



## **Advisory Council Meeting**

June 24, 2022 | Meeting Summary

Developed by the Consensus Building Institute

### **Meeting-In-Brief**

On June 24, 2022, the Responsible Offshore Science Alliance (ROSA) Advisory Council held its sixth meeting, convening 31 members and alternates (a list of Council attendees can be found in Appendix A). Ninety-three distinct participants in total attended the event. At this meeting:

- ROSA shared updates on their summer intern, their upcoming meeting at the NYSERDA State of Science Workshop, and new clam survey guidance from Rutgers.
- NOAA Fisheries and BOEM presented on and discussed challenges to pre-construction fisheries surveys.
- A panel of researchers presented adaptive strategies, innovative tools, trade-offs, and implications in ongoing project monitoring.
- ROSA presented follow-ups on the *Fisheries Resource Data Production, Storage, and Accessibility Report*.
- ROSA reported progress on a regional research prioritization framework.

Meeting materials, including the agenda and presentations, can be found on ROSA's website: <https://www.rosascience.org/advisory-council>

### **Welcome**

ROSA Executive Director Lyndie Hice-Dunton welcomed participants and, with facilitator Patrick Field, oriented participants to meeting topics, agenda, and conversation guidelines. Mr. Field reminded attendees that the conversation is intended primarily for Advisory Council (AC) Members. Lyndie Hice-Dunton introduced Will Shoup, a new ROSA intern working on data standardization and technical support. She also noted the following upcoming meetings:

- NY E-TWG, ROSA and RWSC joint meeting on Wednesday, July 13, 2022, at 10:30 am-12:00 pm ET
- ROSA side workshop at the NYSERDA State of Science Workshop on Wildlife and Offshore Wind Energy on Tuesday, July 26, 2022, 1-5 pm ET
- Symposium on Offshore Wind, Fish, and Fisheries: Emerging Knowledge and Applications at the American Fisheries Society Annual Meeting on August 21-25, 2022, in Spokane, WA

## **Methods of Surveying Commercial Clam Stocking Using Hydraulic Dredge**

Daphne Munroe, Rutgers University, presented a document being drafted that outlines basic advice on how to conduct clam surveys. This document will summarize survey platforms, sample collection (data collection, tows, efforts), consideration for controls if necessary, and calibration of gear. This document has been submitted as a technical note to the scientific journal *Fisheries Research* and is currently being peer-reviewed.

## **Challenges to Pre-Construction Fisheries Surveys**

Panelists Ursula Howson, BOEM, and NOAA Fisheries GARFO representatives Doug Christel, Nick Sisson, and Ryan Silva gave a presentation on the challenges to pre-construction fisheries surveys. This discussion was moderated by Patrick Field, CBI.

Ursula Howson, BOEM, presented an overview of the Offshore Wind fisheries monitoring surveys.

- A developer creates a fisheries monitoring plan with agency input from BOEM and other cooperating agencies. This monitoring plan becomes a required condition in the Record of Decision (ROD) and Construction and Operations Plan (COP) approval letter (permit) that follows the completion of the Environmental Impact Assessment (EIS) analyzing the project based on the COP.
- There are pre-construction surveys that happen pre- and post-ROD, and pre-construction and post-construction surveys that happen post-ROD.
- BOEM does not require specific gear or duration.
- The federal agencies are working on programmatic Biological Assessment/Opinion (BA/BiOp) planned for completion in the third quarter of 2023. They have a fisheries survey guidance which is also currently pending.
- There are possible short-term challenges in conducting certain surveys until the Programmatic BA/BiOp is completed.
- In summary:
  - Pre-ROD pre-construction fishery surveys are allowed as follows: ESA Take coverage – responsibility of the developer currently; planned programmatic ESA BA/BiOp planned for late 2023.
  - Post-ROD pre and post construction fishery surveys are allowed covered under each Project's Section 7 ESA BA/BiOp.

Douglas Christel, Nick Sisson, and Ryan Silva from NOAA gave a presentation on Offshore Wind Energy Fishery Survey Issues:

- Key questions to answer are related to the Magnuson-Stevens Act and the MMPA/ESA. They are
  - Is the survey fishing or scientific research?
    - Will the research be conducted by a research vessel?

- Will the survey be conducted by a scientific institution?
  - Will the survey interact with protected species?
    - Will the survey activities potentially interact with protected species?
    - Will survey activities affect designated critical habitat?
- If a survey is planned to be conducted on a scientific research vessel controlled by a scientific institution, then a Letter of Acknowledgement can be issued that confirms the research, but it has no specific protected species take coverage.
- For commercial fishing activities and gear (not scientific as defined), an Exempted Fishing Permit (EFP) exempts vessels from fishing regulations and MAY have protected species take coverage, depending on gear type and fishery.
- THUS, early coordination and planning is needed at least three years before anticipated COP approval to ensure adequate baseline data is permitted and gathered.
- People can get coverage for their activities and potentially eliminate or reduce the risk of interactions through BMPs. Formal Endangered Species Act (ESA) consultation is only required if action is likely to adversely affect ESA species or critical habitats.
- ESA Section 7 consultation by NMFS/BOEM may be required for surveys under an EFP, and for post ROD surveys, depending on the project. Programmatic consultation covers pre-ROD/construction surveys.
- ESA Section 10 Permit need for PI/developer to cover potential incidental takes from scientific research activities.
- NMFS guidance is forthcoming and will be posted online in the ROSA Project Monitoring Framework/Guidance.
- The Marine Mammal Protection Act (MMPA) prohibits the take of marine mammals except for unintentional take during commercial fishing. Scientific surveys may or may not be considered commercial fishing. A Letter of Authorization (LOA) could provide take coverage for up to five years and is only issued if the take is likely and could not be mitigated. An Incidental Harassment Authorization that covers non-lethal takes or non-serious injury can provide coverage for a year.

Below are questions and comments that followed the initial presentations. Questions are in regular type and responses from panelists are *italicized*.

- Is there a provision that accommodates charter boats, which are outside the definition?
  - *The provision is for federally permitted boats, so charters could be subject if they are permitted.*
- What do you mean when you talk about programmatic BA?
  - *Programmatic BA and associated biological opinion are the programmatic consultation. It would cover all the survey activities for all the projects in the region and attempt to quantify the type and number of surveys in a large comprehensive approach.*
  - *Depending on what BOEM puts in their biological assessment, that is what we would consult on.*

- Does the EFP for commercial fishing have to be tied to a certain fishery for the take to be accounted for? What is the actual definition of “take” for protected and mammal species?
  - *Yes, EFPs are associated with single activities. We do have ESA take coverage for similar fisheries (we have done consultation for fisheries whose operations are very similar and evaluated the impact on them) – a take is defined as any interactions with a marine mammal or endangered species (i.e., hitting, harming, trapping them, or interfering with their activity).*
  
- Is hook and line included in Section 7?
  - *We will have to follow up if that is included in the batched biological opinion.*
  
- Which regional office would handle permits for pre- and post-construction surveys as we move down the coast (coast of North Carolina)?
  - *For geographically ambiguous locations, you can contact us, and we will direct you to the appropriate office.*
  
- When can we expect the new BOEM Fishery Survey Guidelines, and are you working with states like Rhode Island to align their expectations and what would be allowed under ESA?
  - *The guidelines are currently in review. Unfortunately, there is not a specific date they will be finished (but likely Summer 2022). We met with the states briefly last month with the Special Initiative for Offshore Wind, with the hope that conversations would be continued through today’s meeting and as needed. Alignment is up to the states and their decisions on what they require.*
  
- Have you started the programmatic work for the fisheries surveys?
  - *No. We have the working plan we are developing, and we are working with a contractor to start developing the programmatic work in the Fall. We believe it will take about a year with the development of the BA and consultation with NMFS.*
  
- Will ropeless gear require a LOA (Letter of Acknowledgement)?
  - *The LOA is based on if it is fishing or not fishing, and it works as a facilitation document to minimize interactions with others at sea (e.g., enforcement authorities). It is not required but helps to minimize your disruption depending on if you are a commercial fishery or conducting research.*
  
- If you are delayed a year due to permitting, does that mean people have to do another year of surveying?
  - *Each project has its own monitoring plan, and that plan is a condition of COP approval (via the ROD). For the developer to continue with the project, it must meet the conditions in the ROD.*

- How much work needs to be done for one to have a complete comprehensive baseline for the impact on marine resources for each of the COPs?
  - *It is very specific to the project. This comes in developing the survey plan with the agencies and what is most appropriate for each project. BOEM is creating guidelines, so they do not have set requirements for a set period of monitoring.*

**Panel: Researcher’s Response to the Challenge, Innovation Tools, Trade-Offs, and Implications.**

Mike Pol, ROSA Research Director, moderated the panel on innovative responses to the challenges of permitting and fisheries monitoring for wind energy development. The following individuals served as panelists:

- Robert Ruhle, Captain of the F/V Darana R
- Kevin Wark, Endeavor Fisheries
- Doug Zemeckis, Rutgers University
- David Bethoney, Commercial Fisheries Research Foundation.

*Robert Ruhle, Captain of the F/V Darana R* spoke on the challenges of staying on time series during the survey process. He explained there needs to be a way to implement the same kind of surveys we use to align with existing time series. Depending on the species, some surveys can take up to five (5) to ten (10) years, and the current time suggested does not allow for this. His biggest concern with the guidelines is that they will be site-specific, and the information will be limited to that region.

*Kevin Wark, Endeavor Fisheries*, was unable to attend the meeting, so Mike Pol shared some of his insights: When it comes to developing alternative sampling techniques, he encourages people to leverage fisherman’s local knowledge. There is a complexity in understanding species distribution in real-time and what fish are being exposed to, and fishermen have the best knowledge of the local environment. He also noted finding a collaborative partner who has experience with risks associated with protected species and the selectivity of the gear types is important.

*Doug Zemeckis, Rutgers University*, spoke on his team’s experience and responses to challenges around permitting in New Jersey. Most of his involvement is in the bottom trawl survey and structured habitat survey. They pursued a LOA for their structured habitat survey and began that survey this spring with three (3) gear types. When they had trawl surveys delayed, they began doubling the effort. They have talked to other researchers about how they can share data. There is a six-year research project to see how pre-construction, construction, and post-construction work impacts fisheries.

*David Bethoney, Director, Commercial Fisheries Research Foundation*, spoke on his organization’s engagement to do monitoring surveys with fishermen and the University of

Rhode Island to do four (4) surveys in the area. He hopes the outcome of the programmatic review is clear guidance and necessary training for fishermen on the survey process.

Mike Pol asked the panelists to share their thoughts on the balance between collecting robust data and the timelines required or suggested by regulation or guidance. How can we incorporate information with all the different gears? Robert Ruhle noted we need to shift the responsibility of the survey away from developers and possibly under NOAA. That way, they will have control over the process and information. This might minimize impacts from current surveys as a part of their mitigation process.

Below are questions and comments that followed the panel. Questions and comments from participants are in regular type and responses from panelists are *italicized*.

- Based on the timeline for ocean and wind, which phases will your surveys cover?
  - *Doug Zemeckis: We are hoping to start in Q4 of 2023 or Q1 of 2024. The structured habitat survey should be in two (2) years of pre-construction monitoring, and the trawl survey should be one (1) year before.*
- BOEM noted that the money generated from lease sales goes into the treasury. BOEM gets funding through congressional appropriations. Adding a lease stipulation for additional funding on the East Coast projects already leased is no longer feasible.
- Multiple participants acknowledged that the current project by project structure that is legally mandated should be revised to a regional survey framework.

### **Follow-Up on Fisheries Resource Data, Production, Storage, and Accessibility Report**

Mike Pol, ROSA Research Director, gave an update on the ROSA Data Accessibility Project. The ROSA Advisory Council has identified regional data management, storage, and access as priority focus areas. He gave a brief overview of the RPS Report Summary recommendations:

- Privately collected data for which a database does not exist must be hosted on the developer's website or made available to users by request.
- Data should be collected in a format that is compatible with existing surveys and databases.
- OWE developers should emulate sampling protocols and gear designs consistent with regional-scale data collection programs wherever possible.

Mike Pol then reviewed the data accessibility recommendations that were drafted and sent to the Committee which suggested revisions in May 2022. These recommendations and the RPS Report are in the process of finalization.

Jeff Kneebone, Senior Scientist, New England Aquarium, then gave a presentation on data sharing.

- Dr. Kneebone gave an overview of Highly Migratory Species (HMS) telemetry monitoring. His team has conducted several projects since 2020, including the MA Clean Energy Center (CEC) Pilot Study (2020-2021), Equinor Wind (Beacon Wind) Baseline Monitoring (2021), and Mayflower Wind Baseline Monitoring (2021).
- In the next couple of years, they plan on conducting the following projects: Ørsted Fishery Monitoring Plan (2022-2026), Vineyard Wind Baseline & Construction Monitoring (2022-2025), and Avangrid Renewables Baseline Monitoring (2022-2025).
- These are all individual contracts with different developers, and some projects are short-term while others are extensive. Without proper funding, this framework can cause challenges in regional surveying.
- Sharing telemetry data can have advantages such as increased sample size and monitoring coverage area, confirmed absences, expansion of monitoring to additional species, coordination of monitoring across WEAs along the coast, and a large amount of temperature and noise data. However, for this data to be shared developers must agree on terms and stipulations.
- Effective regional monitoring requires cooperation and agreement across all sponsors. Mr. Kneebone is currently drafting an agreement. Some challenges related to data sharing include complex funding structures for HMS projects, and disagreements around monitoring and/or analysis (e.g., who are the collaborators, heightened sensitivity around endangered species, mixed funding for analysis).

Below are questions and comments that followed the initial presentations. Questions are in regular type and responses from panelists are *italicized*.

- Thank you for highlighting the complexities of telemetry.
- This seems like it incorporates too many parties and creates an overly complex array for a regional study. The issues you are running into are related to the methodology.
- The New Jersey Research and Monitoring Initiative (RMI) have provided over \$20 million for three years of regional research. Several developers are being brought into projects, and while I agree with the difficulty of coordinating between groups, it is possible, and the New Jersey RMI can be an example for others.
- ROSA has an opportunity to not repeat the mistakes made elsewhere. They should take lessons learned from across the coast during pre- and post-construction data collection.
  - *The end goal is to share this information with any telemetry project across the coast. This data can give us insight into predicted and abnormal migration data, and we want to participate in as much data sharing as possible. The next step is to solidify a plan for execution.*

### **Regional Research Prioritization Framework**

Lyndie Hice-Dunton, ROSA Executive Director, gave a brief overview of the Regional Research Prioritization Framework. ROSA's goal is to have a shared regional framework to supplement the many different research needs identified throughout the region. ROSA has created a vision for a regional research framework that synthesizes identified research priorities. ROSA is

working to synthesize these into themes and topics areas and have hired a contractor to help continue to refine the synthesis of research priorities, build a database of ongoing OSW/Fisheries research, develop prioritization criteria, and perform a gap analysis between research priorities and ongoing research. Dr. Hice-Dunton also noted that ROSA is working to identify opportunities for collaboration and avenues to avoid redundancy with the Regional Wildlife Science Collaborative (RWSC), New York Technical Working Groups (NY TWGs), and others.

### **Next Steps & Adjourn**

Lyndie Hice-Dunton, ROSA Executive Director, closed the meeting with an overview of the next steps:

- July Meetings to continue discussions about research prioritization and innovative sampling strategies
- AFS Symposium on August 22-23
- ROSA staff will continue to address priority topics with committees and research advisors
- New website is anticipated for late summer of 2022
- There are two commercial fishermen spots available on the Advisory Council, we welcome anyone interested to apply.
- Please reach out to us with topics of interest for meetings or sector-specific calls (lyndie@rosascience.org or mike@rosascience.org)
- Next quarterly meeting will likely be September 2022

Lyndie Hice-Dunton and Mike Pol thanked attendees for their time, participation, and engagement.



## **Appendix A | ROSA Council Member and Alternates Attendance**

Names represent members or alternates

IF members called in via only phone, they may not be accounted for via Zoom attendance lists

Black is Present; Red is Absent

Peter Aarrestad	Connecticut Department of Energy and Environmental Protection
Katie Almeida	The Town Dock
Michelle Bachman	New England Fisheries Council
<b>Crista Bank</b>	<b>Vineyard Wind</b>
Chris Batsavage	North Carolina Department of Environmental Quality
<b>Robert Beal</b>	<b>Atlantic States Marine Fisheries Commission</b>
Samuel Beirne	Maryland Energy Administration
<b>Bonnie Brady</b>	<b>Long Island Commercial Fishing Association</b>
Morgan Brunbauer	New York State Energy Research and Development Authority
Colleen Brust	New Jersey Department of Environmental Protection
<b>Patrick Campfield</b>	<b>Atlantic States Marine Fisheries Commission</b>
Joe Cimino	New Jersey Department of Environmental Protection
Doug Christel	National Marine Fisheries Service
<b>Jennifer Daniels</b>	<b>Atlantic Shores Offshore Wind</b>
<b>Greg DeCelles</b>	<b>Orsted</b>
Willy Goldsmith	American Saltwater Guides Association
Simonetta Harrison	Massachusetts Division of Marine Fisheries
Brian Hooker	Bureau of Ocean Energy Management
<b>Peter Hughes</b>	<b>Atlantic Capes Fisheries, Inc.</b>
Lane Johnston	Responsible Offshore Development Alliance
<b>Greg Lampman</b>	<b>New York State Energy Research and Development Authority</b>
Kirk Larson Jr.	Lindsay L Inc.
Andy Lipsky	Northeast Fisheries Science Center
Julia Livermore	Rhode Island Department of Environmental Management
Elizabeth Marchetti	Equinor
EJ Maron	Equinor
<b>Frederick Mattera</b>	<b>Commercial Fisheries Center of Rhode Island</b>
Catherine McCall	Maryland Department of Natural Resources
Laura McKay	Virginia Department of Environmental Quality
Trish Murphy	North Carolina Department of Environment & Natural Resources
Cheri Patterson	NH Wildlife
Rachel Peabody	VRMC
Michael Pierdinock	CPF Charters
<b>Ruth Perry</b>	<b>Mayflower Wind Energy</b>
Kathleen Reardon	Maine Division Marine Fisheries
<b>Eric Reid</b>	<b>Commercial fishing consultant</b>

Robert Ruhle	F/V Darana R
Sarah Schumann	Shining Sea Fisheries Consulting
Mike Sissenwine	New England Fishery Management Council
David Stormer	Delaware Department of Natural Resources and Environmental Control
David Tobey	Virginia Saltwater Sportfishing Association
John Toth	Jersey Coast Anglers Association & Saltwater Anglers of Bergen County
Alison Verkade	Greater Atlantic Regional Fisheries Office
Mike Waine	American Sportfishing Association
Kevin Wark	Endeavor Fisheries
Kate Wilke	Mid-Atlantic Fishery Management Council
Carl Wilson	Maine Department of Marine Resources