

Committee on Natural Resources
Subcommittee on Water, Wildlife and Fisheries
Oversight Budget Hearing
1324 Longworth House Office Building
May 23, 2023
10:15 AM

“Examining the President’s FY 2024 Budget Proposal for the U.S. Bureau of Reclamation, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration, and the Power Marketing Administrations.”

Questions from Rep. Luna of Florida for the Honorable Jainey Bavishi, Assistant Secretary of Commerce for Oceans and Atmosphere and Deputy NOAA Administrator

1. It has come to our attention from some stakeholders that the federal regional fishery management councils (RFMCs) are unbalanced when it comes to the proportion of commercial fishery sector council members in both the Gulf and South Atlantic. The need for more commercial representation on both these RFMCs was noted in the NOAA 2022 report to Congress on RFMCs. How will the Administration ensure that these two RFMCs are balanced, and that consumer access to marine resources through the actions of some is preserved?
 - **Response:** The Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires the Secretary of Commerce to appoint “individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources.” In addition, the Secretary must “to the extent practicable, ensure a fair and balanced apportionment... of the active participants ... in the commercial and recreational fisheries under the jurisdiction of the Council.” Council members are selected by the Secretary of Commerce from lists of nominees submitted by Governors of the constituent states, pursuant to section 302(b)(2)(C) of the MSA. NOAA Fisheries continues to place emphasis on recommending individuals whose experience spans sectors for a well-rounded perspective.

Questions from Rep. González-Colón of Puerto Rico for the Honorable Jainey Bavishi, Assistant Secretary of Commerce for Oceans and Atmosphere and Deputy NOAA Administrator

1. During our Subcommittee hearing, you mentioned that NOAA is developing a transition plan and a timeline to address the new provisions of the reauthorized Coral Reef Conservation Act. Could you share additional information about these efforts, including a projected timeline of when NOAA expects to finalize this transition plan and begin implementing the new provisions?
 - **Response:** NOAA’s Coral Reef Conservation Program has finalized the development of a transition plan to outline near- and longer-term actions necessary to fully implement the reauthorized CRCA, many of which are underway. Efforts currently underway include:
 - i. Developing the new National Coral Reef Resilience Strategy in consultation with partners;
 - ii. Consulting with federal, state and territorial partners to identify individual coral reefs and ecologically significant units of coral reefs for coral reef stewardship partnerships;
 - iii. Developing an adjudication process for coral reef stewardship partnerships to ensure no geographic overlap among partnerships;
 - iv. Consulting with federal, state and territorial partners on establishing priority conservation and restoration areas within their jurisdictions;
 - v. Defining exigent circumstances and having discussions with the National Fish and Wildlife Foundation to carryout the emergency response and disaster recovery provisions of the reauthorized CRCA;
 - vi. Establishing a programmatic structure to administer new block grants and cooperative agreements; and,
 - vii. Initiating the process to identify reef research centers which will inform the competition and selection of two new Reef Research Coordination Institutes.
 - The components of the plan have timelines in accordance with the statutory deadlines as well as other mandatory prerequisite requirements that must be met prior to meeting several statutory deadlines. Some new provisions have been implemented, some are underway, and some are planned for implementation in the near future, after completing the prerequisites. NOAA is committed to working with Congress to ensure the timely and successful implementation of the reauthorized Coral Reef Conservation Act.

2. I note that NOAA’s Fiscal Year 2024 budget request includes over \$3.6 million to improve fisheries science and management efforts in the U.S. Pacific and Caribbean territories. Could you elaborate on the work that would be carried out with this proposed funding and how it would help improve fisheries management in the U.S. territories? I know this has been a longstanding issue in Puerto Rico and the U.S. Virgin Islands, where our fisheries are considered “data poor.”
 - **Response:** The NOAA budget request includes \$1.2M in additional resources for

the historically under-served U.S. Caribbean to improve estimates of fishing removals, obtain representative samples of age and length of the catch, and develop fisheries independent surveys for priority species (e.g. lobster, conch, reef fishes). Increased resources in the U.S. Caribbean would allow NOAA Fisheries to advance fisheries management by establishing systematic partnerships with Territorial agencies and by promoting cooperative research efforts to develop and conduct statistically-sound data collection and fisheries resource surveys. These funds will provide immediate benefits to the Territories by enabling the use of data-limited stock assessment techniques for an increased number of species and by facilitating the evaluation of management options (e.g. seasonal or area-based harvest limitations, gear modifications, or quota requirements). NOAA Fisheries Southeast Fisheries Science Center proposes to accomplish these objectives through extensive capacity building and engagement with local fishing communities and universities. This cooperative approach is cost-effective, and will ensure that Territorial scientists, managers and communities are able to participate as effective partners in the management of their local marine resources.

- The Pacific Islands region (PIR) shares the same concerns as Puerto Rico and USVI on the data poor situation of their fisheries. The NOAA budget request includes \$2.5M to improve the data poor situation by upgrading the fishery dependent data collection and establishing other data sources in the Pacific Island territories. Funds will be used to build capacity of NOAA Fisheries in American Samoa, Guam and the Commonwealth of Northern Mariana Islands to coordinate data collection improvement efforts including a review and certification of the existing Territorial creel survey, enhancing life history research, implementation of electronic reporting to support the territorial agencies' efforts on mandatory reporting, and implementation of small boat fishery-independent surveys. The Pacific Islands Fisheries Science Center also plans to enhance stakeholder engagement to incorporate their input in the science development process. This will increase the equity of underserved communities through multiple points of consultation and feedback prior to reaching fishery management decisions that affect their livelihoods. All these activities will contribute to the improvements in data products and community engagement, which will enhance stock assessments and allow for better informed and more inclusive decision making.
3. The latest *Fisheries of the United States* reports lack certain data for Puerto Rico, particularly when compared to the 50 States. For instance, the 2020 report does not include data on recreational trips and catch for the Island (see page 15). It similarly excludes landings by U.S.-flag vessels at Puerto Rico from the U.S. domestic landings regional- and state-level data table (see page 10). What efforts, if any, is NOAA pursuing to collect, publish, and report commercial and recreational fisheries data—including information on trips and landings—for Puerto Rico in the same manner such information is collected, published, and reported for the several States?
- **Response:** NOAA's Southeast Fisheries Science Center (SEFSC) spends about \$360K/yr to support a number of efforts to improve commercial statistics, including annual support for the Puerto Rico Department of Natural and Environmental Resources to facilitate timely entry of commercial logbook data,

and a pilot study to improve annual estimates of commercial landings in Puerto Rico.

- With regards to recreational statistics:
 - i. NOAA Fisheries' Marine Recreational Information Program (MRIP) develops statistics on recreational fishing catch and effort via two methods. For the Atlantic and eastern Gulf of Mexico regions, and Hawaii, we carry out a two-part survey with support from State partners. In the remaining coastal states and Western Pacific Territories, the States and Territories conduct the surveys, and provide their effort and catch estimates to NOAA.
 - ii. The MRIP-conducted surveys include a mail survey to develop estimates of the number of fishing trips and a shoreside intercept survey to estimate catch per trip. The statistical design of the mail survey requires a complete, unbiased list of residential mailing addresses for the States in which it is conducted. Commercial survey vendors provide addresses for use as sample frames. To our knowledge, there are currently no vendors that provide this service in Puerto Rico, and therefore we have been unable to generate recreational catch estimates for the Commonwealth.
 - iii. MRIP has established seven Regional Implementation Teams to identify regional recreational catch statistical needs and priorities. The Caribbean MRIP Regional Implementation Team is currently working toward developing workable alternative survey designs for both Puerto Rico and the U.S. Virgin Islands that can generate reliable catch statistics with available tools. NOAA believes it is possible for the team to complete this effort in 2023. Once feasible and statistically sound designs have been identified, NOAA Fisheries will work with regional partners to assemble the necessary resources and commence recreational effort and catch data collection in both Territories.
- We also note that sampling for recreational fisheries monitoring was suspended in Puerto Rico following Hurricanes Irma and Maria in late 2017. (At that time a privately maintained address directory was utilized for the effort survey, but that directory is no longer maintained.) Data collection could not be continued due to the widespread damage to fishing access sites as well as other critical infrastructure (roads, telephone and electrical utilities, mail service) that is needed to conduct statistically valid sampling. In the years following the storms, NOAA Fisheries has partnered with the Caribbean Territories, in particular the Puerto Rico Department of Natural and Environmental Resources, the USVI Department of Planning and Natural Resources Division of Fish and Wildlife, and scientific consulting firms, to rebuild fishing site registers and to pilot recreational and commercial port sampling. This work will be evaluated by the MRIP Caribbean Regional Implementation Team as it develops its recommended future data collection design for the region. We expect that, ultimately, this effort would be included in a comprehensive port sampling program in each Caribbean Territory that includes commercial, for-hire, and recreational fisheries. Further, the regional partners have identified the need for a fishery-dependent data governance structure as a priority need, and are exploring options including

establishing a Caribbean regional Fishery Information Network (FIN) or enhancing Caribbean partner participation in an existing FIN.

4. Could you provide an update on the status of NOAA's efforts to expand the Economics: National Ocean Watch (ENOW) dataset to include Puerto Rico and the rest of the U.S. territories?

- **Response:** NOAA has completed Year 2 of the 3-year long project to develop the ENOW dataset for all five U.S. Territories. NOAA has conducted outreach through six bimonthly calls with groups of stakeholders in both the Caribbean and Pacific; held two data workshops (all virtual) in each of the five Territories/Commonwealths and shared workshop reports; held over 60 one-on-one calls with key stakeholders; requested and received Census data for each of the five Territories/Commonwealths and developed draft ENOW equivalent datasets for all five Territories/Commonwealths. In the past year, NOAA also held calls with each Territory statistical agency and identified staff who have agreed to serve as a central point of contact to provide information to enable regular updates to the initial dataset.

Over the next nine months, NOAA will incorporate the ENOW data for the five U.S. Territories into the [ENOW Explorer](#) tool, develop an operations plan to guide future data acquisitions, and hold in person workshops for each of the five Territories to present final results.

5. On September 8, 2022, NOAA Fisheries published a proposed rule to list the queen conch as a threatened species under the Endangered Species Act (ESA). When does NOAA expect to finalize this rule? What sort of engagement has NOAA conducted with relevant stakeholders in Puerto Rico, particularly commercial fishermen and resource managers?

- **Response:** Final determinations on listing status under the ESA are generally made within 1 year of the proposed listing. The proposed rule was published on September 8, 2022. We anticipate the final determination to be published in the Federal Register by approximately September 8, 2023.
- To engage with stakeholders and solicit information to support our assessment, we opened a public comment period for 60 days after publishing the positive 90 day finding on a petition to list queen conch under the ESA. A second public comment period was opened after we announced the initiation of the status review on the species. The status review was used to inform our proposed listing. NMFS staff attended and discussed the status review at the Western Central Atlantic Fishery Commission (WECAFC) meeting in Puerto Rico in December 2019, including notifying members of the opportunity for public comment. We directly contacted and solicited information from numerous published scientific experts on conch fisheries biology. The status review team included 7 science and policy experts from NMFS, who used the best available scientific and commercial information, including public comments received, to inform the population status and extinction risk of the species. The status review team also contacted relevant stakeholders, including fishermen and resource managers, to obtain the most accurate information possible. Prior to completion, the status

review was peer reviewed by 3 leading experts in the field.

- Upon completion of the status review, we published a proposed rule to list the queen conch as threatened, which included a 60-day public comment period (87 FR 55200, September 8, 2022). To facilitate public participation, the proposed rule was available online and comments were accepted via standard mail, oral comment at the public hearing, and through the Federal eRulemaking portal. We provided English, Spanish, French, Dutch, and Creole versions of the proposed rule, as well as English and Spanish versions of Frequently Asked Questions on our website. In response to requests to extend the public comment period, we re-opened the public comment period for an additional 35 days (87 FR 67853; November 10, 2022), for a total comment period of 95 days.
 - We also announced a virtual public hearing to allow for oral comments to be presented. All individuals who formally or informally requested the public hearing along with representatives from over 30 State, Federal, and international organizations were contacted multiple times via email prior to the public hearing to maximize participation. We directly contacted and solicited comments from a variety of stakeholder groups and fisheries management organizations through avenues such as the Convention on International Trade in Endangered Species (CITES), WECAFC, the Caribbean Regional Fisheries Mechanism (CRFM), the Caribbean Fishery Management Council (CFMC), State/Territorial partners, over 6,000 subscribers to our Fishery Bulletin, and others.
 - We requested assistance from the U.S. Department of State to ensure notice was given to and relevant information received from nations within the range of the queen conch. On November 21, 2022, we hosted a virtual public hearing on the Webex platform. The public hearing featured live Spanish-language interpretation services and closed captioning translation options for English, French, German, Spanish, and Italian. We presented updates on the proposed rule to the CFMC at multiple Council meetings and attended the public comment sessions. All official public comments received will be considered and responded to in our final determination.
6. In late 2020, NOAA Fisheries proposed to designate critical habitat for five species of threatened corals in waters off the coasts of southeastern Florida, Puerto Rico, the U.S. Virgin Islands, and Navassa Island. Similarly, in October 2022, NOAA Fisheries proposed to designate critical habitat for the Nassau Grouper in waters off these jurisdictions. What is the status of these efforts? When does NOAA expect to finalize and implement the critical habitat designations for these species?
- **Response:** NMFS has considered the public comments submitted on the proposed rule (85 FR 76302) to designate critical habitat for five species of threatened corals and developed a draft final rule. The final rule was accepted by the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) on May 9, 2023, to conduct final interagency review. The interagency review process concluded on July 26, 2023, and the final rule was published in the Federal Register on August 9, 2023.
 - The proposed rule (87 FR 62930) to designate critical habitat for Nassau grouper was published on October 17, 2022. We are in the process of reviewing and

responding to public comments, and anticipate publication of a final determination during the last quarter of 2023.

Questions from Rep. Levin of California for The Honorable Jainey Bavishi, Deputy Administrator, National Oceanic and Atmospheric Administration

1. The San Juan Creek Watershed Project proposed by the Santa Margarita Water District would construct inflatable rubber dams to divert, capture, and infiltrate storm flows in the San Juan Groundwater Basin. The goal of the Project is to enhance capture and reuse of stormwater in San Juan Creek, improve water quality in the San Juan Creek Watershed, as well as increase regional water supply reliability by recharging the Basin and providing up to 2,000 acre-feet per year of potable water. I understand that Santa Margarita staff has worked with National Marine Fisheries Service (NMFS) staff on adequate mitigation for this effort, including potential restoration work on the nearby San Mateo Creek, a key habitat for steelhead trout. I support the goals of the inflatable dam project and want to help the District accomplish its objectives of promoting regional water security by recharging underground aquifers in an environmentally- and financially-responsible manner. **Can you commit to working in good faith with Santa Margarita Water District and our office on reaching a fair outcome on this important project that will balance the important considerations of the Endangered Species Act with Southern California's regional water needs?**
 - **Response:** Yes.
2. We are aware that the U.S. Bureau of Reclamation (BOR) and the District have developed this plan, and in 2017 NMFS provided a response to the Notice of Preparation, outlining the items BOR and the District will need to provide, should they request formal consultation. **Has the U.S. Bureau of Reclamation (in consultation with Santa Margarita Water District) requested formal consultation from NMFS?**
 - **Response:** No.
3. If not, what is the next step in the process?
 - **Response:** The U.S. Bureau of Reclamation (Bureau) would send NMFS a draft Biological Assessment (BA) which would describe the proposed action and anticipated impacts to listed species and their designated critical habitat before submitting a request for formal consultation under Section 7 of the ESA.
4. What information and documents need to be submitted to NMFS in order to identify mitigation opportunities and move forward with this project?
 - **Response:** The Bureau has not yet provided NMFS with the required information for us to answer this question. The first step would be for the Bureau to provide us with a draft BA (see response to question 3, above).
5. At what point in the process does NMFS consider proposed mitigation measures and provide feedback to BOR and the District?
 - **Response:** NMFS would consider and provide feedback on proposed mitigation measures after the Bureau provides all required information for beginning the formal consultation and after NMFS assesses that information, particularly in regard to expected effects of the Bureau's action on endangered steelhead.

6. Is NMFS staff willing to coordinate a site visit with Santa Margarita Water District?
 - **Response:** NMFS would be pleased to participate in a visit to the action area and recommends that the Santa Margarita Water District reach out about scheduling a visit.
7. To what extent has NMFS headquarters staff been involved in the review of the San Juan Creek Watershed Project?
 - **Response:** They have not been involved. Any consultation with the Bureau on this project has been delegated to the NMFS' West Coast Region to conduct.
8. How does NMFS prioritize recovery and mitigation efforts? Does NMFS generally consider offsite mitigation a suitable approach?
 - **Response:** NMFS recovery priorities for endangered southern California steelhead are described in the 2012 Recovery Plan (Plan). This Plan serves as a guideline for achieving recovery goals by describing the criteria by which NMFS would measure species recovery, the strategy to achieve recovery, and the recommended recovery actions necessary to achieve viable populations of steelhead within the Southern California Steelhead Recovery Planning Area. The 2023 5-year status review for the species serves as additional information, which informs NMFS' understanding of the species current populations when prioritizing recovery efforts. Offsite mitigation may be considered on a case-by-case basis.

Questions from Rep. Sablan of the Northern Mariana Islands for The Honorable
Jainey Bavishi, Deputy Administrator for the National Oceanic and Atmospheric
Administration

1. Last December, the Shark Fin Sales Elimination Act was enacted following passage by the 117th Congress. This new law prohibits the commercial trade of shark fins or products containing shark fins, thereby removing the United States from the international shark fin market. Congress demonstrated significant bipartisan support for this policy on multiple occasions. The House passed the Shark Fin Sales Elimination Act by a vote of 310-107 in the 116th Congress. In the 117th Congress, both chambers passed the legislation twice: the Senate as part of the U.S. Innovation and Competition Act, following a 23-5 Commerce Committee vote to add the legislation as an amendment during markup, and the House as part of the underlying text of the America COMPETES Act. Then, a modified version of the Shark Fin Sales Elimination Act was included in the 2022 defense authorization bill, which both chambers passed in December 2022. When do you expect to issue regulations for implementing the Shark Fin Sales Elimination Act?
 - **Response:** The Shark Fin Sales Elimination Act imposed clear requirements, and thus implementing regulations may not be necessary. NOAA Fisheries is still exploring if there are any areas where regulations would be useful to clarify how we plan on implementing the Act.
2. Will NOAA apply the ban to shark fin transactions that occur wholly intrastate?
 - **Response:** Yes. Pursuant to the Act, the ban on possession and sale of shark fins applies to all transactions whether they are interstate or intrastate.
3. Could NOAA receive the penalties from Shark Fin Sales Elimination Act violations as funding and use it to enforce the Act?
 - **Response:** Yes. NOAA may apply sums received as fines, penalties, and forfeitures of property for violations of any marine resource law enforced by the Secretary to expenses directly related to investigations and enforcement, pursuant to 16 U.S.C. § 311(e)(1).

Questions from Rep. Bentz of Oregon for the Honorable Jainey Bavishi, Assistant Secretary of Commerce for Oceans and Atmosphere and Deputy NOAA Administrator

I had extended an invitation to Congressman Chris Smith to participate at our hearing. Unfortunately, he was not able to participate, but passed along the following questions:

1. I've read [BOEM's radar interference analysis](#) from August 2020 which conceded that "future offshore wind energy installations on the Atlantic coast may impact land-based radar systems..." We've recently learned that the armed forces of Finland now opposes building wind farms over defense concerns including interference with radar noting that the distance between a wind turbine and a radar installation must be at least 40 kilometers or about 25 miles. I represent several military installations in my district—including Naval Weapons Station Earle, which supplies munitions for all Atlantic Fleet Carrier and Expeditionary Strike Groups. Our ocean is filled with military and civilian vessels that may be significantly put at risk by radar malfunction caused by ocean wind turbines. A [2022 study](#) by the National Academies of Sciences, Engineering and Medicine determined that "wind turbine generator returns obfuscate the Marine Vessel Radar picture for both magnetron-based and solid-state radar, thereby affecting navigation decision-making... Wind Turbine Generators lead to interference in Marine Vessel Radar ...and will frequently lead to the unintended consequence of suppressing detection of small targets" boats, buoys or creating misleading images on radar screens. Ominously, the study found that "wind turbine generator mitigation techniques have not been substantially investigated, implemented, matured, or deployed." Will 3400 wind turbines deployed off our coast make navigation less safe?
 - **Response:** The impact of 3,400 offshore wind (OSW) energy turbines deployed off the coast to marine navigation depends on a number of factors including how well instrumented those OSW developments are, how effectively those instruments' data are communicated to mariners, how well marked audio-visually and with radar reference buoys the turbines are, and how well they are depicted on nautical charts. These are all factors which can and are being addressed by collaboration between agencies such as BOEM, the U.S. Coast Guard (USCG), DOD, and NOAA. There are also technology-based and non-technology-based mitigation measures currently employed to reduce impacts on marine vessel radars, such as greater use of automatic identification systems (AIS) and electronic charting systems, signature-enhancing reflectors, and tuning radars to appropriate modes when in or around wind turbine generators (WTGs) and OSW Projects. These are in addition to other aids to navigation such as foghorns and navigation lights being used to mark WTGs for vessel safety. Each lease has a signal and lighting plan as part of the construction and operation plan.
 - NOAA is working with USCG and OSW developers to communicate construction activities to mariners to mitigate risk. This is done through weekly coordination meetings, USCG Local Notice to Mariners and Broadcast Notice to Mariners, and Caution Areas on NOAA's nautical charts, as well as charting the turbine locations ahead of construction. These tools, when used in concert with one another, provide mariners with weekly updates of where to expect construction.
 - Further, regarding wind turbine radar interference mitigation (WTRIM),

technologies like radar beacons and mitigation techniques such as those suggested by that 2022 National Academies study like “deployment of reference buoys adjacent to wind farms to provide mariners a reference target to appropriately adjust marine vessel radar” may be required in these facilities’ Construction and Operations Plans approved by BOEM. NOAA, along with other Federal agencies including BOEM and the Dept. of Defense (DOD), are members of the Federal WTRIM Working Group, which is coordinating activities across agencies including developing and facilitating the deployment of hardware and software mitigation measures to increase the resilience of existing radar systems to wind turbines. Accordingly, questions about military radar can be directed to the Federal WTRIM Working Group’s DOD lead [contact: Steve Sample (steven.j.sample4.civ@mail.mil), Executive Director, Military Aviation & Installation Assurance Siting Clearinghouse, Office of the Assistant Secretary of Defense (Energy, Installations, & Environment)].

- NOAA works closely with BOEM through the National Telecommunications and Information Administration (NTIA) to gather wind turbine project information (turbine locations and heights). NOAA conducts analyses to determine the impacts to the NEXRAD weather radar, and works with industry on mitigation strategies such as changes in turbine heights, relocation of turbines, or a curtailment agreement.

2. Several weeks ago, BOEM, NOAA Fisheries, and the Responsible Offshore Development Alliance issued a [report](#) that claims, “Physical changes associated with (offshore wind) developments will affect the marine environment—and, subsequently, the species that live there — to varying degrees. These include construction and operation noise and vibration, electromagnetic fields, and thermal radiation from cables, as well as secondary gear entanglement.” This statement seems to conflict with other statements of NOAA and the Biden Administration used to dismiss claims that offshore wind industrialization may be contributing to marine mammal deaths by interfering with their hearing. Given that no project of such magnitude has ever been constructed on the US East Coast as those off the coast of New Jersey, how can NOAA be sure of the practical effect of 3,400 wind turbines on the marine environment?

- **Response:** The March 2023 “Fisheries and Offshore Wind Interactions: Synthesis of Science” report was developed from a 2020 workshop to identify future research priorities in consideration of offshore wind development, focusing primarily on fish and fisheries science and management. The report synthesizes the current state of understanding and research priorities based on anticipated offshore wind in the United States. The types of impacts identified in the report are consistent with the effects considered through the environmental and regulatory reviews required prior to finalization of an Environmental Impact Statement under NEPA and prior to BOEM’s decision on approving a Construction and Operation Plan (COP) for any offshore wind proposed project.
- NOAA provides extensive input and analysis during BOEM’s environmental review process for potential leasing, and construction and operation approvals. To date, BOEM has approved two Construction and Operations Plans (COP); those projects, Vineyard Wind 1 (offshore Massachusetts) and South Fork Wind (offshore New York), are currently under construction. BOEM is actively

processing additional plans and recently issued Records of Decision for an additional two projects (Ocean Wind 1 and Revolution Wind), and others with environmental impact statements underway.

- At this point, there is no scientific evidence that noise resulting from offshore wind site characterization surveys could potentially cause mortality or serious injury of whales. There are no known links between recent large whale mortalities and ongoing offshore wind surveys.
 - NOAA Fisheries carefully considers possible impacts to marine mammal species when analyzing requested marine mammal incidental take authorizations. NOAA maintains a list of all active and in-progress incidental take authorizations and associated documents, including those related to offshore wind. Details and mitigations are included in the relevant documents for each active and proposed authorization. NOAA Fisheries does not anticipate and has not authorized—or proposed to authorize—mortality or serious injury of whales for any wind-related actions.
3. In terms of offshore wind development and fisheries, it has often appeared that BOEM and NOAA Fisheries are not effectively working together. How can NOAA fisheries improve its coordination with BOEM, commercial and recreational fishing communities, and regional councils? I'm specifically curious about where NOAA can require OSW developers to share data with fisheries managers and scientists and multi factor bidding which potentially can encourage restoration and research efforts.
- **Response:** BOEM is the lead federal agency responsible for offshore energy exploration and development in the United States. NOAA Fisheries, in coordination with NOS NCCOS, helps support responsible OSW development by consulting with BOEM and other federal agencies to meet the requirements of the Marine Mammal Protection Act, Endangered Species Act, Magnuson-Stevens Act, Fish and Wildlife Coordination Act, and the National Environmental Policy Act. NMFS also serves as an adopting agency under NEPA for our MMPA authorizations.
 - BOEM and NOAA are collaborating in several priority areas related to offshore wind development. For example:
 - i. In January 2022, NOAA and BOEM signed a Memorandum of Understanding to work collaboratively to meet the Administration's offshore wind development goals in a responsible manner.
 - ii. BOEM has tapped the marine spatial planning expertise of the National Ocean Service's National Centers for Coastal Ocean Science to inform its siting decision-making.
 - iii. In addition, NOAA Fisheries and BOEM released a joint draft strategy to protect and promote the recovery of North Atlantic right whales while responsibly developing offshore wind energy in October 2022. We are working with BOEM to address comments we received and to finalize the strategy later this year.
 - iv. In December 2022, we finalized a joint BOEM/NMFS Federal Survey

Mitigation Strategy to guide the development and implementation of a program to mitigate impacts of wind energy development on scientific surveys in the Northeast. NOAA Fisheries' surveys are essential for collecting the data necessary to inform the sustainable management of our nation's fisheries, recovery of protected resources, conservation of habitats and ecosystems, and understanding the impacts of climate change. We have begun to implement that strategy with BOEM in the Northeast and are beginning similar efforts in other regions.

- NOAA has no authority over the administration of the multi-factor bidding process that BOEM establishes during the sale of offshore wind leases.
- Similarly, NOAA has little direct authority to require developers to share monitoring data, except any monitoring that NOAA may require of developers under Marine Mammal Protection Act authorizations. NOAA notes that BOEM has required the submittal of monitoring reports to NOAA as terms of approval for projects approved to date and that monitoring plans submitted by lessees as part of their Construction and Operations Plans include information on how data will be shared with the public as well as state and Federal Partners.

NOAA appreciates and coordinates with BOEM on their different efforts to strengthen coordination with fishery stakeholders in their role as lead federal agency for offshore wind development. We do this by working with them during regular briefings to fishery management councils, participating in regional task force meetings, and providing technical assistance on understanding the impacts of offshore wind on fishing communities.