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**VIA E-MAIL TO dbeutel@crmc.ri.gov
AND REGULAR MAIL**

Mr. Dave Beutel
Coastal Resources Management Council
Oliver H. Stedman Government Center
4804 Tower Hill Road, Suite 3
Wakefield, Rhode Island 02879-1900

RE: CRMC File #2017-12-086 (Perry Raso/Segar Cove)

Dear Dave:

As you know, I have previously entered my appearance in the above-referenced matter on behalf of Mr. Hunt, Ms. Cooney, Mr. Quigley, and Mr. Latham.

First, I wanted to renew my request that we be given sufficient notice of when Mr. Raso's application for an oyster farm in Segar Cove, Application No. 2017-12-068 (the "Application"), will be submitted to the Coastal Resources Management Council (the "Council") for review and public hearing. In addition to my clients, we have heard from a great number of people who wish to testify as to their opposition to the Application. It is important that there be sufficient public notice in addition to the applicable statutory notice so that all interested parties will have the opportunity to attend and express their views to the Council.

Secondly, I request that in the event staff intends to make a positive recommendation with regard to Mr. Raso's Application, you would advise us in advance, stating the reasons for such recommendation. I make this request because I think a positive Staff recommendation under the circumstances would be unusual.

As you know, as evidenced by letters to the Council, which I understand have exceeded over 100, and by correspondence and testimony to the Rhode Island Marine Fisheries Council and the South Kingstown Waterfront Advisory Commission, there has been a great deal of opposition to this application from property owners in the vicinity of Potter Pond as well as from members of the public who use and enjoy the recreational resources of Segar Cove and Potter Pond.

Moreover, the Rhode Island Marine Fisheries Council considered this application and could not make a positive recommendation to the CRMC for its approval, deadlocking by a vote

of 3 to 3. Additionally, the South Kingstown Waterfront Advisory Commission voted to unanimously oppose Mr. Raso's application by a vote of 5 to 0 because "*it would pose significant negative impact on public recreational activity in that Area*".

Given this substantial opposition, which is primarily based on the direct conflict of the proposed commercial aquaculture operation with the use and enjoyment of such protected public trust activities as boating, fishing, swimming, and other water recreational uses, it would not be expected that CRMC staff would be in a position to make a positive recommendation on this application.

For example, we have reviewed the last 13 aquaculture applications to come before the Council, going back to 2016. In all of these recommendations, staff expressly recommended approval. However, of these applications, some had no objections from the public and others with public objections had limited objections. According to Staff reports, only two applications were noted to have objections from associations representing stakeholder groups.

In one such application (2011-11-021 Curtis Jackson, Portsmouth), the Shellfisherman's Association and the Rhode Island Fisherman's Alliance submitted objections. However, CRMC staff noted that the substance of the objections went to Department of Environmental Management (DEM) regulations, DEM had indicated its approval, and CRMC had no regulations which encompassed the substance of the objections. In the second application (2016-09-100 RIDEM Parcel #1) the Charlestown Coastal Pond Oyster Association had objected on the ground that granting the application could result in the area being closed to shellfish harvesting. CRMC staff noted this was in the jurisdiction of DEM, not CRMC, and DEM stated that it had no intention of closing the area to the harvest of shellfish. Accordingly, CRMC staff recommended approval of these applications, neither of which had objections which directly implicated CRMC regulations.

In the current situation, where two reviewing agencies have failed to recommend approval of the Application, one deadlocking in its decision and the other unanimously recommending disapproval because of the user conflicts which would arise from approval of the Application, it would appear to be inconsistent with CRMC past practices for staff to affirmatively recommend approval of the Application.

This is particularly so, given the recent statement by Executive Director Grover Fugate at the Council's June 12, 2018 hearing on the East Beach Farms aquaculture application. He noted that only marina expansion and aquaculture applications require the pre-application mandatory process conducted with the relevant municipality, and groups representative of commercial fishery, recreational fishery, harbor commissions, etc. This review process is designed to help gather facts and information about the proposed application in order to determine its impact on, and/or conflict with, public trust uses. As the Executive Director stated:

"So we've tried to address a lot of this within our process, and when I say...[are we perfect], no, we're not perfect, but we try to do what we can to bring the concerns forward. As all of the Council members are aware, we're a balancing agency. We're constantly trying to balance the interests of the property owners that are around the pond, the people that recreate on that pond

as well as the people that want to use that pond for other purposes. So we try to balance those as best we can.”

Given that balancing role that the Executive Director described, it would appear to be inconsistent for staff to make a positive recommendation, before even a hearing, on an application so controversial, as evidenced by public input and by the lack of support of the very stakeholder groups the Council relies upon to generate the necessary facts to appropriately balance such interests.

Accordingly, we are requesting that should Staff decide to make a positive recommendation in the face of such opposition, it would provide the courtesy of so advising us in advance and stating the basis of that recommendation. If we are legitimately missing something, this would be very helpful to us. And in any event, it would better prepare us to address matters that may be of particular interest to Staff and the Council at the hearing, in order that the Council may make a fully informed decision.

Sincerely,



Christian F. Capizzo

CFC:dad

cc: Mr. Grover Fugate, Executive Director, RI CRMC - gfugate@crmc.ri.gov
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