

October 18, 2022

**VIA E-MAIL AND UPS**

***jwillis@crmc.ri.gov***

Jeffrey Willis, Executive Director  
Rhode Island Coastal Resources Management Council  
Stedman Government Center  
Suite 116, 4808 Tower Hill Road  
Wakefield, RI 02879-1900

Subject: File No. 2021-07-005, Revolution Wind Request for Variance

Dear Executive Director Willis:

Revolution Wind, LLC (Revolution Wind) respectfully requests a variance from certain limited sections of the Rhode Island Ocean Special Area Management Plan (Ocean SAMP) relating to baseline assessment requirements and standards in state waters, § 11.9.9. Specifically, Revolution Wind requests a variance from the requirement to collect two years of baseline biological assessments of commercial and recreational targeted fishery species before construction begins. As you are aware, Revolution Wind provided the Coastal Resources Management Council (CRMC) with a Supplement dated August 24, 2022, on the baseline assessment issue. Our request here relies upon that August Supplement.

Revolution Wind has partnered with the Rhode Island Department of Environmental Management (RIDEM) to perform a ventless trap survey within the West Passage of Narragansett Bay along the Revolution Wind Export Cable Corridor within Rhode Island State waters (RWECS-RI). Although Revolution Wind and RIDEM have worked diligently to design the ventless trap survey, certain delays have meant that the survey likely will not commence until this winter. Consequently, Revolution Wind anticipates that the survey may collect approximately 1.5 years of data compared to the 2 years of pre-construction data required under § 11.9.9. Section 11.9.9(E) requires “pre-construction baseline biological assessments of commercial and recreational targeted fishery species as specified in § 11.9.9(C) of this Part for a minimum of two (2) years before offshore construction and installation activities begin.” Ocean SAMP §11.9.9(E). The RIDEM survey will sample every month.

Importantly, RIDEM has conducted a lobster ventless trap survey since 2006. This existing survey provides a substantial baseline dataset to supplement the data collected from the Revolution Wind/RIDEM ventless trap survey. Section 11.9.9(C) permits the use of data from an existing survey program to meet the two-year baseline assessment requirement. Accordingly, and as outlined below, Revolution Wind meets the standard for the Council to grant a variance from this requirement.

The Coastal Resource Management Council Red Book Regulations identify the following six criteria for the issuance of a variance, 650-RICR-20-00-1.1.7:

1. “The proposed alteration conforms with applicable goals and policies of the Coastal Resources Management Program.”

Revolution Wind’s proposed project satisfies this requirement. The Ocean SAMP specifically contemplates underwater cables, such as the RWEC-RI, as an offshore development. *See* Ocean SAMP § 11.10.1(A). Further, the Ocean SAMP identifies the development of offshore renewable energy, including offshore wind, as an important policy objective. *See, e.g.,* Ocean SAMP § 11.9.2(A) (“The Council, therefore, supports the policy of increasing offshore renewable energy production in Rhode Island as a means of mitigating the potential effects of global climate change.”). The Ocean SAMP states specifically that, “Offshore wind energy currently represents the greatest potential for utility-scale renewable energy generation in Rhode Island.” § 11.9.7(B).

Revolution Wind’s proposed project outlined in its Application for a Category B Assent (Category B Application), and in particular the RWEC-RI, further these important policy objectives. The RWEC-RI is a critical part of bringing renewable offshore wind energy to Rhode Island through the power purchase agreement Revolution Wind has entered into with the State. The RWEC-RI will aid Rhode Island in reaching its ambitious clean energy mandates, including those set by the recently enacted Act on Climate, R.I. Gen. Laws § 42-6.2-1 *et seq.*

2. “The proposed alteration will not result in significant adverse environmental impacts or use conflicts, including but not limited to, taking into account cumulative impacts.”

As described in detail in Revolution Wind’s Category B Application, the RWEC-RI will not result in significant adverse environmental impacts or use conflicts, taking into account cumulative impacts. The RWEC-RI is located within the proposed CRMC cable corridor, an area that CRMC has identified, at least preliminarily, as appropriate for cable installation.

Revolution Wind will target 4-6 feet burial depth for the RWEC-RI. Installation of the RWEC-RI will involve only temporary and localized impacts. Additionally, Revolution Wind will install the RWEC-RI outside of time of year restrictions to minimize adverse impacts to certain species by, for example, avoiding spawning seasons. Revolution Wind does not anticipate any significant adverse impacts during operations and maintenance of the proposed project.

Because of the efforts outlined in this section, Revolution Wind does not anticipate the RWEC-RI contributing to any cumulative impacts that may exist in the West Passage. To

summarize, the proposed project will not result in any significant adverse environmental impacts or use conflicts.

3. “Due to conditions at the site in question, the applicable standard(s) cannot be met.”

The Revolution Wind project and RWE-RI do not involve a “site” as that term is typically used. As required by § 11.9.9(C), Revolution Wind identified the “commercially and recreationally targeted fishery species” within the RWE-RI area. Revolution Wind developed an extensive Fisheries Research and Monitoring Plan (FMP), with input from CRMC and other state and federal agencies and stakeholders. Revolution Wind previously provided the draft FMP to CRMC on June 8, 2021. The draft FMP described the state water ventless trap survey that Revolution Wind proposed to conduct with researchers from the RIDEM Division of Marine Fisheries to study lobsters, crabs, and fish in Rhode Island state waters along the RWE-RI route.

CRMC and its advisory Fisherman’s Advisory Board (FAB) had the opportunity to review and comment on the FMP throughout 2021. In an email dated October 7, 2021, CRMC acknowledged that the FMP included the required pre-construction monitoring. Revolution Wind submitted a revised FMP to CRMC on November 9, 2021, which again described the state water ventless trap survey.

On August 24, 2022, Revolution Wind provided an FMP Supplement to CRMC, which identified the status of the state water ventless trap survey. The Supplement identified the work that Revolution Wind had conducted with RIDEM to finalize a research agreement and scope of work. RIDEM also conducted extensive outreach with local fishermen to design the scope and layout of the survey. The Supplement noted that RIDEM had not yet begun field work but that Revolution Wind anticipated it to begin soon.

Although Revolution Wind and RIDEM both worked diligently on the state water ventless trap survey, developing a new survey in this kind of collaborative partnership took time including supply chain delays, which have impeded RIDEM’s ability to timely acquire the pots necessary to conduct the survey. Notwithstanding these delays specific to getting this survey up and running, Revolution Wind expects that the state water ventless trap survey will begin this winter, just a few months behind when Revolution Wind expected the survey to begin. For these reasons, Revolution Wind meets the requirement that “the applicable standard cannot be met” “due to conditions at the site in question.”

4. “The modification requested by the applicant is the minimum variance to the applicable standard(s) necessary to allow a reasonable alteration or use of the site.”

Revolution Wind meets this requirement. Assuming the survey begins this winter, Revolution Wind will collect approximately 6 seasons of data from the state water ventless trap survey, as compared with the 8 seasons required by §§ 11.9.9(C) and (E).

Additionally, the Ocean SAMP states that the biological assessment of commercially and recreationally targeted fishery species “may include evaluation of survey data collected through an existing survey program, if data are available for the proposed site.” § 11.9.9(C). In this case, RIDEM has conducted a lobster ventless trap survey since 2006 as part of a regional effort to provide fisheries-independent abundance indices for juvenile lobsters (McManus et al. 2021). As part of this survey, lobster abundances are monitored in Rhode Island state waters (Narragansett Bay, Rhode Island Sound, and Block Island Sound). This existing survey provides a substantial baseline dataset. In fact, the Revolution Wind/RIDEM state water ventless trap survey will use similar sampling methodology to RIDEM’s long-standing and continuing ventless trap survey to provide regional comparison for the state waters and leverage overlapping spatiotemporal datasets when possible.

For these reasons, the modification Revolution Wind requests is the minimum variance necessary to allow a reasonable use of the site. The existing RIDEM lobster ventless trap survey provides a substantial baseline assessment, consistent with § 11.9.9(C). On top of that, Revolution Wind expects to complete approximately six of eight seasonal assessments prior to construction. Combined, these datasets meet the requirements of both § 11.9.9(C) and the variance.

5. “The requested variance to the applicable standard(s) is not due to any prior action of the applicant or the applicant’s predecessor’s in title. With respect to subdivisions, the Council will consider the factors as set forth in § 1.1.7(B) of this Part below in determining the prior action of the applicant.”

As the prior responses demonstrate, the variance requested does not result from prior action by Revolution Wind. Rather, it results primarily from the extensive efforts required to develop a new survey in a collaborative partnership with RIDEM that also incorporates extensive outreach with local fishermen on the scope and layout of the survey. The requested variance is also due to supply chain delays beyond Revolution Wind’s control.

6. “Due to the conditions of the site in question, the standard(s) will cause the applicant an undue hardship. In order to receive relief from an undue hardship an applicant must demonstrate inter alia the nature of the hardship and that the hardship is shown to be unique or particular to the site. Mere economic diminution, economic advantage, or inconvenience does not constitute a showing of undue hardship that will support the granting of a variance.”

Requiring Revolution Wind to complete the two full years of baseline assessments for the state water ventless trap survey, particularly where a substantial baseline assessment exists dating back to 2006, would cause Revolution Wind an undue hardship. Delaying the cable lay for the portion of the export cable located in state waters to meet the baseline assessment requirement will delay the cable lay for the portion of the export cable located in federal waters. Proceeding piecemeal is not technically feasible, risks damaging the cable before it is completely installed, and may cause greater impacts to fisheries and benthic species along the export cable corridor.

Delaying the export cable lay and burial risks jeopardizing the entire project timeline. Revolution Wind is on a very tight schedule to obtain all applicable permits, approvals, and authorizations, construct the entire Revolution Wind Farm project, and have the project be operational to meet the requirements of the power purchase agreements. Delaying the project may delay the delivery of important renewable offshore wind energy to Rhode Island.

Where, as here, Revolution Wind will have more than one complete year of assessment data, and substantial, similar RIDEM data exists dating back to 2006, requiring Revolution Wind to complete approximately two additional seasons of assessment would pose an undue hardship.

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As described above, Revolution Wind satisfies the six criteria for the Council to grant a variance. Revolution Wind therefore respectfully requests that the Council grant a variance from the requirement of § 11.9.9(E) and permit Revolution Wind to collect less than two years of pre-construction baseline biological assessments of commercial and recreational targeted fishery species along the RWEC-RI route.

Thank you for your attention to Revolution Wind's request. Please do not hesitate to contact Megan Eakin, Permit Manager – Revolution Wind, at [MEGEA@orsted.com](mailto:MEGEA@orsted.com) or (857) 275-1462 with any questions or if additional information is needed in connection with this request.

Sincerely,



Kellen Ingalls  
Authorized Person  
Revolution Wind, LLC



Kenneth Bowes  
Authorized Person  
Revolution Wind, LLC

CC:

Kevin A. Sloan, Coastal Policy Analyst, CRMC  
David Ciochetto, Principal Ocean Engineer, CRMC  
Justin Skenyon, Principal Ocean Engineer, CRMC  
Melanie Gearon, Head of Northeast Permitting, Orsted North America  
Megan Eakin, Permit Manager, Revolution Wind  
Marvin Bellis, Esq., Eversource  
Robin L. Main, Esq., Hinckley Allen