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PRESS RELEASE

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TRIBE IS ASTONISHED BY GOVERNORS BLATANT DISREGARD FOR TRIBAL SOVEREIGNTY AND HISTORIC PRESERVATION

On April 23, 2010, six governors from Atlantic coastal states issued a letter that denigrated the Advisory Council on Historic Preservation's recommendation to "deny the Cape Wind Project due to its destructive and irreversible effects on historic properties in Nantucket Sound".

"It is astonishing that the six governors would come out with a letter of this nature, especially well after the comment period had closed" stated Cheryl Andrews-Maltais, Chairwoman of the Wampanoag Tribe of Gay Head Aquinnah. "All tribes should be alarmed by the intent of the governors' letter that clearly ignores the findings of the Advisory Council and dismisses and marginalizes the sovereignty of Tribes exercising rights under historic preservation laws and government-to-government consultation" she added.

The federal government's trust responsibility to tribes and the body of federal Indian law is based upon numerous treaties between sovereign governments. "So for states to disregard tribal sovereignty and promote indifference to our beliefs and rights seems very ill-advised" she noted.

"We have been on record and continue to support renewable energy projects" the Chairwoman stated. "However, it appears these governors failed to acknowledge that the denial of this one locational permit will not stop renewable energy projects, it will simply require these types of large scale projects to be developed in a respectful and responsible manner, consistent with the laws and regulations put in place to protect the Tribes' and the Public interests".

As a basis for their recommendation and contrary to the findings and advice of the Advisory Council on Historic Preservation, the governors erroneously conclude that Minerals Management Service (MMS) complied with identification of historic sites under Section 106 of the National Historic Preservation Act.

“What is really troubling is the fact that the governors do not seem to be familiar with or respect Federal Indian Laws and Tribes’ rights under them. It is also apparent that the governors and or their advisors are unfamiliar with, or are disregarding the law and fundamental requirements under Section 106 of the National Historic Preservation Act, 36 CFR Part 800” added Bettina Washington, Tribal Historic Preservation Officer of the Tribe.

In stark contrast to the findings of the ACHP expert panel; in reference to the archeological survey the governors claim that “the survey effort complied with all requirements in Section 106 and no historic artifacts were discovered in sampling performed as part of the state and federal environmental review.” “It’s obvious that whoever advised the governors as to the overall comprehensiveness and accuracy of the survey, failed to acknowledge the Advisory Council’s findings regarding the deficiencies of the survey, or the State Historic Preservation Office’s conclusions about the site, or the National Park Service’s Keeper of the National Register and the expertise they possess” stated Mrs Washington.

Contrary to the governors’ conclusion, the Advisory Council found that MMS did not follow Section 106 when it ignored its own archaeological studies that confirm the project’s likely effects on ancient Native American cultural materials. The archaeological report concluded that “the entire off shore study area has potential to contain submerged historical cultural materials.” MMS did not consult with the tribe on the technical reports surrounding the project, nor did it satisfy its Section 106 obligations to properly identify impacts to historic sites. If it had, MMS would have come to the same conclusion as the National Park Service, who declared the site eligible for the National Register of Historic Places.

The Chairwoman noted that “The governors should be more troubled by the implications of noncompliance with federal law and breaches of federal trust responsibilities to tribes, not with long-established federal review procedures that are in place to do what they did in the Cape Wind case – to protect historic properties from adverse effects” Mrs Washington added “Instead, these governors are calling for a blatant disregard to historic preservation laws generally and specific arbitrary and capricious review of tribal sacred sites as protected sites of historical significance”.

“The policy suggested in the letter would appear to expect special treatment for these governors and discriminate against the preservation of sites of religious and cultural significance to tribes nationwide” added Mrs Washington the Tribal Historic Preservation Officer. “This letter brings to light a very disturbing perception of how states feel about tribal sovereignty and would set a dangerous precedent, embarking up a very slippery slope of diminishing the integrity of historic preservation efforts in Indian country,” cautioned the Chairwoman. “Tribes are not, and should not be considered second-class governments; we are cognizant of our rights as sovereign nations.” Chairwoman Andrews-Maltais said in closing.

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If you have any questions regarding this press release, please contact Tribal Historic Preservation Officer Bettina Washington or Chairwoman Cheryl Andrews-Maltais at the Wampanoag Tribe of Gay Head (Aquinnah) Administration Office at (508) 645-9265