

**In The Matter Of:**  
*Coastal Resources Management Council*

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*Perry Raso*  
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1 other organisms, living organisms in the pond. It was  
2 really intended to capture, like I said, the energy flows  
3 and predator relationships. One model does not do  
4 everything. That wouldn't require a different tool to  
5 look at pollution and those impacts. And for the purpose  
6 of this study, I should just maybe back up.

7 For any study, you do the best that you can to match  
8 the tool for the question. And so in this case we  
9 determined that the food web model was the best tool for  
10 this question. Not a pollution model.

11 Q. As to the questions that we got into about the social  
12 carrying capacity, in your experience with it, do you  
13 believe or do you have an understanding of whether or not  
14 the science behind social carrying capacity is settled?

15 A. It's very much not settled. If anything, it's of the  
16 four types of carrying capacity for aquaculture I  
17 defined, the social carrying capacity is probably least  
18 well understood, most flexible, and incorporates the most  
19 diversity and disciplines and perspectives. So it's  
20 really -- there's no one method or one answer here. It's  
21 highly subjective to the question at hand, geography, and  
22 the values of the humans of that system.

23 Q. Those questions that Mr. Wagner asked you about the  
24 materials you reviewed, is it fair to say that those were

1 documents from Mr. Capizzo on behalf of his clients?

2 Does that refresh your recollection?

3 A. Yes, that was part of the package.

4 Q. And finally, again in terms of numbers that we've been  
5 talking about, the 5 percent rule, that in your opinion I  
6 think you told us is well below the 46 percent ecological  
7 carrying capacity that you had calculated; is that  
8 correct?

9 A. Correct.

10 MS. NOONAN: Nothing further, Madam Chair.

11 CHAIRWOMAN CERVENKA: Thank you. Okay. I  
12 think we're going to move on then to your fourth witness.  
13 And after we finish the fourth witness with everyone's  
14 questions and your redirect, then I'd like to take a  
15 break.

16 MS. NOONAN: Sure. Dr. Byron, thank you very  
17 much.

18 If you would pull up Dr. Rice now, and I'm going to  
19 tender him over to Leslie Parker.

20 MS. PARKER: Mr. Moore, while you're pulling up  
21 Dr. Rice, if you could also pull up Exhibit 2. I know  
22 there are multiple copies, so it would be the Michael  
23 Rice CV.

24 Dr. Rice, can you turn your video on? Are you

1 engagement. Some of the key areas that would be relevant  
2 for these hearings is I teach the shellfish aquaculture  
3 courses at the University of Rhode Island for  
4 undergraduates. I've had various graduate students  
5 supervising -- major professor and on the committees.  
6 These include Perry Raso himself, Dr. Byron on her  
7 committee, and a major professor Dr. Rheault who will be  
8 following.

9 I've conducted research, some of the most relevant  
10 research to these proceedings. Dr. Byron mentioned  
11 studies in tanks. Some of the carrying capacity  
12 estimates based by tank studies were done by my students,  
13 again, papers that I have co-authored. And those show  
14 some results that are similar to Dr. Byron's modeling  
15 studies.

16 The second is in aquaculture extension, both locally  
17 and internationally. I've received national awards from  
18 the Republic of the Philippines and Indonesia for my work  
19 there and here in Rhode Island. Also [Zoom interruption]  
20 -- to this is that I was on the drafting team for the  
21 current aquaculture legislation that set forth CRMC as  
22 the lead agency for aquaculture permitting under  
23 Chapter 2010.

24 These people were the major authors, former

1 representative Eileen Norton and legislative counsel  
2 Attorney Amy Casega and myself. So we were the major  
3 people, major reasons of the current [Zoom interruption]  
4 of the laws. So this is sort of the overview

5 Q. Thank you, Dr. Rice. Could you give us -- what is your  
6 current position?

7 A. My current position is Professor of Fisheries and  
8 Aquaculture at the University of Rhode Island.

9 MS. PARKER: And Madam Chair, I would ask that  
10 Dr. Rice be qualified as an expert on aquaculture as a  
11 Professor of Fisheries and Aquaculture.

12 CHAIRWOMAN CERVENKA: Be qualified as a  
13 professor of fisheries and aquaculture or an expert in --

14 MS. PARKER: Aquaculture.

15 CHAIRWOMAN CERVENKA: Okay. So I'll take up a  
16 motion to so qualify Dr. Rice. Any subcommittee  
17 member -- Mr. Gomez?

18 MR. GOMEZ: Madam Chair, I will make the motion  
19 to qualify Dr. Rice as an expert witness.

20 CHAIRWOMAN CERVENKA: In aquaculture?

21 MR. GOMEZ: I'm sorry, in aquaculture, yes.

22 MS. REYNOLDS: I'll second that.

23 MR. DESISTO: Madam Chair, before the vote it  
24 may be appropriate to see if any of the lawyers object to

1 Dr. Rice being qualified as an expert in aquaculture.

2 MR. WAGNER: No objection here.

3 MR. CAPIZZO: No objection.

4 CHAIRWOMAN CERVENKA: Thank you. Back to  
5 Mr. Gomez's motion. Is there a second?

6 MS. REYNOLDS: Reynolds will second that.

7 CHAIRWOMAN CERVENKA: Thank you, Ms. Reynolds.  
8 Any discussion?

9 [NO RESPONSE]

10 CHAIRWOMAN CERVENKA: I'll do a roll call. Ray  
11 Coia?

12 VICE CHAIR COIA: Ray Coia votes aye.

13 CHAIRWOMAN CERVENKA: Patricia Reynolds?

14 MS. REYNOLDS: Reynolds votes aye.

15 CHAIRWOMAN CERVENKA: Don Gomez?

16 MR. GOMEZ: Don Gomez aye.

17 CHAIRWOMAN CERVENKA: Vin Murray?

18 MR. MURRAY: Vin Murray aye.

19 CHAIRWOMAN CERVENKA: And myself Jennifer  
20 Cervenka aye. The motion to qualify carries.

21 MS. PARKER: Madam Chair, I would ask that  
22 Dr. Rice's CV, Exhibit 2, be entered as full.

23 CHAIRWOMAN CERVENKA: Yes, that can be admitted  
24 in full unless there's objection.

1 is sort of an agreed upon sort of agreement, and that  
2 came about during Dr. Byron's Ph.D dissertation time in  
3 which there was a great deal of controversy and the  
4 fishing community and members that were of the public  
5 that were agreeing with this found that at the time to be  
6 quite reasonable. Now it could come up for  
7 renegotiation, reconsideration or something of that sort.  
8 But that's where we are right now.

9 Q. Dr. Rice, based on your experience and review of the  
10 materials, do you have an opinion as to whether shellfish  
11 aquaculture, the shellfish aquaculture proposed by  
12 Mr. Raso, will have an effect on erosion or will have an  
13 effect upon erosion on the shore?

14 A. Yes, I do. I have an opinion on that. Given the  
15 location and the like, there should be no major effect on  
16 changing of currents or anything of the sort that might  
17 increase scouring, erosion, turbidity. There's no --  
18 sort of nothing is going on in the intertidal zone that  
19 would change anything. There's no reason to believe that  
20 there would be any erosion or turbidity increase.

21 In fact, the fact that these shellfish, both  
22 scallops and oysters, are filter feeders and they are  
23 removing Phytoplankton from the water, the converse is  
24 probably more close to the truth that it is more likely

1 to improve the water quality.

2 Q. Dr. Rice, based on your experience and review of the  
3 materials, do you have an opinion as to whether the  
4 aquaculture farm will result in significant impacts on  
5 plant and animal diversity and abundance?

6 A. Okay. This largely goes to the testimony of Dr. Byron.  
7 Her work on ecology systems modeling is recognized  
8 globally as gold standard in this area, and her  
9 conclusions were no.

10 My tank studies, which she mentioned, were basically  
11 set up so that the amount of oysters in the tanks in  
12 terms of the biomass were modeling what the biomassive  
13 oysters were at the turn of the 20th Century. And at  
14 that level, which is something like 500 times the level  
15 that they are now in Rhode Island waters, were not at  
16 carrying capacity yet. So Mr. Raso's little 3 acres is  
17 not going to affect things very much.

18 Q. Previously we discussed the balance between aquaculture  
19 and public access, right?

20 A. Yes.

21 Q. Are you familiar with the arguments that are set forth by  
22 the objectors in their filings?

23 A. Yes, I am. I believe that most of the objections could  
24 be dealt with largely by design aspects. A lot of the



1 CHAIRWOMAN CERVENKA: I agree with that.

2 MR. DESISTO: Proceed.

3 A. Leslie, I forgot the question.

4 Q. No problem. Dr. Rice, do you have an opinion based on  
5 your experience and review of the materials and review of  
6 the site as to whether the proposed farm would result in  
7 significant conflicts with water dependent uses and  
8 activities such as recreational activities, including  
9 boating, fishing, swimming and navigation?

10 MR. WAGNER: Objection for the record.

11 A. Well, it has to do with sort of the semantics of the word  
12 "significant." I take it that this use of the word  
13 significant would be a large, humongous sort of  
14 outlandish, and my answer to that is absolutely not.

15 The applicant Perry Raso has gone to great pains to  
16 be as accommodating as he possibly can, and this is sort  
17 of the evidence by starting off with one configuration of  
18 the firm trying to work with some objectors changing it  
19 and coming up with the various polygons, and as being as  
20 accommodating as possible. I believe this body, sort of  
21 given all of the data presented here, could essentially  
22 come up with a solution to satisfy most of people and  
23 interests in the pond.

24 Q. Dr. Rice, based on your review of the application, the

1 site, and your expertise, do you believe this application  
2 provides the balance of aquaculture and public access  
3 sought by CRMC as set forth in that legislation?

4 MR. WAGNER: Objection for the record.

5 A. I do.

6 MS. PARKER: I have no further questions.

7 CHAIRWOMAN CERVENKA: Any questions from  
8 subcommittee members for Dr. Rice?

9 [NO RESPONSE]

10 CHAIRWOMAN CERVENKA: I don't have any. I  
11 don't think anyone else has questions so we'll turn it  
12 over to Mr. Capizzo.

13 MR. CAPIZZO: Madam Chair, may I have a moment  
14 to get my notes? I'll defer to Mr. Wagner and you can  
15 come back to me.

16 CHAIRWOMAN CERVENKA: Mr. Wagner, would you  
17 like to go?

18 MR. WAGNER: I might have a couple of  
19 questions.

20 CROSS-EXAMINATION BY MR. WAGNER

21 Q. Doctor, you testified that in your opinion Mr. Raso  
22 satisfies the first requirement of a Category B assent,  
23 the requirement that he demonstrated need for the  
24 proposal based upon satisfying the 5 percent rule; is

1           that correct?

2       A.   Well, the 5 percent rule is sort of a guideline that has  
3           been adopted by CRMC for these water bodies and his  
4           application is not exceeding that.  So expanding his  
5           operations to include scallops, scallops need deeper  
6           water.  The site is deeper than where his current sites  
7           are and more appropriate for the scallops.  So if he  
8           wants to expand operations, this makes perfect sense to  
9           me in terms of a need.

10       Q.   Does satisfying the 5 percent rule demonstrate a need for  
11           the proposal?  We agree that he satisfies the 5 percent  
12           rule.  I'm trying to understand how your opinion could be  
13           that he demonstrates need for the proposal based upon  
14           satisfying the 5 percent rule.

15                   MS. PARKER:  I'm going to object.  He gave his  
16           opinion and the basis for it.  I think it's asked and  
17           answered.

18       A.   Yes.  I mean, he needs an area.  He needs an area for  
19           deeper water to basically further his business interests.  
20           I mean, that's about as simple as it gets.

21       Q.   A need for deeper water has nothing to do with the 5  
22           percent rule, right?

23       A.   No, and it has nothing to do with the 5 percent rule.  
24           The 5 percent rule is a guideline in terms of total water

1 text to Leslie Parker?

2 A. Yes.

3 Q. Did she respond to you?

4 A. No.

5 Q. Okay. I'm going to share screen. Give me one second.

6 Can you see that map?

7 A. Yes, I can.

8 Q. Perfect. I want to reorient the committee with where we  
9 were. We were talking about, you had given an opinion  
10 that Mr. Raso demonstrated that this facility won't  
11 interfere or significantly impact existing public access  
12 or use of the tidal waters and/or the shore.

13 A. Yes.

14 Q. You also gave the opinion that Mr. Raso has demonstrated  
15 that the alteration will not result in significant  
16 conflicts, water dependent uses and activities such as  
17 recreational boating, fishing, swimming, navigation and  
18 commerce; is that correct?

19 A. Yes.

20 Q. Okay. You testified that you're familiar with this map  
21 and we're looking -- for the record, I'm going to start  
22 at Segar Cove. I believe you said that for traveling  
23 north that that was the only direction that you could go  
24 from those four public access points that you said you

C E R T I F I C A T I O N

I, Lisa M Reis, hereby certify that the foregoing  
Pages 169 through 295, inclusive, are a true and accurate  
transcript of my stenographic notes of the proceedings,  
via Zoom, which occurred on the above-entitled dates, to  
the best of my ability.

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LISA M. REIS, RPR  
Court Reporter/Notary Public  
My Commission expires on 7/27/24

Sworn to and subscribed before me,  
This 16th day of November, 2020