



Responsible Offshore Development Alliance

November 4, 2020

Scott Lawton, Dominion Energy
Lloyd Eley, Dominion Energy
Kevin Carroll, Dominion Energy
Ron Larsen, Sea Risk Solutions

Dear Mr. Lawton, Mr. Eley, Mr. Carroll, and Mr. Larsen,

Thank you for taking the time to meet with us on October 20th, 2020. As a follow up to our discussion, we are sending this letter on behalf of Captains Mark Hodges, Art Hodges, Kenneth Hodges, Tommy Eskridge, James Eskridge, Thomas-Reed Eskridge and Spencer Headley, and their five boats and crew. The aforementioned Virginia captains actively fish Black Sea Bass (BSB) and Conch, respectively, using pot gear within the Dominion-leased Virginia Wind Energy Area (WEA, Coastal Virginia Offshore Wind-Commercial [CVOW-C]) and its planned export/transmission cable corridor. While this letter specifically references these fishermen, this does not represent an exclusion of others (including those in mobile gear fisheries) that will be affected by the development and may share these or other requests.

These captains and their crews have been fishing these traditional and historical fishing grounds within the WEA and the transmission corridor with consistent, documented annual landings of BSB and Conch for the last 20 years. Their small businesses, the families that depend on them, and those of other interdependent dockside infrastructure (ice houses, gear shops, fuel distributors, fish dealers, restaurants, etc.) rely on their catch as part of a balanced business portfolio, where losses to one element have compounding impacts to the rest.

They are concerned that their catch, and therefore their income, may be negatively impacted by the development of offshore wind energy infrastructure associated with the CVOW-C project. The unknown potential consequences from a WEA – from direct displacement due to survey efforts, exclusions during construction and decommissioning, operational constraints of fishing within a WEA and near the transmission cable corridor, changes to the biology or behavior of target or non-target stocks, or secondary and tertiary impacts such as increased risk, transit time, gear conflict with recreational boaters or other decreases in catch per unit effort (CPUE) – are all of great concern to the commercial fishing industry. These captains indicate a single lost season due to survey, construction, operation or repair events, or a combination of those factors, could be economically devastating without mitigation.

These fishermen, and their small businesses, need to be considered as the project is developed and operationalized.^{1,2} They are respectfully requesting to be involved in the permitting, planning and deployment of the CVOW-C as they must continue their business operations. The Construction and Operations Plan (COP) outlines the proposed activities and commitments of the project to ensure all impacts are considered as part of development and deployment. The inclusion of a detailed fisheries mitigation, monitoring and compensation plan in the COP will ensure that authentic coordination with the fishing community is considered, protecting their small businesses.

¹ See 43 U.S.C. § 1337(p)(4)(J)(ii) (Requiring offshore wind energy activity to be “carried out in a manner that provides for ... consideration of ... any other use of the sea or seabed, including use for a fishery”).

² Virginia Coastal Zone Management Program. 2016. Collaborative Fisheries Planning for Virginia’s Offshore Wind Energy Area. US Dept. of the Interior, Bureau of Ocean Energy Management, Office of Renewable Energy Programs, Herndon. OCS Study BOEM 2016-040. 129 pp.



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The captains specifically request that Dominion include the following elements in the CVOW-C COP:

1. **Construction be limited to seasons with minimal impacts to fishing activity.**

Based on recent presentations by Dominion, these pot fishermen understand that construction is anticipated to take place between May and October when their operations may be limited, reducing their exposure to impact. However, surveys of the project area and extensions of the timing of construction, due to delays, may either require the removal of their gear or reduce the days their gear might be deployed. Because gear is often set for several days to weeks at a time, short term exclusions have longer term consequences. Construction and other activities that impose access restrictions should be limited to times that the fishery is not active. To the extent that temporal overlaps cannot be avoided, fishermen should be fully compensated for any losses associated with reduced access or gear loss.

2. **Involvement in cooperative research for monitoring surveys that will inform the pre-construction baseline of the fisheries and measure impacts post-construction.**

The captains request that Dominion commit to funding sufficient research to understand baseline fishing activity and resource conditions, and monitor ecological changes that occur as a result of project construction and operation. Such studies must be designed based on the following principles:

- a. **Independence.** In order to produce credible and peer reviewable results, fisheries monitoring must occur at an arm's length from developers and their consultants. This means that Dominion and the pot fishermen should identify a mutually agreeable third-party researcher, such as an academic with substantial fisheries science expertise, to design the study(ies). Results must be shared with federal and state regulators and the public regardless of the outcome.
- b. **Cooperative Research.** Following modern best practices in fisheries science, the industry should be included in the survey design, execution, and analysis of the baseline studies. As these fishermen are the most familiar with the species and ecosystem of the fisheries, their knowledge will be vital in establishing baseline and post construction surveys. Furthermore, long-term monitoring to evaluate changes over time are also important. Collating past catch, and other data verification methods will be necessary to validate the baseline studies and inform future mitigation or compensation frameworks. In particular, we recommend consideration of ventless trap, mark-recapture and telemetry methods for the species under analysis. For Conch, integrating time of day and weather conditions is also important as they are light and storm sensitive.
- c. **Consider Best Practices Emerging through Regional Collaboration.** Dominion Energy should coordinate with the National Marine Fisheries Service and the Responsible Offshore Science Alliance (ROSA) which are developing Best Practices, to provide guidance and consistency in study design, data analysis, and monitoring frameworks.
- d. **Allow for Sufficient Time Series.** Due to the highly dynamic marine environment, fisheries surveys must generally be conducted for several years to develop usable information against which to measure impacts. Similarly, post-construction monitoring may not be informative if a developer only commits to sampling for a few years. Dominion should keep in mind the lengthy required time series and expenses associated with at-sea data collection when developing budgets for these studies.



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- e. **Honor Privacy of Fisheries Data.** Data collection and ownership is a sensitive issue, and fishermen are not obliged to release proprietary information to offshore wind developers nor are there mechanisms to ensure its protection if they do so. However, it may be appropriate to include historical catch data or other information held by these captains in an effective study design. RODA operates a project through which commercial fishermen may input data into a Fisheries Knowledge Trust. The Trust aggregates and anonymizes spatial fishing data for use in peer-reviewable research projects with outside analysts, and is owned by the commercial fishing industry. Use of a trusted platform such as this one to house fishermen's proprietary data would be the most appropriate way to ensure both its protection and accuracy if it is required to be incorporated into studies.

3. Specific inclusion of the BSB and Conch pot fisheries in the COP.

These Virginia pot fishermen request Dominion to develop a detailed Fisheries Plan that includes mitigation for all direct and indirect impacts from the CVOW project to their operations. The first priority should be to minimize any impacts. As such, the Fisheries Plan should include details of how the project will minimize or offset impacts to the fisheries through all phases of its creation from surveys, to vessel traffic, to construction and operation of turbines, cables, and substations, to decommissioning.

4. Development of mitigation and compensation framework.

Following specific and actionable commitments to reduce impacts to the maximum possible extent, the COP should include details on compensation plans for losses due to closures or reductions in catch that cannot be minimized through project design. As construction will definitely include closures, and operations may include temporary closures, a framework outlining compensation strategies should be developed to support any impacts to catch or landings during any closures for surveys, construction, operation, repairs and decommissioning. The plan should be based on the research described in the second bullet above.

In closing, we kindly request Dominion's commitment to work as partners toward a shared goal of maintaining strong fisheries for the future. Due to the difficulties of scheduling face-to-face meetings around fishing schedules and the public health situation, the captains have requested a written response to the items in this letter at your earliest convenience.

Sincerely,

Lane Johnston, Programs Manager

Annie Hawkins, Executive Director
Responsible Offshore Development Alliance