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VIA EMAIL TO: tony@adlawllc.net

Anthony DeSisto, Esq.
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Re: CRMC File # 2017-12-086/ Perry Raso Application
Letter in Objection to Applicant's Request to Offer New Evidence

Dear Attorney DeSisto:

Please allow this letter to serve as Intervenor/Objectors Andrew Wilkes and 454 Beach Road, LLC's objection to the letter dated January 16, 2023, and proposed supplemental exhibit submitted by Attorney Noonan on behalf of Perry Raso (the "Applicant").

Neither the letter nor the proposed supplemental exhibit constitutes "new evidence", and the Council cannot, and should not, consider either. The so-called "Proposed Reduced Layout" is at most, a last-ditch attempt to file an entirely new application using different gear outside the perimeter of the area proposed in the instant Application which has been pending since December of 2017.

As you are aware, "new evidence" is defined in the CRMC Management Procedures as "that which is of a material and controlling nature and was not by the exercise of ordinary diligence discoverable in time to be presented at the evidentiary hearing". 650-RICR-10-00-1.1(K) (emphasis added). The Management Procedures explicitly restrict what can be presented to the Council after a subcommittee has rendered its decision to evidence that is material and controlling and not reasonably discoverable in time to be presented at the subcommittee hearings.

The Applicant had every opportunity, in the several years that the Application has been pending, to offer a modified plan in response to the concerns raised by the many objectors to the

proposal. This includes the multiple meetings with stakeholder groups as well as eight hearings before the CRMC subcommittee where forty (40) witnesses testified in opposition to the application. The Applicant simply cannot demonstrate that the “Proposed Reduced Layout” was not discoverable in time to be presented at the evidentiary hearing. Therefore, this is not “new evidence”, and it would be a clear violation of the CRMC Management Procedures for the Council to consider it.

Moreover, the “Proposed Reduced Layout” is not material because on its face it constitutes a new and different application proposing “submerged gear only” in a different location from the Application now before the Council. The “Proposed Reduced Layout” extends south of the area proposed in the Application and is closer to the Ram’s Point inlet, posing additional user conflicts and safety issues. This is a different location with different gear, i.e. an entirely different application. If the Applicant wants to file a new application he is required, at a minimum, to start the application and review process over.

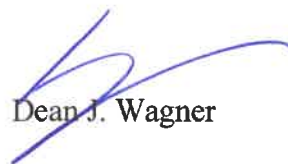
The “Proposed Reduced Layout” does nothing to address much less “eliminate” the concerns regarding safety and the significant conflicts with the existing water dependent uses as set forth in detail in the Decision rendered by the CRMC Subcommittee after hearing hours of testimony.

Following extensive hearings and a workshop, the Subcommittee considered the evidence and arguments and issued forty-two finding of fact and eighteen conclusions of law on the Applicant’s proposal. The Subcommittee voted unanimously to recommend that the Council deny the application finding that the proposed activity has a reasonable probability of causing a detrimental impact upon the coastal resources of the State of Rhode Island. It would be fundamentally unfair and prejudicial, and a slap in the face to the many members of the public who testified at the public hearings, to allow the Applicant to modify his application at this late date in clear violation of the CRMC’s Management Procedures.

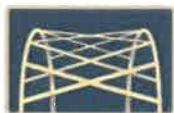
We respectfully request that the Applicant’s request to submit the supplemental exhibit be denied, and the Council adopt the findings of fact and conclusions of law rendered by the Subcommittee based upon the Council’s review of the record as required by R.I.G.L. § 46-23-20.4(a).

If you have any questions, or would like to discuss this matter further, please contact me. Thank you for your attention to this matter.

Very truly yours,



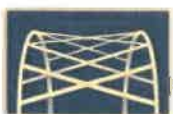
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