 30, 2022, dismissal order.)¹ Pursuant to Local Rule 7.1, undersigned counsel certify that they have conferred with counsel for the Defendants and Intervenor Vineyard Wind 1 LLC. Defendants and the Intervenor consent to this motion while reserving objections as to the merits of any re-filed claims. A proposed order is attached as

¹ Count XI relates to Defendants’ alleged failure to properly analyze the effects of climate change on hurricane activity in the Vineyard Wind Project area over the next 30 years, and the alleged likelihood of a catastrophic failure of the wind turbine generators, and the alleged likelihood of turbine parts and oil and chemical spills in the Atlantic. That count relates to the safety, protection of the environment, prevention of waste, conservation of the natural resources of the outer Continental Shelf criteria under the OCSLA and the potential impact on the North Atlantic Right Whale and the migratory birds on “Little Beach” under the ESA. Counts VI and XII both relate to alleged failure of the Bureau of Ocean Energy Management (“BOEM”) acting under its OCSLA authority to take a hard look at the no action alternative and the calculation of impacts based upon alleged flawed assumptions related to the no action alternative. These relate to BOEM’s decision to approve the project under the OCSLA.

Exhibit A hereto.

Respectfully submitted,

Dated: August 3, 2022

/s/ Thomas Melone
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Attorney for Plaintiffs

Certificate of Service

I HEREBY CERTIFY that on this 3rd day of August 2022, a true and complete copy of the foregoing has been filed with the Clerk of the Court pursuant to the Court's electronic filing procedures, and served on counsel of record via the Court's electronic filing system.

/s/Thomas Melone