

**New York Environmental Technical Working Group (E-TWG)
Meeting Summary – 07 April 2020**

	<u>Name</u>	<u>Date</u>
Prepared by	Julia Gulka, Biodiversity Research Institute	04/08/2020
Reviewed by	Kate Williams, Biodiversity Research Institute	4/13/2020
Reviewed by	Bennett Brooks, CBI	4/29/2020

Disclaimer: While all efforts were made to accurately represent E-TWG discussions, the views expressed in this summary may not represent the views of all E-TWG members.

Background

As part of New York State's efforts to responsibly develop offshore wind energy, the New York State Energy Research and Development Authority (NYSERDA) convened the Environmental Technical Working Group (E-TWG) in 2018 to provide input to the state on environmental topics¹. The seventh meeting of the E-TWG was held via video conference on 07 April, 2020. Nineteen E-TWG members participated in this meeting (Appendix A).

This meeting summary is intended to capture the key points of discussion and input from the E-TWG, as well as action items identified during the meeting. This summary is loosely organized according to the structure of the meeting agenda (Appendix B). Specific comments are organized by topical relevance, not necessarily the part of the agenda in which the comments were made. Opinions are not attributed to specific E-TWG members unless there is a clear reason to do so. For topics where there were differences of opinion among E-TWG members, this summary identifies areas of agreement as well as the different perspectives offered during meeting discussions.

Action Items

The following action items to advance E-TWG objectives were identified during the meeting:

- Please **email support staff with any additional written comments on the E-TWG memo by Friday, April 10.**
- Support staff will work with the **BMP Specialist Committees to finalize Version 1.0 of summary documents and assess level of Committee agreement** for the marine mammal recommendations and joint recommendation on regional research and monitoring. **Recommendations will be incorporated into the next version of the memo** (as applicable).
- Support staff will incorporate feedback from the E-TWG into a next draft of the memo, and **send a revised version to the E-TWG by April 15.**
- **The next E-TWG conference call is April 16 from 9-11 am.** During this call, the group will discuss the revised draft, including whether recommendations that received near-consensus from Specialist Committees should be included in the memo. **Following this meeting, support staff will finalize the memo and submit it to the Public Service Commission no later than April 20.**

Welcome

Bennett Brooks (Consensus Building Institute) opened the meeting with a brief review of the overall aim for the meeting: the development of a transmittal memo from the E-TWG to the New York Public Service Commission (PSC) that communicates wildlife mitigation and monitoring recommendations developed by the two best management practice (BMP) Specialist Committees.

Meeting Goals

At the last E-TWG meeting in February, the group discussed the value and benefit of taking the outputs from the two BMP Specialist Committees and communicating that work to the PSC. Based on these discussions, support staff drafted a transmittal memo focusing on consensus and near-consensus recommendations, while also recognizing that there are topics that are either still in discussion or have not yet been discussed at the Committee level.

¹ For meeting agendas, summaries, and presentations, see: <http://nyetwg.com/>

NY Process Update

Greg Lampman (NYSERDA) provided a brief update on the New York procurement process. During Governor Cuomo's State of the State Address in January, he announced that New York would procure at least 1000 MW of offshore wind in 2020. NYSERDA filed a petition with the PSC on January 28, which noted that NYSERDA's interpretation of the Phase 1 Order grants them the authority to include reasonable and appropriate environmental BMPs in the next solicitation. When the PSC issues the Phase 2 Order, they can either reinforce that interpretation, placing NYSERDA in the role of determining BMPs for inclusion, or they can maintain control of that decision and choose to consider the inclusion of BMPs directly into the Order.

NYSERDA also filed the draft supplemental generic environmental impact statement (SGEIS) on February 6. The public comment period for the SGEIS has closed, which has led to the current State Administrative Procedures Act (SAPA) process. The comment period for this process closes on April 20, and represents the last public process required by law for the issuance of a Request for Proposals. The PSC has scheduled a session on April 23, but we do not yet know whether the agenda includes the offshore wind procurement Order. However, it is possible that the Order could be issued the following day (at the earliest). Given that we do not have additional insight on the timing nor the potential for additional public comment processes, Greg encouraged the Committee to strive to submit a memo to the PSC by the April 20 deadline, in order to formalize E-TWG and Committee input into the procurement process.

As an aside, NYSERDA is also seeking stakeholder feedback related to potential impacts from COVID-19 and input on the timing of the next offshore wind solicitation. Feedback should be sent to offshorewind@nyserda.ny.gov by April 8.

Summary of the Recent BMP Specialist Committee Process

Kate Williams (Biodiversity Research Institute) provided a brief overview of the progress of the two BMP Committees to-date. In the Phase 1 Order, the PSC expressed that they would consider BMPs developed by the technical working groups in relation to the next round of offshore wind solicitations. In response, the E-TWG formed the two BMP Committees to help inform state processes and to provide a forum for conversations.

In January 2020, both Committees conducted a full written review of their respective summary documents. Following this feedback, both Committees met remotely in February. The bird and bat Specialist Committee has since participated in an online survey to assess level of agreement on recommendations, which was then reflected in a revised version of the summary document. After some additional edits, which were reviewed with Committee members via email, the summary document was finalized and posted to the E-TWG website on March 31. The marine mammal and sea turtle Committee has continued to meet and make written revisions to the summary document through the present. At participants' request, sea turtles have been removed from the summary document for now, as discussions have focused solely on marine mammals to-date. In addition, there was one joint Committee recommendation on regional research and monitoring. This recommendation was initially included in both Committee documents, but based on Committee feedback, it now is a separate third document. We had a joint Committee call last week to discuss this recommendation and will be sending out a revised version of the document and a survey to assess Committee agreement shortly. The aim is to

have both the joint Committee document and the marine mammal summary document finalized to incorporate into the next version of the memo for E-TWG review next week.

Review of Draft Memo

B. Brooks and K. Williams reiterated the merits of the E-TWG and Committee articulated consensus views in a memo to the PSC. But they also stressed the importance of all parties being comfortable with the product and processes. To that end, they emphasized that the memo could be structured in two distinct ways: 1) it could refer the Committee products to the PSC's attention, without endorsement of any recommendations, or 2) it could outline broadly supported recommendations for particular consideration. The second option more strongly reinforces the E-TWG role in the process, and is in line with what was discussed at the E-TWG meeting in February; however, given the short timeline for memo submission, support staff provided two drafts of the memo to demonstrate these two approaches. If the E-TWG cannot come to consensus on the memo, a third options would be to not submit anything to the PSC and rely on informal transmission of Committee efforts (the Department of Public Service, which supports the PSC, is already aware of Committee efforts through communication with NYSERDA).

Discussion

- The E-TWG agreed that Option 2 was the best course of action to be very clear about the recommendations and to share the progress and hard work of these Committees to date. Recommendations that do not get full Committee consensus will be considered for inclusion in the memo on a case-by-case basis.
- There may be additional opportunities to add recommendations into the memo after April 20, if the PSC process takes longer than outlined currently; but for now, the E-TWG should strive to submit the memo by the April 20 public comment deadline.

Proposed Structure

The memo to the PSC includes: 1) an introduction on Committee process and key factors for the PSC's consideration, 2) a section where recommendations are presented (Option 2 only), and 3) a small conclusion with signatures. The aim is for the memo to be a succinct summary that can serve as an executive summary that the group is comfortable with. We want to avoid the possibility that individual comments submitted to the PSC could contradict the memo.

- **Introduction:** includes a paragraph that requests the PSC to consider the recommendations put forth by the two Specialist Committees, followed by a description of the inception and roles of the Committees. This section also highlights the need for flexibility to ensure that offshore wind is developed in an environmentally responsible but practicable way, recognizes that the development of recommendations is an ongoing process, and that the current recommendations do not necessarily represent top priorities.
- **Summary of Recommendations:** The recommendations are split into two categories: full consensus and near consensus. For each recommendation topic, a brief paragraph describes the focus of the recommendation and key points identified during Committee discussion. The full recommendation language is not included, which keeps the memo succinct and ensures that the reader must go to the summary documents to see the actual recommendations.

- **Conclusion and signature:** Based on the involvement of NYSERDA in the procurement process, the letter will probably be directed by Kate Williams on behalf of the E-TWG, and it will be sent to NYSERDA as well as the PSC.

Discussion

- E-TWG members approved the overall structure of the memo.
- In response to a question, G. Lampman explained that the PSC and NYSERDA will examine the recommendations and choose whether to draft appropriate language to include in the Order and/or solicitation. The language in the memo and summary documents will not go into an RFP.
- Introduction section:
 - Need to clarify the roles of observer vs. advisory members of the E-TWG.
 - The section highlighting additional considerations is both necessary and has an adequate level of detail.
 - Language should be modified to leave it to the discretion of the PSC and NYSERDA as to whether recommendations are included as contractual requirements.
 - The addition of phrasing like “additional information” or “evolving circumstances” should be added to the section about flexibility.
- Recommendations Section:
 - E-TWG members generally agreed that this section included a good level of detail for each recommendation.
 - Recommendations from the marine mammal summary document, and the joint recommendation on regional research and monitoring, will be incorporated into this section if they have full or almost full Committee agreement. As noted above, topics without complete consensus will be reviewed by the E-TWG for inclusion on a case-by-case basis.
- Conclusions:
 - The last page of the memo includes a list of E-TWG member entities. All E-TWG members should review this section and email support staff if the exact name of their entity should be adjusted.

Additional Discussion: Marine Mammal Committee Processes

E-TWG members who also sit on the marine mammal BMP specialist Committee expressed concern that the Committee may be unable to resolve issues and come to agreement on recommendations on the April 20 timeline. The suggestion was made that a small group of Committee members work to revise recommendations and bring those changes back to the full Specialist Committee. This process, to some degree, is currently occurring, with developers working together to revise language that was intended to be tested with their eNGO counterparts. However, as there are other suggested Committee edits to the document in addition to these most recent suggestions, members felt it would be more efficient to review all changes at one time. Given the accelerated timeline for the Committee to finalize the summary document and assess Committee level of agreement, it was determined that the marine mammal summary document would be sent out to the full Committee for a “red flag” high level review before sending out the survey to assess level of Committee agreement. Support staff will send a revised version of the memo to the E-TWG by April 15, which will hopefully include some marine mammal and joint Committee recommendations for review.

Appendix A: List of Participants

Point of Contact	Organization	Stakeholder Type	Role
<i>Greg Lampman</i>	<i>NYSERDA</i>	<i>State Government</i>	<i>Convener/chair</i>
Catherine Bowes	National Wildlife Federation	eNGO	Advisor
Jenny Briot	Avangrid	Developer	Advisor
Koen Broker	Shell New Energies	Developer	Advisor
Ali Chase	Natural Resources Defense Council	eNGO	Advisor
Elizabeth Gowell	Ørsted	Developer	Advisor
Francine Kershaw	Natural Resources Defense Council	eNGO	Advisor
Jillian Liner	Audubon New York	eNGO	Advisor
Carl LoBue	The Nature Conservancy	eNGO	Advisor
Joe Martens	NY Offshore Wind Alliance	Nonpartisan NGO	Advisor
Laura Morales	Equinor Wind US	Developer	Advisor
Ruth Perry	Shell New Energies	Developer	Advisor
Matt Robertson	Vineyard Wind	Developer	Advisor
Howard Rosenbaum	Wildlife Conservation Society	eNGO	Advisor
Anthony Bevacqua	NJ Board of Public Utilities	State Government	Observer/ technical support
Isis Farmer	Bureau of Ocean Energy Management	Federal Government	Observer/ technical support
Scott Johnston	U.S. Fish and Wildlife Service	Federal Government	Observer/ technical support
Keith Hanson	NOAA Fisheries	Federal Government	Observer/technical support
Sherryl Huber Jones	New York Department of Environmental Conservation	State Government	Observer/ technical support

Support Staff present

Morgan Brunbauer (NYSERDA)
 Bennet Brooks (Consensus Building Institute)
 Farrah Andersen (Cadmus Group)
 Kate Williams (Biodiversity Research Institute)
 Julia Gulka (Biodiversity Research Institute)
 Edward Jenkins (Biodiversity Research Institute)

Appendix B: Meeting Agenda

New York Environmental Technical Working Group (E-TWG)

Time and Date: 11:30 am – 2pm EDT, April 7, 2020

<u>Time</u>	<u>Agenda Item</u>
11:30-11:55	Welcome <ul style="list-style-type: none">• Introductions• Meeting agenda and ground rules• Goals for the meeting
11:55-12:10	Summary of Committee Process <ul style="list-style-type: none">• BMP Committee discussion and consensus process• Current status
12:10-1:45	Review of the Draft Memo <ul style="list-style-type: none">• Review memo content and structure• Section by section review and discussion: E-TWG input on clarity, framing
1:45-2:00	Next Steps