

In The Matter Of:
Coastal Resources Management Council

Application of Perry Raso
Vol. 1
November 12, 2020
Subcommittee Hearing

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Application of Perry Raso - Vol. 1 - November 12, 2020
Subcommittee Hearing

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COASTAL RESOURCES MANAGEMENT COUNCIL
SUBCOMMITTEE HEARING

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IN RE:
CRMC File No. 2017-12-086
In the matter of Perry Raso
* * * * *

Date: November 12, 2020
Time: 1:00 p.m.
Place: Via Zoom
Rhode Island

MEMBERS PRESENT
Jennifer Cervenka, Chair
Raymond C. Coia, Vice Chair
Donald T. Gomez
Patricia Reynolds
Anthony DeSisto, Esquire, Legal Counsel

STAFF PRESENT
Jeff Willis, Executive Director
Lisa Turner, Secretary
Ryan Moore, Moderator
James Boyd, Deputy Director
David Beutel, Former Aquaculture Director

APPEARANCES
Elizabeth Noonan, Esq.....For the Applicant

Leslie Parker, Esq.....For the Applicant

Christian Capizzo, Esq.....For the Objectors
(Hunt, Latham, Cooney and Quigley)

Dean Wagner, Esq.....For the Objectors
(Andrew Wilkes and 454 Beach Road, LLC.)

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1 THURSDAY, NOVEMBER 12, 2020

2 [COMMENCING AT 1:22 P.M.]

3 CHAIRWOMAN CERVENKA: I'm going to call this
4 meeting to order. Today's date is November 12, 2020. It
5 is 1:19 p.m., and this is a meeting of the subcommittee
6 of the Rhode Island Coastal Resources Management Council.
7 We're convened for the purpose of considering one
8 application, and that is CRMC File No. 2017-12-086 in the
9 matter of Perry Raso for the establishment of a 3-acre
10 oyster and bay scallop farm using floating and suspended
11 gear in Potter Pond, South Kingstown, Rhode Island.

12 Our subcommittee members are as follows: Myself,
13 Jennifer Cervenka, and I'll function as Chair; Raymond
14 Coia, who is the Council's Vice-Chair; Patricia Reynolds;
15 Don Gomez; and Vin Murray. Now, Vin Murray does not sit
16 with the full Council, but as will be explained a little
17 bit further into this meeting by Mr. Willis, he is a
18 South Kingstown representative because the Council
19 currently does not have a South Kingstown representative.
20 So per our management procedures, he is specially
21 appointed by the town to be part of these proceedings.

22 So I'm just going to do a roll call of all those
23 individuals. When I call your name of the subcommittee,
24 please indicate that you are here. So I'll start with

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1 Raymond Coia.

2 VICE CHAIRMAN COIA: Ray Coia here.

3 CHAIRWOMAN CERVENKA: Patricia Reynolds.

4 MS. REYNOLDS: Patricia Reynolds here.

5 CHAIRWOMAN CERVENKA: Don Gomez.

6 MR. GOMEZ: Don Gomez here.

7 CHAIRWOMAN CERVENKA: Vin Murray.

8 MR. MURRAY: Here.

9 CHAIRWOMAN CERVENKA: And myself Jennifer
10 Cervenka again, Chair, here.

11 From our CRMC staff we have our Executive Director
12 Jeff Willis, if would you indicate here.

13 MR. WILLIS: Here.

14 CHAIRWOMAN CERVENKA: Thank you. Our Deputy
15 Director Jim Boyd.

16 MR. BOYD: Present, Madam Chair.

17 CHAIRWOMAN CERVENKA: Thank you. Tony DeSisto,
18 our chief legal counsel.

19 MR. DESISTO: Here.

20 CHAIRWOMAN CERVENKA: Dave Beutel, our former
21 Aquaculture Coordinator.

22 MR. BEUTEL: Here.

23 CHAIRWOMAN CERVENKA: Thank you. And just so
24 everyone knows, Mr. Beutel recently retired, and prior to

1 his retirement he had done the review of this application
2 and prepared the staff report. So he is back with us for
3 purposes of this application only.

4 Also with us but not appearing by video is Ben
5 Goetsch who is our current Aquaculture Coordinator, and
6 he's only here for purposes of answering questions about
7 current regulations or guidance relating to aquaculture.

8 We then have Ryan Moore.

9 MR. MOORE: Yes.

10 CHAIRWOMAN CERVENKA: And he is our moderator
11 for this Zoom call. Lisa Turner, who is our secretary.

12 MS. TURNER: Present, Madam Chair.

13 CHAIRWOMAN CERVENKA: And Lisa Reis who is our
14 court reporter for the entire proceedings, if she can
15 indicate that she's here.

16 COURT REPORTER: Present.

17 CHAIRWOMAN CERVENKA: Thank you. Before we get
18 into the matter, I do want to turn this over to Ryan
19 Moore, again our moderator, who is going to walk us
20 through the rules of the road so to speak for this Zoom
21 call.

22 MR. MOORE: Thank you, Madam Chair. The Costal
23 Resources Management Council virtual subcommittee
24 meeting, November 12, 2020 conducted in accordance with

1 Executive Order 20-93-88 supplemental emergency
2 declaration extension of Executive Orders.

3 If you have any problems with your computer audio,
4 please use the call-in number for this meeting. I will
5 also put the call-in meeting and password and meeting
6 I.D. in the chat box once we are finished with this
7 presentation.

8 A note to meeting participants and attendees:
9 Please be advised this is an online meeting so all audio,
10 video, and names and comments visible in the chat box are
11 being recorded. All members of the public who wish to
12 comment during these proceedings must correctly identify
13 themselves before proceeding. First and last names,
14 please.

15 Council members, applicant and CRMC staff, make sure
16 your video is on. Do not use phone and computer audio at
17 the same time. Use the raise hand button to be
18 recognized by the Chair. Identify yourself by name. Use
19 the chat box to communicate any issues of audio or video
20 to the moderator.

21 Members of the public, turn your videos off, mute
22 your microphone when not speaking, use the raise hand
23 function to be recognized by the Chair. When you are
24 recognized by the Chair and unmuted by the moderator to

1 speak, identify yourself by first and last name.

2 Those on the phone, please press #9 -- I'm sorry, *9
3 in the raise hand function. When recognized, identify
4 yourself by name. Use the chat box to relay any issues
5 of audio or video to the moderator. The Q and A feature
6 is disabled.

7 Thank you, and I will turn it back over to you,
8 Madam Chair.

9 CHAIRWOMAN CERVENKA: Thank you. Ryan, can you
10 just describe a little bit about our webinar format,
11 because I know we used it, I think, for the last meeting
12 but I wasn't present. But if you could just explain to
13 all those participating, all those who are in attendance
14 but not showing up, how this functions.

15 MR. MOORE: The function is very similar to
16 Zoom, but the platform is slightly different where the
17 attendees cannot turn their cameras on automatically. I
18 have to invite them in to be a panelist for them to speak
19 with camera. It's up to your discretion, and I believe
20 Tony's, if we want to do that or just -- we have the
21 ability to just to turn the microphones on. Like I said,
22 it's up to your discretion, and I believe Tony's too.

23 Other than that, please use the chat box. Like I
24 said, the Q and A is disabled. I will be here and I'm

1 taking all the names down in the chat box now. I already
2 have a list going. Please do not direct any questions
3 toward the Council or any of the members on the panel.
4 Just direct them at me. Thank you.

5 CHAIRWOMAN CERVENKA: Okay. Just for clarity,
6 if anyone wants to see who is part of the Zoom call, you
7 can click on participants, which is in the bottom tool
8 bar, I guess, of the Zoom video. If you click on that,
9 that will show both panelists, which is everyone who is
10 showing up now on the screen, and that is 17 of us, and
11 then attendees, and there's 61 of those I'm showing. So
12 if anyone worries that they are not part of this somehow,
13 you can see that, you know, you are sitting in the
14 attendee list and everyone else, our panelists, who have
15 been given authority to have their cameras on.

16 Is that all correct, Ryan?

17 MR. MOORE: Yes, that is all a hundred percent
18 correct.

19 CHAIRWOMAN CERVENKA: Okay. Thank you. So we
20 have a very large proceeding that is going to be split up
21 into three different meetings. We're noticed for this
22 afternoon from 1:00 to 6:00. Tomorrow afternoon we're
23 noticed from 1:00 to 6:00, but it's going to be 1:00 to
24 5:00 because we have to convene a little -- rap up a

1 little early. And then next Tuesday we have 1:00 to 6:00
2 as well. So all in all, we'll have about 14 hours to get
3 through the applicant's case, objectors' case, public
4 comment.

5 If need be, and if they were an hour short because
6 we had to end it an hour short tomorrow, you know, we'll
7 deal with that at our third meeting.

8 So the way that I'd like to have this ordered is,
9 first I want to take up the preliminary motions that the
10 subcommittee may need to vote upon. Namely I'm referring
11 to motions to intervene. Then I would like to -- so we
12 will vote on that. Then we'll proceed to Mr. Beutel who
13 will give us his report, findings and recommendation on
14 the application. Then we will proceed to the applicant's
15 case in chief, presentation of witnesses, introduction of
16 exhibits, and the witnesses may be cross-examined by
17 counsel for the objectors who have been admitted as
18 parties. And then we will have the objectors' case in
19 chief argument presentation of witnesses, exhibits, and
20 then the same cross-examination by applicant's counsel of
21 those witnesses.

22 We will then conclude that and move to the public
23 comment portion. We have indicated that there would be
24 no public comment in today's session, that it would start

1 at the earliest tomorrow afternoon, but it may start
2 later depending on whether or not we're still getting
3 through the case in chief and the objectors' case. So it
4 might be a little bit of overflow followed by public
5 comment.

6 The order of the public comment is the order in
7 which your request to speak was received. I know we've
8 received some requests for specific time slots. Because
9 of the number of people who want to comment, that just
10 simply doesn't work. It's too hard to accommodate. So
11 we're going to be simply going through a list of people
12 who have signed up to speak in the order that they were
13 received.

14 Then finally, after public comment, we'll go back to
15 the applicant for any rebuttal of the objectors' case or
16 any of the public comment presented. We will have a
17 workshop at the end of this. The subcommittee will
18 deliberate and discuss the matter and then come up with a
19 recommendation that would later be presented to the full
20 Council for a vote. And that recommendation that comes
21 out of that workshop will then be memorialized in a
22 writing and there will be a written document that will
23 then be available for the public to review, and it will
24 be part of the Council member's packages. And that

1 meeting where there will be a vote is likely going to be
2 a January meeting just because of the time it takes to
3 prepare that written recommendation combined with what we
4 already have in the hopper for our late November meeting
5 and our one December meeting. So, again, it will likely
6 be a January vote on this.

7 Okay. So I think what I'd like to do right now
8 before we get into the preliminary motions, I'd like to
9 ask our Executive Director Mr. Willis if he would
10 explain, for the benefit of everyone, what a subcommittee
11 of the Council is and why we do this and how it
12 functions.

13 MR. WILLIS: Yes, thank you, Madam Chair. When
14 the Council receives applications for activities within
15 its jurisdiction and it receives what are determined to
16 be substantive objections, the Council generally sets up
17 a subcommittee to hear that application, and that's what
18 we have here.

19 This application generated objections that were
20 determined to be substantive, and the Council has set up
21 this subcommittee to exhaust the evidence that it can
22 find so that it can have in sort of a committee setting
23 discussions, deliberations, and recommendations on how
24 the subcommittee feels the application should proceed to

1 the full Council. That's what we are doing here today.

2 Given the amount of testimony that we expect, given
3 the amount of public comment that we expect, we have set
4 aside three full day, generally three days for this
5 deliberation. And as the Chair has explained, days one
6 and two, meaning today and tomorrow, are set aside for
7 staff, applicants, objectors, presentations, as well as
8 public comment; however what we can't control is how long
9 those go, and with the amount of evidence being
10 presented, that may spill into each day. So as the Chair
11 likely noted, day three, which is next Tuesday, could
12 have some additional public comment associated with it.

13 The subcommittee is here to do just that, exhaust
14 evidence, hear all sides, deliberate, and make a
15 recommendation to the full Council.

16 Thank you, Madam Chair.

17 CHAIRWOMAN CERVENKA: Thank you, Mr. Willis.
18 Okay. Let's first go to the preliminary matters or
19 motions. I'm just going to ask the applicant first,
20 Ms. Noonan, if you have anything that you wanted to move
21 or have considered before we get into it.

22 MS. NOONAN: No, we have no motions and we have
23 no objections to the motions to intervene.

24 CHAIRWOMAN CERVENKA: Okay, thank you. That's

1 helpful. So I know that we have a motion to intervene
2 from Mr. Capizzo and his clients.

3 MR. CAPIZZO: That is correct, Madam Chair.
4 Christian Capizzo on behalf of my clients Mr. Kevin Hunt,
5 Mr. David Latham, Ms. Alicia Cooney and Mr. Steven
6 Quigley.

7 CHAIRWOMAN CERVENKA: Okay, and then we have a
8 motion to intervene from Mr. Wagner; is that correct?

9 MR. WAGNER: Yes, Madam Chair. Dean Wagner on
10 behalf of Mr. Andrew Wilkes and 454 Beach Road, LLC.

11 CHAIRWOMAN CERVENKA: Okay. I'm going to take
12 up first Mr. Capizzo's motion to intervene.

13 MR. CAPIZZO: Thank you, Madam Chair and
14 members of the subcommittee. Good afternoon. Again, for
15 the record, Christian Capizzo.

16 My clients, on February 1, 2018 notified Coastal
17 Resources and Mr. DeSisto of these substantive objections
18 to this project and requested a hearing to present
19 testimony and evidence in support of set opposition. My
20 clients are uniquely situated compared to some of the
21 parties involved with this. Mr. Hunt and his family own
22 property on Segar Cove, specifically 98 Segar Court. If
23 you're familiar with that area, it's on Ram Point in
24 South Kingstown right on Segar Cove and he's owned that

1 property since 2002 and represents the third generation
2 of Matunuck residents.

3 We also have Ms. Cooney and Mr. Quigley who own
4 property on Segar Cove located at 95 Segar Court just to
5 the north of Mr. Hunt's property. Their family and the
6 extended Cooney family, including her father and
7 grandfather, have recreated on Segar Cove and Potter Pond
8 for over 90 years.

9 We also have Mr. David Latham. His family owns
10 property on Segar Cove at 298 Prospect Road. It's also
11 known as Gardener's Island. If you're familiar with the
12 area, it's directly cross from Ram's Point. His property
13 is right on the point. And his family, as well as
14 Mr. Latham, have recreated for a better half of a century
15 on Segar Cove.

16 In particular, as it relates to Mr. Hunt and
17 Ms. Cooney, their rights with respect to the application
18 for the proposed location of the site, the site will run
19 approximately 913 feet along their shoreline. At its
20 closest point it will be 5 feet from their property, 5 to
21 65 feet, and as close as 200 feet to Mr. Hunt's property.
22 It runs both for Ms. Cooney's property as well.

23 In addition, my three clients would have substantial
24 interest in rights with respect to recreating, navigation

1 on the pond and fishery will which directly be impacted
2 by this project. They have lived on the cove, having
3 recreated as I mentioned over a generation, witnessed
4 firsthand the recreation that takes place on this pond,
5 and their concerns that this application and this
6 location will have a significant adverse impact on their
7 rights to recreate on this pond safely and that there
8 will be user conflict in contravention to what's been
9 submitted by Coastal Resources through Mr. Beutel and in
10 Mr. Raso's application.

11 Based on the evidence that I intend to present,
12 along with an expert witness, we believe that the parties
13 meet the criteria for intervention in this matter.

14 CHAIRWOMAN CERVENKA: And would you state those
15 for the benefit of the subcommittee, the legal standard?

16 MR. CAPIZZO: Yes, Madam Chair. The CRMC
17 procedures permit individuals to intervene in any
18 proceeding on the ground that a person's entitled by law
19 to the status of a party, the person could have been a
20 complainant in such proceedings, the person has a
21 complaint or defense which has a question of law or fact
22 in common with the mean proceeding, which my clients do.

23 Did I get that right, Mr. DeSisto?

24 MR. DESISTO: Yes.

1 MR. CAPIZZO: Is there anything that I should
2 add to this?

3 MR. DESISTO: Not at this time.

4 MR. CAPIZZO: Thank you.

5 CHAIRWOMAN CERVENKA: Thank you. Are there any
6 questions that the subcommittee members have for
7 Mr. Capizzo? I think it's fairly straightforward from my
8 standpoint.

9 [NO RESPONSE]

10 CHAIRWOMAN CERVENKA: No questions, okay. I'll
11 entertain a motion.

12 VICE CHAIRMAN COIA: Madam Chair, Ray Coia to
13 be recognized?

14 CHAIRWOMAN CERVENKA: Yes, Mr. Coia.

15 VICE CHAIRMAN COIA: Madam Chair, based on the
16 argument made, I would move approval of the -- ask to
17 intervene.

18 CHAIRWOMAN CERVENKA: Thank you, Mr. Coia.

19 MS. REYNOLDS: Patricia Reynolds, and I will
20 second that.

21 CHAIRWOMAN CERVENKA: Okay. I'll give
22 Ms. Reynolds the second of Mr. Coia's motion. Any
23 discussion?

24 [NO RESPONSE]

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1 CHAIRWOMAN CERVENKA: Okay. I will ask that we
2 do a roll call again on this. You know the procedure.
3 So I'll start with Mr. Coia.

4 VICE CHAIRMAN COIA: Ray Coia votes aye.

5 CHAIRWOMAN CERVENKA: Ms. Reynolds?

6 MS. REYNOLDS: Reynolds votes aye.

7 CHAIRWOMAN CERVENKA: Mr. Gomez?

8 MR. GOMEZ: Gomez, aye.

9 CHAIRWOMAN CERVENKA: Mr. Murray?

10 MR. MURRAY: Aye.

11 CHAIRWOMAN CERVENKA: Thank you. And myself,
12 Jennifer Cervenka aye. So the motion to approve the
13 motion to intervene carries, and you're admitted as
14 intervener status for the individuals that you represent,
15 Mr. Capizzo.

16 MR. CAPIZZO: Thank you, Madam Chair.

17 CHAIRWOMAN CERVENKA: Okay. Now we'll proceed
18 to Mr. Wagner's motion.

19 MR. WAGNER: Thank you. I move to intervene on
20 behalf of Andrew Wilkes and 545 Beach Road, LLC. Their
21 property is located on Segar Cove, and the proposed
22 oyster farm will be directly across from their property.
23 Mr. Wilkes objected to the project in February of 2018
24 and requested a hearing. The existing parties are

1 situated on the other side of Segar Cove. So Mr. Wilkes'
2 interest may not be directly aligned with existing
3 parties, so we ask that the motion be granted.

4 CHAIRWOMAN CERVENKA: Okay. One question for
5 you because we just recently received your motion to
6 intervene. We have a five-day rule for identification of
7 witnesses and exhibits. You're familiar with that rule?

8 MR. WAGNER: Yes, Madam Chair.

9 CHAIRWOMAN CERVENKA: And you agree that that
10 rule was not observed, correct?

11 MR. WAGNER: With respect to exhibits, that's
12 true, Your Honor, but Mr. Wilkes has indicated already
13 that he may wish to speak.

14 CHAIRWOMAN CERVENKA: Okay. My thought on this
15 is that with respect to exhibits, you don't want to
16 introduce anything as I understand it?

17 MR. WAGNER: That's correct.

18 CHAIRWOMAN CERVENKA: So we don't need to worry
19 about that. Your client can speak in the public comment
20 period anyway if he wanted to. I just want our
21 subcommittee members to understand that this came in the
22 last minute so we need to, I believe, limit the
23 participation with respect to this motion.

24 MR. WAGNER: Madam Chair, we're fine with

1 reserving his testimony until the public comment.

2 CHAIRWOMAN CERVENKA: Okay. I don't have a
3 problem with, and I ask the other subcommittee members,
4 if you want to cross-examine witnesses.

5 MR. WAGNER: I'd like the opportunity. I'm not
6 sure if I will be, but I would like the opportunity.

7 CHAIRWOMAN CERVENKA: Yes. From my perspective
8 I don't have a problem with that. I want to ask my other
9 subcommittee members what their views are. Anyone want
10 to comment?

11 VICE CHAIRMAN COIA: I have no objection. Ray
12 Coia.

13 MR. GOMEZ: Don Gomez, no objections.

14 MS. REYNOLDS: Reynolds, no objections.

15 MR. MURRAY: Murray, no objection.

16 CHAIRWOMAN CERVENKA: Okay. So I think we're
17 all on the same page. I'll take a motion from someone to
18 approve the limited motion to intervene.

19 VICE CHAIRMAN COIA: Madam Chair, Ray Coia to
20 be recognized?

21 CHAIRWOMAN CERVENKA: Yes, Mr. Coia, thank you.

22 VICE CHAIRMAN COIA: Madam Chair, I make that
23 motion as you indicated.

24 CHAIRWOMAN CERVENKA: Okay. Is there a second

1 of Mr. Coia's motion?

2 MR. GOMEZ: Don Gomez will second Mr. Coia's
3 motion.

4 CHAIRWOMAN CERVENKA: Thank you, Mr. Gomez.
5 Any discussion? I'm going to do a roll call. Ray Coia?

6 MR. COIA: Ray Coia votes aye.

7 CHAIRWOMAN CERVENKA: Patricia Reynolds?

8 MS. REYNOLDS: Reynolds aye.

9 CHAIRWOMAN CERVENKA: Don Gomez?

10 MR. GOMEZ: Gomez aye.

11 CHAIRWOMAN CERVENKA: Vin Murray?

12 MR. MURRAY: Vin Murray aye.

13 CHAIRWOMAN CERVENKA: And myself Jennifer
14 Cervenka aye. So your motion to intervene in the limited
15 capacity we discussed is granted, Mr. Wagner.

16 MR. WAGNER: Thank you.

17 CHAIRWOMAN CERVENKA: So I believe that takes
18 care of preliminary motions. If I'm wrong and missed
19 something, please indicate that.

20 Okay. I'd like to at this point move to Mr. Beutel
21 who will provide us with his staff report. Mr. Beutel.

22 MR. BEUTEL: Thank you, Madam Chair. This
23 application began as a preliminary determination in
24 September, 2017. The determination was completed in

1 October. Subsequent full application, which we are
2 hearing now, was filed in December, 2017. The public
3 notice period ended in January of 2018.

4 This application is for 3 acres in Segar Cove to
5 grow oysters using floating cages, using low profile
6 floating cages, and to grow bay scallops using suspended
7 lantern nets. The application is divided up where each
8 of the species would have an equal allocation of the
9 3-acre area. I should also state that this is in Type 2
10 waters. Both methods of lantern nets and floating cages
11 are standard practices for the aquaculture industry and
12 are certainly acceptable for the species involved.

13 This application, through the public notice period,
14 generated lots of opposition as we all know. The letters
15 of objection came in over longer period than the public
16 notice period, but we had 147 letters of objection and we
17 had 14 letters of support for this application. I'd like
18 to note that of the letters of objection, many of them
19 came in, they were identical letters from five or six
20 members of the same family each being sent from a
21 different address. So while it sounds like 147 separate
22 objections, and that's how we handled it, it truly is not
23 147 separate objections.

24 There was a considerable amount of information that

1 was shared via social media including templates for
2 letters of objection, also, really some misrepresentation
3 about what this application was about. In a moment I
4 will go through the list of objections about what the
5 main topics were, but I would like to say that Mr. Raso
6 upon learning of these objections submitted some
7 additional information in his attempt to try and minimize
8 the topics of objection. All that information is
9 included in the packet, and we will touch on some of that
10 later on in this presentation.

11 So in the synthesis of the topics of objection,
12 there are quite a few. One, the first one was noise, the
13 other was peace and tranquillity, the other was
14 recreational fishing, clamming, effects on wildlife,
15 effects on the visual aspects of the pond, effects on
16 navigation, recreation, negative effects on property
17 values, pollution from the oysters. Many people
18 questioned the timing of the application questioning that
19 it occurred in December when people were away. When I
20 say "people were away" I would also like to note that of
21 the objections, 79 were received from non-Rhode Island
22 residents and 68 were received from Rhode Island
23 residents.

24 After the timing. The people -- some people

1 objected to the Matunuck Oyster Bar itself. Some checked
2 negative impacts on hunting, also for beach access. And
3 numerous letters said that Perry Raso has enough activity
4 on Potter Pond already.

5 Staff addressed all of these issues in the report,
6 and I'll go through this quickly because I'm sure most of
7 you have read this.

8 Noise. Aquaculture activity generates noise, as
9 does boating, waterskiing, tubing. Deciding which noises
10 are tolerable and which ones are not are a real
11 challenge, and I have no answer for that.

12 Tranquillity. Really, the same answer. Segar Cove
13 could be quite tranquil. But boating, tubing,
14 waterskiing are not tranquil activities. So once again,
15 how are we looking at that?

16 Recreational fishing. Segar Cove is a good
17 recreational fishing area. Kayaking and boat fisherman
18 operate throughout all of Potter Pond and they also fish
19 within Segar Cove. Staff agrees that the area is good
20 for fishing, but does not agree that this small 3-acre
21 area will significantly negatively impact the fishing
22 experience on Potter Pond. Will that 3-acre area limit
23 fishing in that three acres? Yes. It would be hard to
24 imagine someone fishing amongst floating gear. The pond

1 is much larger than that.

2 Clamming. The staff conducted a shellfish
3 assessment for the site and found 0.88 quahogs per square
4 meter. That is a low number. The Rhode Island
5 Department of Environmental Managements Division of
6 Marine Fisheries also conducted a site assessment for
7 soft shell clams and found none. Please see their letter
8 that is in the packet.

9 The aquaculture site itself really is not valuable
10 clam habitat. Adjacent to it on the shallower water,
11 south of it where the bottom is firmer, staff would agree
12 that those are reasonable clamming areas, but the soft
13 sediment for the area that it was proposed are not.

14 Wildlife. There are some very creative and observed
15 drawings that were provided on social media, and concerns
16 were mentioned about negatively impacting fox and deer
17 and offsprings and fish which I'm actually amazed that I
18 even have to address that. I'm sure the deer like to
19 swim through Potter Pond, but I think they can swim
20 around the floating gear and suspended gear.

21 I would also note that shore site development, all
22 the homes along there, have a significantly larger impact
23 on the wildlife than the aquaculture site work.

24 The visual aspect. Floating gear is visible.

1 Guaranteed. Low profile floating cages are less visible
2 but they will still be seen. Adopting the low profile
3 cages was the applicant's method of minimizing the visual
4 impact. The suspended gear for the bay scallops would
5 have floats over them so that would have less of a visual
6 impact on the low profile oyster cages, but there would
7 still be floats visible.

8 Navigation. This includes boating of all types, and
9 if we break this down, paddle boarding and kayaking will
10 be very little impact. Those are self-powered craft and
11 they are easy to manipulate through and around all kinds
12 of different areas. For example, through rocks and that
13 sort of areas, sailboats would have a bigger challenge.
14 They are a little more difficult to handle. Powerboats
15 are limited to the deeper water, and they will be
16 effected more than the kayaks and the paddle boards, but
17 probably equal to sailboats.

18 That being said, this cove is sufficiently big that
19 powerboats and sailboats will still be able to operate.
20 Paddle boards and kayaks will still be able to operate.
21 The notion in the objections that recreational boating
22 activities will disappear because of this aquaculture
23 site is just outrageous. These activities will continue
24 to occur throughout Potter Pond and also be in Segar

1 Cove.

2 Let's see, recreational boating activities we talked
3 about. Swimming. Swimming could be affected if people
4 wanted to swim through the aquaculture site. That is not
5 advisable. Also note that in Potter Pond, as in all
6 coastal ponds in Rhode Island, we have the 5 percent rule
7 where no more than 5 percent of an area of a given
8 coastal pond could be dedicated to aquaculture. If this
9 application is approved, the total amount of aquaculture
10 all managed by Mr. Raso would be 9.9 acres and would come
11 to 3 percent of the area of Potter Pond. 3 percent may
12 sound like a lot to some people. What that means is
13 97 percent is left for all other activities.

14 Property values. This is really a frequent
15 objection to aquaculture. There is no peer-reviewed
16 literature that supports that concept. So people may
17 assert that, but there is no peer-reviewed literature
18 that gives that concept support.

19 Pollution from oysters. This is also a common
20 objection, and this is really from people that don't
21 quite understand the oyster process of growing them,
22 denitrification process, and the process of the act of
23 harvesting the oysters. Both denitrification process and
24 harvesting the oysters remove nitrogen from the water.

1 So pollution, no. There's a few supporting publication
2 cited, but the East Coast Shellfish Growers Association
3 has a bibliography over 90 titles of peer-reviewed
4 scientific legislature that supports that pollution from
5 oyster aquaculture is not an issue.

6 Timing. I already mentioned about the application,
7 people complaining about it, starting the process during
8 the winter when everybody is away. But given that this
9 report was out in June and the subcommittee meetings were
10 arrange originally scheduled for the springtime and early
11 summer, really timing has not been an issue and should
12 not be considered as one.

13 The objections concerning Matunuck Oyster Bar.
14 Really, some people don't like any change at all. The
15 Matunuck Oyster Bar is a very successful restaurant.
16 With their success comes some traffic, and all of the
17 restaurants that were there previous to this were not
18 successful. Hence, the change is really twofold. The
19 change is the success of this restaurant and the
20 consequence is traffic that comes with success. I would
21 also note that while the applicant owns the Matunuck
22 Oyster Bar, the Matunuck Oyster Bar is not part of this
23 application. So those objections are irrelevant.

24 Objections involving hunting. Given the density of

1 locations of nearby homes, the hunting opportunities
2 would not be effected by this site.

3 Beach access. Personally, I cannot understand how
4 this site would effect beach access whatsoever. It's
5 nowhere near the beach.

6 One major -- the final major objection was that
7 Mr. Raso has enough control over the pond. We already
8 has a 6.9-acre farm. An additional 3 acres will give him
9 9.9 acres, and people look at that as too much area for
10 one person to manage or to control. In the same vein a
11 number of people, as I already mentioned, did not like
12 the restaurant but they also don't like his land farm
13 which is also on Potter Pond. Mr. Raso has been really
14 successful in Matunuck and in Potter Pond. He wants to
15 expand his business. This is a legitimate location to do
16 that.

17 There are a number of other items that are listed
18 here. I can go through each one in the report. And if
19 that's all right, I will continue. If not, I can skip
20 over it and go right to the recommendation.

21 CHAIRWOMAN CERVENKA: Mr. Beutel, if you could
22 address the compliance with the Category B criteria, that
23 might be helpful just for the subcommittee members as
24 they start to think about the standards that they are

1 looking at. And then followed by that, maybe some
2 orientation with a site plan or a map. I do see, just
3 looking at your report, that there's a color-coded plan
4 here. Maybe you could orient the subcommittee members
5 the area in question.

6 MR. BEUTEL: Okay. Well, the Category B
7 criteria were addressed in Mr. Raso's application.
8 Certainly they were addressed in his subsequent filings
9 in trying to minimize the different impacts. All of the
10 substantive objections listed different criteria for
11 which they -- different Category B items which they
12 thought Mr. Raso did not address.

13 It is staff opinion that he has addressed all of
14 them and, really, by going through the objections, that
15 list that I just went through, that really is a list of
16 the substantive objections and criteria.

17 CHAIRWOMAN CERVENKA: And Mr. Beutel, in your
18 opinion and based on your review of the application
19 materials, they not only addressed the Category B
20 criteria, but they were satisfied. So the standard in
21 your opinion was met for Category B?

22 MR. BEUTEL: That's correct. It is staff
23 opinion that he has met all of the criteria for Category
24 B objections.

1 CHAIRWOMAN CERVENKA: I refer to a color-coded
2 map that is part of your staff report. Can you, just at
3 least for me, kind of describe the Potter Pond area?
4 Segar Cove is a portion of the larger pond. How does
5 that work?

6 MR. BEUTEL: Segar Cove is a cove over the
7 western portion of Potter Pond. It has a peninsula that
8 comes down that Mr. Capizzo already mentioned that one of
9 his clients live on that. That peninsula that comes
10 down. It is somewhat secluded, not secluded, the opening
11 to Segar Cove from the rest of Potter Pond is -- I
12 wouldn't call it narrow, but it is narrower than the
13 other access points of Potter Pond.

14 The area proposed in the original proposal and some
15 subsequent tweaks from Mr. Raso is on the western side of
16 that peninsula which happens to be the eastern side of
17 Segar Cove, and what he is trying to do is minimize the
18 extent it goes out towards the center of the cove.

19 For the subcommittee and certainly for the Council,
20 the decision has -- the application needs to be looked at
21 from the original location that was determined or that
22 was applied for by Mr. Raso. The alternatives that he
23 provided can be accepted by the Council and could be --
24 they could approve one of those rather than the original

1 location, but that would be up to the Council.

2 It is staff opinion that his subsequent map that is
3 titled B is referred to as B would be the one that
4 minimizes those issues the most. So without having a
5 slide to put up showing the cove, it's hard for me to
6 describe in greater detail what the cove actually looks
7 like.

8 CHAIRWOMAN CERVENKA: That's fine. I'm sure
9 that applicant's counsel will go through that. As far as
10 the -- you've spoken a little bit about the process of
11 identifying a proper place in Potter Pond that would be
12 the minimal impact to all other uses, I guess. Did you
13 work with Mr. Raso in working through various proposed
14 locations and then end up with this Option B as the
15 preferred area?

16 MR. BEUTEL: Mr. Raso has submitted a number of
17 applications wanting to expand his farm dating back six
18 years, I think. And because of the growth of the
19 eelgrass around his farm he was prohibited because
20 eelgrass federally protected from -- adjacent to where he
21 currently is. That was his original goal.

22 In discussing with him other options, the Segar Cove
23 option did come up. I will not say that I recommended
24 any location, but I can say that Segar Cove appeared to

1 be an acceptable location for expansion of his existing
2 farm.

3 CHAIRWOMAN CERVENKA: Okay. Your staff report
4 is focused on the Option B; is that right?

5 MR. BEUTEL: That is correct.

6 CHAIRWOMAN CERVENKA: Sorry I interrupted. I
7 know you want to get to your final recommendation,
8 Mr. Beutel.

9 MR. BEUTEL: That's okay. You can interrupt me
10 again if you have more questions.

11 CHAIRWOMAN CERVENKA: Thank you.

12 MR. BEUTEL: So one of the comments that CRMC
13 has received quite a bit is, why did this process take so
14 long? This took years to get to this point because of my
15 responsibilities and my job here, and I was handling and
16 working on the vineyard application, which really took
17 more than 12 months of concentrated work, so hence the
18 delay in this, and I apologize to everyone involved for
19 that, but it was beyond my control.

20 Before I get to the recommendation I would also like
21 to state that Mr. Raso made a number of attempts to meet
22 with homeowners associations and the Rhode Island
23 Saltwater Anglers Association for discussion of this
24 particular site, and the communications about that are

1 included in the packet, and he was unsuccessful in being
2 able to have a civil discussion with any of the groups
3 with which he tried.

4 I worked with two different groups, Saltwater
5 Ranglers Association and one of the homeowners
6 associations for discussions on process. They attended
7 meetings of both of those, and the discussions of process
8 occurred and were quite civil and I think informative to
9 members of each of those associations.

10 So given that Mr. Raso has satisfied, in staff's
11 opinion, the Category B requirements, staff recommends
12 approval of this application, staff recommends that the
13 Map B is the location that is considered by the Council,
14 but that once again is up to the Council, and that
15 concludes my presentation.

16 CHAIRWOMAN CERVENKA: Thank you, Mr. Beutel.
17 Are there other subcommittee members who would like to
18 ask questions about Mr. Beutel's review or staff report?

19 MR. GOMEZ: Just one question, Madam Chair.

20 CHAIRWOMAN CERVENKA: Mr. Gomez.

21 MR. GOMEZ: I'm looking at the drawings and
22 looking at the Segar part of it. What approximately is
23 the opening there? How wide is that? Is there much
24 tidal flow running through there in the pond? Is there

1 much depth difference between high and low tides? I'm
2 trying to get a feel for that section of Potter Pond
3 known as Segar Cove. And especially I'm trying to get a
4 handle on the dimensions of the area that the water flows
5 through, I guess I'd call it the gut, to get into that
6 cove.

7 MR. BEUTEL: Mr. Gomez, I can't answer that
8 without the nautical chart right in front of me.

9 MR. GOMEZ: Okay. It doesn't look very big. I
10 guess that's what I'm getting at.

11 MR. BEUTEL: I mean, there's certainly a tidal
12 exchange there. The major tidal exchange of course is
13 through the channel that is in between Potter Pond and
14 Pt. Judith Pond. But there is, where that channel flows
15 very strongly, what the tide range is in Segar Cove, I do
16 not -- I cannot answer that.

17 MR. GOMEZ: That was kind of a secondary
18 question. I was just trying to get some dimensions here.
19 It looked to me like the proposed farm becomes a pretty
20 fair percentage of the cove, and I was just trying to --
21 I was just trying to get a handle on the ingress and
22 egress to the cove, but it's fine. I'm okay with your
23 answer.

24 MR. BEUTEL: I would say that the location of

1 the farm would have very little effect on the ingress and
2 egress to the cove.

3 MR. GOMEZ: Right.

4 MR. BEUTEL: So it does not block the ingress
5 and egress to the cove.

6 MR. GOMEZ: Right, thank you.

7 CHAIRWOMAN CERVENKA: Any other questions from
8 subcommittee members?

9 MS. REYNOLDS: Madam Chair, I'd like to ask
10 Mr. Beutel if there are any other recommendations besides
11 the standard recommendations that usually accompany
12 aquaculture applications?

13 MR. BEUTEL: The recommendations, the standard
14 recommendations, are standard often according to the type
15 of aquaculture proposed. So the type of gear involved
16 here is suspended gear and floating gear. Typically, in
17 recent applications, we have increased the bond limit and
18 the proof of performance bond limit to a minimum of
19 \$15,000 for the removal of that gear. I would propose
20 that that would be a stipulation if this is approved.

21 MS. REYNOLDS: Thank you.

22 CHAIRWOMAN CERVENKA: Okay. Any other
23 questions? Mr. Murray?

24 MR. MURRAY: I think some of the materials

1 provided today provide some dimensional characteristics
2 of the access to the cove, a survey plan that I'm sure
3 the applicant will present.

4 The other kind of question, not so much question,
5 but three acres is the maximum size of an individual new
6 farming endeavor; is that correct?

7 MR. BEUTEL: That is not correct.

8 MR. MURRAY: I saw that stated in some of the
9 materials. I just -- I know that --

10 MR. BEUTEL: In the regulations, in the coastal
11 ponds three acres is the max for any site that has gear;
12 however, a site that has bottom plant and up gear is
13 allowed up to 6 acres.

14 MR. MURRAY: I understand that, but this
15 doesn't have the bottom -- this has floating and
16 suspended, not bottom gear, correct?

17 MR. BEUTEL: Yes. So to follow that
18 regulation, yes, 3 acres is the maximum.

19 MR. MURRAY: Okay. And lastly, was Concept B
20 the one that was presented to the town's Conservation
21 Commission and Waterfront Advisory Committee?

22 MR. BEUTEL: I was not at that meeting, so I do
23 not know whether they saw Map B or not. Mr. Raso, during
24 his attorney's presentation, I think they can answer

1 that.

2 MR. MURRAY: Okay, thank you.

3 CHAIRWOMAN CERVENKA: Anything else, Mr. Coia?
4 Do you have any questions at this point?

5 VICE CHAIRMAN COIA: No.

6 CHAIRWOMAN CERVENKA: All right. Thank you,
7 Mr. Beutel. We might come back to you with some
8 additional questions as we hear from the parties.

9 MR. WAGNER: Madam Chair, there's no
10 opportunity to ask questions of Mr. Beutel at this time?

11 CHAIRWOMAN CERVENKA: Not at this time.

12 MR. WAGNER: Thank you.

13 CHAIRWOMAN CERVENKA: All right. I'd like to
14 move now to the applicant's case and presentation of
15 witnesses. Ms. Noonan, I'll hand it over to you.

16 MS. NOONAN: Thank you, Madam Chair. What I'd
17 like to do is start with an opening statement telling
18 everybody where we're going with this, and then we'll
19 move into testimony starting with Mr. Raso if that's
20 acceptable?

21 CHAIRWOMAN CERVENKA: It is. Thank you.

22 MS. NOONAN: Thank you. Good afternoon. We
23 are before you today for an aquaculture application
24 submitted by Mr. Raso in 2017 to approve a 3-acre

1 aquaculture farm in Potter Pond. His application spells
2 out his plan, how it meets CRMC requirements, and how it
3 will operate. This has not changed in over the three
4 years since he has submitted that application.

5 In addition to the materials submitted by Mr. Raso,
6 we've just heard from Mr. Beutel which goes through his
7 staff report and concludes that it is the staff's opinion
8 that this application has met the requirements of the
9 Rhode Island Coastal Resources Management program and is
10 recommended for approval.

11 Regarding aquiculture, the Red Book, as we still
12 call it, tells us at Section 1.3.1(k) that responsible
13 shellfish aquaculture has a net positive effect on the
14 environment. The proposed farm as Mr. Beutel stated is
15 in Type 2 waters. Aquaculture is allowed and constitutes
16 a low intensity use.

17 We'll provide the testimony of five witnesses, each
18 of whom have experience and expertise in their fields.
19 Mr. Raso will describe his aquaculture work, proposal
20 consistent with the application, and two alternatives to
21 the shape of the proposed farm which were submitted in
22 2018 in response to concerns raised during the public
23 comment period. His preference is for the original
24 rectangular shape in 2017, but he recognizes that the

1 staff reports states a preference for Option B, or Map B,
2 and would except that if this committee felt it served
3 the best interest of all, which is what I believe this
4 hearing is about, is not only about Mr. Raso's
5 aquaculture or about the objectors that have entered
6 their appearance with Council, but everybody that uses
7 Potter Pond.

8 Mr. Audie Osgood who is an engineer with DiPrete
9 Engineers will then discuss a plan. We'll show you a
10 little better plan than what is in the application,
11 showing Segar Cove, the farm and the location of docks
12 within the cove. He'll also address the standards to
13 consider in reviewing the application and the technical
14 arguments raised by the objectors relating to the use of
15 Segar Cove for motorized recreational vehicles,
16 specifically waterskiing and tubing and presumably jet
17 skis also.

18 You'll be hearing from the objectors that the size
19 and impact of the farm is greater than the three acres
20 proposed by Mr. Raso, and that there are ordinances
21 enacted by the Town of South Kingstown governing conduct
22 for waterskiers and personal watercraft, each of which
23 have 200-foot buffers associated with them.

24 While factually we'll present evidence on this issue

1 as a matter of law, it is our position that the town's
2 ordinances cannot effect CRMC's jurisdiction as set forth
3 in the statutes and regulations, as well as set forth in
4 case law, specifically Town of Warren v.
5 Thorton-Whitehouse, 740 A.2d 1255, R.I. 1999 and
6 subsequent case law.

7 Dr. Carrie Byron will testify. She is an
8 environmental scientist, and she'll testify about her
9 familiarity and experience with the ecology of the
10 saltwater ponds in Rhode Island and specifically Potter
11 Pond. She will talk about ecological carrying capacity
12 and how this relates to the application. It was the
13 subject matter of her dissertation when she was at URI.

14 Finally, she will discuss how elements of the
15 application meet the Red Book requirements for a Category
16 B assent for aquaculture.

17 Dr. Michael Rice, who has been involved with
18 aquaculture in Rhode Island for decades, will discuss his
19 familiarity with the regulations under which we are
20 operating today, the statutory scheme, and he'll discuss
21 how the application meets those requirements that we
22 discussed previously.

23 Finally, Dr. Robert Rheault, a professor at URI and
24 the moving force behind aquaculture in Rhode Island since

1 its renaissance in the 80s and 90s, will discuss the
2 sovereign nature of the waters of Rhode Island and what
3 that means to the evaluation of this application in
4 balancing the interest of all the residents of the State
5 of Rhode Island for use and best public use of the waters
6 of this state.

7 We're aware of the concerns of the objectors and
8 those that voice their opinions in other public forums,
9 some within the confines of the CRMC process, others
10 in -- web sites. While respecting the rights of the
11 public to comment on this application, much of the
12 information that has been disseminated is incorrect,
13 misleading, unrelated to the application and not useful
14 to this committee. The staff report by Mr. Beutel and
15 his discussion today addresses those comments.

16 The main objection put forth by Mr. Capizzo's
17 clients relate to the determination of riparian rights,
18 that is the Superior Court's jurisdiction to determine,
19 not for this board. And that's established by again the
20 case law that I cited.

21 Next is that there's a balance of uses, and
22 specifically the use of the cove by motorized tow boards.
23 That's what this is, really mainly a lot of it comes
24 down, skiing and tubing. The proposed farm does not

1 limit, as Mr. Beutel said, non-motorized craft such as
2 power boards, kayaks and canoes, and so it seems that the
3 objectors seek to preclude allowed aquaculture for the
4 benefit of very few water users in the area.

5 Balance between the users of Potter Pond is not just
6 limited to aquaculture and water-towed sports. There's
7 many others to consider when balancing the merits of this
8 application, and the testimony will discuss how that
9 balance should be effectuated.

10 When we finish our presentation at the conclusion of
11 this hearing process, we will establish that the proposed
12 farm meets the Category B assent standards and would ask
13 that this subcommittee recommend approval and give a
14 positive recommendation to the full Council.

15 With that, I first would like to again state my name
16 again is Beth Noonan. Leslie Parker from my office will
17 also be assisting with witnesses today, and on the screen
18 as you have seen is Mr. Raso who will be my first
19 witness. So if we can have Mr. Raso unmute himself, and
20 if we could have our Exhibit 1 available. That is the
21 application itself.

22 Swear the witness, please.

23 PERRY RASO,

24 Being duly sworn testifies as follows:

1 COURT REPORTER: Please state your name for the
2 record.

3 THE WITNESS: Perry Raso.

4 DIRECT EXAMINATION BY MS. NOONAN

5 Q. Good afternoon, Mr. Raso, how are you? Good?

6 A. Yes.

7 Q. Can you tell this Board where you currently reside?

8 A. I live on the north end of Potter Pond.

9 Q. And that's in the town of South Kingstown, correct?

10 A. That's correct.

11 Q. How long have you lived in South Kingstown?

12 A. About 33 years approximately.

13 Q. And where did you go to college?

14 A. I started at Southern Connecticut State, and I was at the
15 University of Northern Colorado, and I finished my
16 undergraduate and graduate degrees at the University of
17 Rhode Island.

18 Q. What educational degrees do you have?

19 A. I have an undergraduate degree in aquaculture and
20 pathology science and a graduate degree in aquaculture
21 and fisheries technology.

22 Q. And where did you obtain those from?

23 A. University of Rhode Island.

24 Q. Certainly just in the discussion that Mr. Beutel gave, we

1 know currently what you're working on. Can you go back
2 and give us a little bit of your work experience, you
3 know, since college.

4 A. I started out digging clams and trapping eels and
5 eventually working on commercial fishing boats. And then
6 in my lay teens, early 20s started commercially scuba
7 diving for the wild harvesting shellfish. First started
8 with littlenecks and eventually steamers which is what
9 led me into Potter Pond is -- harvesting steamers.

10 From there, when I finished my undergraduate degree,
11 I started a 1-acre farm in 2002, and today it's a
12 6.9-acre farm.

13 Q. So you're familiar with the term "aquaculture"?

14 A. Yes.

15 Q. Can you describe it to the Board?

16 A. Aquaculture is the growing of a product organisms.

17 Q. And can you describe your work in the aquaculture
18 industry?

19 A. I grow oysters and I retail and wholesale oysters both at
20 my restaurant and to other restaurants, and I also
21 attempt to grow scallops and limited success with that as
22 well as to grow seaweed as well, also limited success.

23 Q. Okay. And so in terms of the existing facility that you
24 have in Potter Pond, can you just describe that to the

1 board, or to the committee, sorry.

2 A. The existing farm is a shallow wading depth farm. It has
3 a floating cage system which houses plastic mesh bags
4 oysters and we also have a submerged tray system where we
5 put larger size animals in those large trays in between
6 the flowlines. We produce oysters and --

7 Q. And I think we talked about the fact that 6.9 acres. Was
8 there a period of time where you exceeded those 6.9 acres
9 in size?

10 A. When I applied for the farm and started looking at
11 software that was very new to me, when I applied for the
12 new farm, it did become apparent that the corner markers
13 on the outside markers were outside of that 6.9 acres.

14 Q. And what did you do?

15 A. I moved the markers where they were supposed to be, to
16 the best of my ability.

17 Q. Did you receive any violation from CRMC for that?

18 A. I do not believe so.

19 MR. NOONAN: Okay. Now, in this matter I'd
20 like to move on to the application which is the subject
21 matter before this committee today identified as CRMC
22 File No 2017 -12-86. I'd like to go to Exhibit 1. I
23 believe Page 12 of that Exhibit at least gives us a
24 partial view of the cove and what it looks like -- if

1 it's possible to share that screen while keeping Mr. Raso
2 on also.

3 [PAUSE]

4 MR. NOONAN: I will go ahead and question while
5 we wait for that to pop up. We can do it without it.

6 Q. Can you describe the farm that you're proposing?

7 A. The farm that I'm proposing would have 3 sections of 12
8 rows of scallop gear. The scallop gear would be when
9 they are larger, they would be lantern nets, four-tier
10 lantern nets, which are described and pictured in the
11 application. Half of the farm, approximately one and a
12 half acres of the farm that's closest to the center of
13 the cove or the western most part of the farm, would be
14 that type of gear. And then the eastern most gear, the
15 gear closest to the shoreline, would be another 12 rows
16 of oyster cages approximately -- I mean 30 cages per row,
17 and then that would be in 3 sections, the 3 sections of
18 those 12 rows, and that would house juvenile and adult
19 oysters.

20 Q. So the proposed size of the entire farm including the
21 oysters and the scallops three acres?

22 A. It is.

23 Q. Is all of the three acres visible on the surface?

24 A. No, I wouldn't say that. The scallop part where I plan

1 to grow the scallops would have floats, round floats. I
2 think I proposed five or six-inch round floats similar to
3 lobster pot buoys only round, and they would mark the
4 ends of the lines as well as there might also be in the
5 center depending on how much flotation is required, as
6 the panels get bigger.

7 Q. Okay. And obviously people are familiar with your
8 existing farm. The proposed one, can you describe what
9 type of gear will be out on that farm?

10 A. The proposed farm will be -- the half of the farm that's
11 closest to the land would be the floating cages with
12 those low profile floats. And the east western most will
13 be either spat bags, which will be submerged and lantern
14 nets which are total submerged with buoys even though
15 they float.

16 Q. Will you have a permanent platform on that site?

17 A. No, there will be no permanent platform on the site.

18 Q. What are the hours of operation that your crews would
19 work there?

20 A. We've agreed to address some concerns regarding migratory
21 birds between the months of November and March to keep
22 the hours, I believe, from 9:00 a.m. to 3:00 p.m. In the
23 other months, it probably would be approximately an hour
24 earlier and maybe an hour later give or take for the

1 other months of the year.

2 Q. How will the people that work on the farm access it?

3 A. They'll access it with the same boat, boats that they
4 access the existing farm, a pontoon boat which is a
5 30-foot alluminum upon tune boat and a 19-foot alluminum
6 skiff that every now and then will have a Carolina skiff,
7 a flat bottom fiberglass boat to access the farm, usually
8 a 19, 20-foot boat.

9 Q. I wanted to go back briefly to the limitation of hours.
10 So you would be willing to restrict, and you agreed to
11 restrict, your operating times for the period of
12 November 15th to March 15th to 9:00 a.m. to 3:00 p.m.,
13 correct?

14 A. Yes.

15 Q. And that is to reduce the interference with migratory
16 water fowl that use Segar Cove as a roost site during the
17 winter, right?

18 A. Yes.

19 MS. NOONAN: And that, for the subcommittee's
20 reference, is set forth in the Division -- a letter from
21 the Division of Marine Fisheries of DEM dated February 2,
22 2018 and it is part of Mr. Beutel's staff report.

23 CHAIRWOMAN CERVENKA: Ms. Noonan, did you want
24 to identify again the exhibit that you wanted to make

1 reference to? I think Mr. Moore needs to look for it.

2 MS. NOONAN: Certainly. It was Exhibit 1 of
3 the exhibits we sent over. It is the application. It's
4 the very first exhibit. And I was trying to at least get
5 to the location of the farm and picture of portions of
6 Segar Cove which is Page 12 of that exhibit.

7 CHAIRWOMAN CERVENKA: Let's give him a moment
8 to try to put up what you might be looking for.

9 [PAUSE]

10 MS. NOONAN: It's the very first document.

11 CHAIRWOMAN CERVENKA: Just so you know, we
12 have -- [ZOOM INTERRUPTION] Duhamel CD and then later on
13 a CRMC application submitted by Perry Raso. So there's a
14 couple Exhibit 1s here.

15 MS. NOONAN: Okay, you're right. When we
16 submitted our witness list, perhaps we identified them.
17 We submitted a subsequent list. So what numbers do those
18 end with? I'm sorry, Madam Chair, I don't have that
19 right in front of me.

20 CHAIRWOMAN CERVENKA: So the application, it
21 doesn't -- I don't see that it's numbered. So maybe it's
22 just better for Mr. Moore to scroll through until you say
23 that's it.

24 MS. NOONAN: Okay, sorry about that. This is

1 the first time I've done a contested hearing.

2 MR. MOORE: Is it Exhibit 1, Duhamel?

3 MS. NOONAN: No, I'm sorry, I apologize. We
4 sent over exhibits.

5 MR. MOORE: Prepared by Perry Raso?

6 MS. NOONAN: Yes.

7 MR. MOORE: Okay.

8 MS. NOONAN: And I would like, if it's okay,
9 Madam Chair, to use that list. I hope it doesn't mess up
10 anybody's thoughts, but that's what we've keyed to right
11 now.

12 CHAIRWOMAN CERVENKA: So that's just looking at
13 the CRMC -- yes. You might not be looking at the same
14 thing. So it's 1, 1A, and then you have the CDs?

15 MS. NOONAN: Yes, we did that. I'm sorry for
16 the confusion there. So if you go to 1, like I said, if
17 you scroll through there should be a very similar looking
18 picture but with a rectangle, with a blue rectangle in
19 it.

20 CHAIRWOMAN CERVENKA: Does it have "received
21 December 29, 2017"?

22 MS. NOONAN: That's the one. Yes, it does,
23 correct. That's it. Scroll through maybe 10 or so pages
24 and then you will see the first aerial photo through this

1 application. That's it right there. Perfect.

2 [EXHIBIT DISPLAYED]

3 Q. So Mr. Raso, can you see what is now up on the screen
4 also?

5 A. Yes, I can.

6 Q. Thank you.

7 CHAIRWOMAN CERVENKA: Mr. Moore, can you expand
8 that so we can see the full exhibit? Perfect.

9 MS. NOONAN: So, again, I see that as Page 12
10 of that document. I think that's consistent with what
11 was coming up on your screen, Mr. Moore.

12 Q. So referring to Exhibit 1, Page 12, Mr. Raso, is this the
13 plan that you have submitted to CRMC seeking approval for
14 a 3-acre aquaculture site?

15 A. Yes.

16 Q. Okay, thank you. Then as you look at the picture, just
17 to sort orient people, we can see two houses. Those are
18 houses of two of the objectors; is that correct?

19 A. Correct.

20 Q. And then the bottom of that point down there, is that
21 Ram's Point as you go down?

22 A. Yes.

23 MS. NOONAN: Okay. All right. Just so the Board
24 knows, we do have some other -- our next witness we have

1 other aerials that will give you a little more
2 information on that.

3 Q. Going back now, I think when we left off we were talking
4 about the crews, how many people would work. So how many
5 -- how many people do you normally have on your crews
6 working at the farm or will you for this proposed farm?

7 A. For this proposed farm we'll use the same crew that
8 accesses the current farm. There's usually a minimum of
9 two and a maximum of five people as of the last several
10 years.

11 Q. And would you be hiring different people or are you
12 essentially using the same crew for -- would you be using
13 the same crew for both sites?

14 A. I would use the same.

15 Q. Okay, great. On that -- when the pontoon boat goes out,
16 is there any type of equipment on it like a tumbler?

17 A. There is no tumbler, no.

18 Q. And do you hide pressure hoses or anything like that?

19 A. No high pressure power washer, no, nothing like that.

20 Q. Again, we've established there's no platform like there
21 is at the existing site, correct?

22 A. Correct.

23 Q. So when your crew goes out on the pontoon boat, if this
24 is approved, what kind of work will they be doing out

1 there?

2 A. They'll be hauling up the lantern nets, emptying the bay
3 scallops out manually on a work table, pulling up the
4 floating cages, perhaps emptying those animals out on the
5 work table, sorting and separating by hand. In some
6 cases the gear will be brought to the work platform in
7 the other farm as laid out in the proposal.

8 Q. And, you know, based on your experience what type of
9 noise is generated when the pontoon boat is working at
10 the proposed farm?

11 A. Well, when it's navigating the farm you would hear a
12 motor just like any boat and emptying the shellfish on a
13 work table and pulling the gear out of the water is the
14 noise. We agreed not to play any radios or anything like
15 that. That's become an issue, so we certainly wouldn't
16 do that. That would be the extent of the noise.

17 Q. Okay. Mr. Beutel addressed a little bit how you ended up
18 at Segar Cove. Can you explain to us why you selected
19 Segar Cove for this proposed farm?

20 A. I chose Segar Cove because it was the area in the pond,
21 with my many years of living and working on the pond, I
22 found as well as living in Segar Cove for many years, I
23 felt that was the least used part of the pond and would
24 make the least impact on other users in the pond.

1 Q. I'd like to turn now back to Exhibit 1 which is up on the
2 screen -- and if you go to the next page, Mr. Moore, you
3 have a couple pages of hand drawn diagrams -- can you
4 explain what those are so the committee members could
5 understand?

6 A. Sure. The three sections, the top indicates what would
7 be we will call it the north and the bottom would be the
8 south and left would be the west. And as I stated
9 earlier, the left side, the west side of the farm would
10 be bay scallops. So what is depicted is those three
11 sections of 12 lines of bay scallops on the western side
12 or the left side of your screen, and those pots indicate
13 those round floats that are described also in I believe
14 the five or six-inch floats. And there's also a float in
15 the middle, should we need that extra flotation on the
16 surface. On the right side, the lines indicate the
17 floating gear which is a blown-up diagram of that type of
18 a boat types of gear following this.

19 Q. And this is similar to the type that's at the existing
20 farm, correct?

21 A. Correct.

22 Q. Going to the next page of Exhibit 1, which I believe is
23 Page 14, can you just describe what that is?

24 A. Basically that is just a diagram showing the amount of

1 elevation. The floating gear would be under the water
2 and above the water. Obviously it doesn't show much more
3 than that. And the floats would show the waterline and
4 the sea floor and the amount of distance, approximately,
5 distance the bottom of the cages are from the sea floor
6 and the top of the cages protrude from the waterline.

7 Q. Okay. Onto, again, the next page, just so we can --
8 everyone can understand what this is. What does that
9 depict on I believe it's Page 15 of Exhibit 1?

10 A. These are soft mesh spat bags. They are very fine mesh.
11 They house bay scallops and they are a tried and true
12 method globally to rear infant bay scallops from just a
13 few millimeters to a large enough size that they are able
14 to be put into the lantern nets which is probably the
15 next slide here.

16 Q. It is. You anticipated that. If we can move on to the
17 next page. Supposedly it's called lantern because that's
18 what they look like, right?

19 A. Yes. So these lantern nets you -- the bay scallops get
20 put into those 4 tiers of lantern nets between 30 and 50
21 animals per tier, and they are hung off a long line.
22 There is depicted here no more than 2 every -- 3 feet on
23 center spaced apart on approximately a foot and a half
24 wide in diameter so they allow for flow in between the

1 nets.

2 Q. All right. Going on there's a couple pictures in the
3 application just again to orient the members of the
4 committee on the next page of Exhibit 1. If you can just
5 describe, did you take those pictures?

6 A. Yes.

7 Q. All right. Can you just describe what that is?

8 A. That's if you were in the middle of the farm facing west.

9 Q. Okay. And the next page?

10 A. That --

11 Q. Again, is this a picture that you took?

12 A. Yes, it is.

13 Q. And what is it?

14 A. That's facing north from the proximate center of the
15 farm. Yeah, I'm not sure if that's the center of the
16 farm. It looks like its the south end of the farm
17 rather.

18 Q. The south end, so closer to the opening of the cove?

19 A. Correct.

20 Q. Okay. And the next page in Exhibit 1, which I believe is
21 Page 19, what does that depict?

22 A. That is facing south. Again, it looks like from the
23 north end of the farm.

24 Q. The houses that we're looking at, is that on the I guess

1 the southerly side of the opening of the pond and the
2 houses over there?

3 A. Yeah. It looks like that's -- that is the opening of the
4 channel or the distant part of the picture.

5 Q. Okay. Finally, the last picture, if you could just
6 describe what that is?

7 A. That is facing -- that's a metal spud, it's called, it's
8 used as an anchor. The picture is of the view facing
9 east from inside the farm.

10 Q. That's facing the Hunt's property, one of the objectors,
11 correct?

12 A. Correct.

13 Q. Okay, thank you. Now, in addition to what you submitted
14 in this application that we've just reviewed, it also
15 contains an operation plan which is required by the CRMC
16 regs, correct?

17 A. Yes.

18 Q. And if you received approval for this application, you
19 would still follow those same operation plans that you
20 set forth in this application, correct?

21 A. Correct.

22 MS. NOONAN: Okay, great. Actually, I'm done
23 with Exhibit 1, Mr. Moore. Thank you.

24 Q. Is the proposed farm near any navigational channels?

1 A. It is not.

2 Q. And how do you know that?

3 A. Just having lived on the cove and in the pond. I
4 situated it, removed from probably the most popular area
5 of use in that cove which would be the inlet. So I
6 situated it well to the north of that so that it is not
7 in between any two docks. So any dock and mooring board
8 and inlet, any dock, they wouldn't have to go through or
9 navigate in and around the farm in order to go in and out
10 of the cove or to go from one dock to another or to a
11 dock and moor.

12 Q. Certainly as we've seen from the pictures in the area
13 where your farm is on that side near the Hunts' property,
14 there's no dock on that side, correct?

15 A. Correct.

16 Q. All right. For the record, one of the requirements of
17 the assent is that there are no areas of historic or
18 archeological significance in the vicinity of the farm.
19 Are you familiar with that criteria?

20 A. Yes.

21 MS. NOONAN: And we have Exhibit 9 which I
22 believe is also part of the -- our new Exhibit 9, part of
23 the CRMC record which is the letter from the Rhode Island
24 Historical Preservation Heritage Commission stating that.

1 Q. Now, we've been looking at that rectangle in Exhibit 1.
2 I'd like to move on to Exhibit 1A -- Mr. Moore, if that's
3 possible -- and ask you what Mr. Beutel talked about also
4 is that since you submitted the application in 2017, did
5 you have an opportunity to provide some reconfigurations
6 of the farm?

7 A. Yes.

8 Q. And why did you do that?

9 A. To address concerns from some of the letters of objection
10 specifically regarding tubing and waterskiing.

11 MS. NOONAN: And if we scroll down on
12 Exhibit 1A, can you expand that also? Sorry.

13 Q. Can you describe what that is, Mr. Raso?

14 A. That is what I understand to be the preferred
15 configuration of the proposed farm prepared by, I believe
16 CRMC prepared that, that configuration.

17 Q. Okay. And how did you come to design it like it is
18 depicted on Exhibit 1A?

19 A. Well, I tried to move the farm as far away from the
20 center of the cove as possible which of course brought it
21 slightly closer to the shore and, you know, up north more
22 too.

23 Q. Okay. I believe if we go further in Exhibit 1A, we could
24 look at another configuration. It should be a couple

1 pages down. That one. The aerial, correct.

2 So Mr. Raso, looking at Exhibit 1A, Page 4, can you
3 -- that's B, right? Hold on. Let me just check.

4 [PAUSE]

5 Q. That's the B proposal, right?

6 A. Yes.

7 Q. All right. I'm sorry. Maybe there are some additional
8 ones. There should be one marked C further through, one
9 more, the aerial photo. I don't know where C went.

10 There was an alternate C that you prepared also,
11 correct, Mr. Raso?

12 A. Correct. That was more of a square and more up, kind of
13 removed from the southern part more concentrated toward
14 the north side.

15 Q. Okay. And you're obviously aware both from the staff
16 report and from Mr. Beutel's testimony today that the
17 staff recommends Map B, correct?

18 A. Correct.

19 Q. And at this time are you willing to have either the
20 original --

21 CHAIRWOMAN CERVENKA: Sorry for interrupting,
22 but I don't know if you want the aerial for C, but
23 it's --

24 MS. NOONAN: No one wants it. No one is

1 advocating for C, so I'm fine for now. Thank you, Madam
2 Chair.

3 Q. At this time, Mr. Raso, are you willing to have either
4 the original rectangle that you submitted with the
5 application or a Map B as recommended by staff to be
6 approved by this committee?

7 A. Yes.

8 MS. NOONAN: Okay. I'm done with Exhibit A.
9 Thank you very much.

10 Q. How long have you been familiar, I think we talked about
11 this earlier, but with Potter Pond and specifically Segar
12 Cove?

13 A. Approximately over 20 years.

14 Q. And Segar Cove specifically, what's your experience with
15 them?

16 A. When I first went into the pond and I started scuba
17 diving for steamers, Segar Cove, specifically the area
18 where the moorings are in the south end of that cove, was
19 a very good spot for scuba diving for steamers and that
20 was my first experience in that cove. Years later I
21 eventually moved into the cottage on the inlet of Potter
22 Pond, and when that marina, which was Kent Port Marina
23 where I lived sold, I then rented a house in a part of
24 the house on Segar Cove for five or six years. So I'd go

1 back and forth to my farm or to wild catch shellfish, you
2 know, on a daily basis, and now I live on the north part
3 of the pond.

4 Q. Okay. And you described that you did some shellfishing
5 near the -- marina areas, is that allowed anymore in
6 Segar Cove?

7 A. Scuba diving for shellfish is no longer allowed in Potter
8 Pond. There was a huge -- there's a huge abundance of
9 shellfish. I would be diving for steamers and there were
10 so many baby steamers there it was like somebody dropped
11 a bag of rice. They were everywhere. Sometimes you'd
12 get into assemblages that were so thick that they would
13 be killing each other off because they are so densely
14 populated and without getting harvested, this would
15 happen. Somehow scuba diving became banned in the pond.
16 So scuba diving is no longer allowed in the pond and
17 there is no longer soft shell commercial fishery in the
18 pond because of that.

19 Q. You heard Mr. Beutel talk about the shellfish in his
20 staff report and his testimony today, correct?

21 A. Correct.

22 Q. So the fact that you're out there as you testified on a
23 daily basis, are you familiar with how people use that
24 area recreationally?

1 A. I am.

2 Q. Can you describe, you know, in your experience how often
3 does the public use the area in Segar Cove for
4 waterskiing and tubing where the proposed aquaculture
5 farm will be located?

6 A. To the best of my recollection going in and out of that
7 body of water, while I would see people shellfishing on
8 Ram Point, I would never see people in there in the area
9 proposed for farming. I believe when I took pictures, I
10 tried to take pictures every day exactly at noon.
11 Sometimes I was earlier or later, but I tried to get it
12 exactly at that noontime when I took pictures that one
13 summer. I really -- I think there was one instance where
14 there was a paddle boarder within the picture. So very
15 seldom I would say.

16 MS. NOONAN: If we could, I'd like to go to
17 what we identified as Exhibit 15, calling those
18 photographs of Segar Cove and Potter Pond. If we can
19 pull those up.

20 MR. MOORE: One moment.

21 MS. NOONAN: Thank you.

22 [PAUSE]

23 MS. NOONAN: Can I ask some preliminary
24 questions or would you prefer I wait?

1 CHAIRWOMAN CERVENKA: Mine is in a deaf circle
2 also because it's large.

3 MS. NOONAN: There are a lot of pictures.

4 CHAIRWOMAN CERVENKA: That's fine to ask
5 preliminary questions.

6 MS. NOONAN: Thank you.

7 Q. So Mr. Raso, in addition to your personal observations on
8 the pond and the cove over the years, did you have an
9 opportunity to take some photographs of the area where
10 your proposed aquaculture farm is to be located?

11 A. Yes.

12 Q. And when did you take those pictures?

13 A. I took them every day last summer. I forget between what
14 months, but it was certainly July and August. I think I
15 might have been Labor Day to Memorial Day. I tried to
16 hit every single day. I believe I missed two days
17 because one time I was at an event and I forgot to ask
18 someone to do it. That happened twice, I believe. I did
19 try and get every single day exactly at noon so it wasn't
20 the idea that I was just timing it when no one was there.

21 Q. In fact, when Exhibit 15 pops up, you say you submitted
22 this to CRMC and it says this binder has pictures of the
23 proposed shellfish lease at or close to noon every day
24 from August 1st through October 31st. Correct?

1 A. August 1st, yes.

2 Q. Okay. All right. You submitted these photos to CRMC in
3 2019, right?

4 A. Correct.

5 Q. When you get those photos and people can look through
6 them, I'm not going to go through all of them but I would
7 ask that those exhibits be admitted. Let me ask you who
8 took those pictures?

9 A. Either myself or my colleague Tara Emery.

10 MS. NOONAN: Okay. I think we got them up now.
11 So what we've got here is the first cover page. This is
12 obviously stamped bottom received by CRMC, and I would
13 ask that this be admitted as a full exhibit. Is this how
14 we do this?

15 CHAIRWOMAN CERVENKA: Yes. Tony, anything you
16 want to say on that?

17 MS. NOONAN: It's in the record, so --

18 CHAIRWOMAN CERVENKA: Yeah, I mean, I'm
19 comfortable admitting it as a full exhibit, but -- Tony?

20 MR. DESISTO: I'm okay with it too.

21 CHAIRWOMAN CERVENKA: Thank you.

22 MS. NOONAN: Thanks.

23 [EXHIBIT #15 MARKED FULL]

24 Q. I think in your narrative there, which is up on the

1 screen right now, it references there were two instances
2 where a paddle boarder was near the area and also there
3 were occasionally clam diggers; isn't that correct?

4 A. Yes, the clam diggers weren't in the farm. They were
5 along the shore which would still be accessible.

6 MS. NOONAN: Okay. Then just maybe to look at
7 one or two of the pictures as we go through them.

8 Mr. Moore, can you scroll down a page or two.

9 Q. Is this a picture looking east?

10 A. Correct.

11 Q. Actually, you tell me what it is. How's that?

12 A. That's view from the Matunuck side facing the -- that's
13 taken from land obviously and it's facing east.

14 Q. All right. Again, as we go to the next page of
15 Exhibit 15, as you can see it's 783 pages I think -- the
16 next page down, Mr. Moore -- what does that depict?

17 A. It's a similar -- it's facing the same direction;
18 however, it's a little bit -- it gets a portion of the
19 inlet into Segar Cove on the right there.

20 Q. Okay. Is that what they call Ram's Point?

21 A. Yes.

22 Q. Okay. And then again let's go to another, the next
23 picture down in Exhibit 15. Again, if you could just
24 describe that?

1 A. That is again a picture showing the entire inlet into
2 Segar Cove. The farm is on the left side of that picture
3 about, I'd say, about a third of the way, you know,
4 towards the land which is left or north.

5 MS. NOONAN: Okay. All right. I am going to
6 save us some time and not go through 798 page of pictures
7 and leave it there for everyone's consideration and
8 review. Thank you, Mr. Moore.

9 CHAIRWOMAN CERVENKA: Just for clarification, I
10 think that I heard testimony that other than two
11 instances there was nothing in the proposed farm area; is
12 that correct?

13 THE WITNESS: That's correct.

14 CHAIRWOMAN CERVENKA: Okay. Can you give me
15 those dates again? I think it's on the first page of
16 the -- it's still loading on mine.

17 MS. NOONAN: I don't think he actually put the
18 dates of when he observed it, but the pictures were taken
19 between August 1st and October 31st every day except for
20 3 in 2019.

21 THE WITNESS: I did write August 1st, but it
22 looks like I started taking them July 25th. It looks
23 like they started July 25th.

24 CHAIRWOMAN CERVENKA: Okay, thank you.

1 Q. Okay. Mr. Raso, I just want to move on where it says --
2 to ask you, are you familiar obviously with the staff
3 report issued by CRMC on June 10, 2020?

4 A. Yes.

5 MS. NOONAN: To Ms. Cervenka and Mr. DeSisto,
6 is that a separate exhibit or do I need to incorporate
7 that into my case as an exhibit?

8 MR. DESISTO: You need to incorporate it.

9 MS. NOONAN: Okay. Since we ended ours at
10 Exhibit 16, I ask we make the staff report Exhibit 17.

11 MR. DESISTO: Thank you.

12 CHAIRWOMAN CERVENKA: Thank you.

13 [EXHIBIT #17 WAS MARKED]

14 Q. Are you aware that the staff report concluded that the
15 photographic record does not indicate Segar Cove as a
16 high use area for daytime recreational activities?

17 A. I do.

18 Q. Do you agree with that conclusion?

19 A. I do.

20 Q. In addition to being out there, did you observe any
21 fishermen?

22 A. I did not, not in the proposed lease.

23 MS. NOONAN: I'd like to go to Exhibit 10,
24 which is the -- give me a moment here. It's a letter

1 from DEM Division of Marine Fisheries dated February 2,
2 2018. It is part of the CRMC record that I'd like to
3 have as Exhibit 10.

4 [EXHIBIT #10 MARKED]

5 Q. Mr. Raso, are you familiar with this letter?

6 A. Yes.

7 Q. And in that letter at Paragraph 2 it says that the DMF,
8 which is the Division of Marine Fisheries and the DFW,
9 Division of Fish and Wildlife, believe that:

10 "The adverse impacts to marine fisheries and
11 wildlife and their habitat from this perspective site
12 would be minimal."

13 You're familiar with that?

14 A. Yes.

15 Q. All right. And do you agree with that?

16 A. I do.

17 MS. NOONAN: Okay. Again, if I could make this
18 a full exhibit as it's part of the CRMC record.

19 CHAIRWOMAN CERVENKA: I agree with that.

20 MS. NOONAN: Thank you.

21 MR. MURRAY: Madam Chair, might I ask a
22 question at this point before we move on?

23 CHAIRWOMAN CERVENKA: Yes, Mr. Murray.

24 MR. MURRAY: The original compass points of

1 view, what time of year were those photographs taken? It
2 looks like there's no leaves out on the trees.

3 MS. NOONAN: Are you referring to the
4 application, Mr. Murray?

5 MR. MURRAY: I am, and not the -- but the
6 earlier pictures where he showed view facing south,
7 north, east and west.

8 Q. Perry, the application which you submitted, which is
9 Exhibit 1, was submitted in 2017 and deemed complete I
10 think January 2, 2018 by CRMC. Do you know when you took
11 those pictures that we reviewed?

12 A. I recall -- this is submitted in December. I'm imagining
13 this is pictures taken in December.

14 MS. NOONAN: Is that fine, Mr. Murray?

15 MR. MURRAY: Yes, it is. I just wanted -- I
16 didn't notice leaf coverage so I was wondering.

17 THE WITNESS: The pictures I took of the farm
18 for those areas, like we said, this began July 25th and
19 went on to October 31st. They are time and date stamped.

20 Q. Those are different than the application in terms of
21 vegetation which was December, so great.

22 Again, going back to the staff report which is
23 Exhibit 17 at Page 2, it states that:

24 "Staff agrees that this area can be good for

1 fishing. Staff does not agree that the small area will
2 significantly negatively impact the fishing experience
3 for Potter Pond."

4 Do you agree with that?

5 A. Yes.

6 Q. Again, in the staff report at Page 2, Exhibit 16 it
7 states that:

8 "The aquaculture site itself is not valuable clam
9 habitat. The nearby shoreline and firmer bottom area
10 south of the site are suitable claiming sites and will be
11 accessible whether the aquaculture site is present or
12 absent."

13 You're familiar with that?

14 A. Yes.

15 Q. And do you agree with that?

16 A. I do.

17 Q. Okay. In terms of the recreational activities that we've
18 discussed and that Mr. Beutel also addressed, the
19 question that the staff report asked at Exhibit 17 Page 4
20 was:

21 "Will these activities -- meaning recreational
22 activities -- be prohibited by Potter Pond if this site
23 is approved."

24 Do you have a response for that?

1 A. They would still be able to take place if the farm were
2 approved.

3 Q. I believe one of the members asked about the Conservation
4 Commission. So you're familiar with the South Kingstown
5 Conservation Commission, are you not?

6 A. Yes, I am.

7 Q. And they provided a letter to CRMC, I believe, during the
8 preliminary determination process, correct?

9 A. Yes.

10 Q. Were you invited to participate in that meeting?

11 A. I was not invited.

12 Q. Okay. So any response or information from that meeting
13 that was provided to CRMC lacked any input from you, the
14 applicant?

15 A. Yes.

16 Q. Did you have an opportunity to listen into that meeting
17 after it occurred?

18 A. Yes. When I found out it took place I requested the
19 audio.

20 Q. Now that we get Zoom, you'll be able to see the video
21 too, but at that time just audio. Did the comment you
22 heard in that meeting accurately reflect your proposal?

23 A. No, they did not.

24 Q. You're also aware that the Town of South Kingstown

1 Waterfront Advisory Commission submitted an objection to
2 your application, correct?

3 A. I am.

4 Q. And there was a February 1st meeting, February 1st, 2018
5 meeting of the Waterfront Commission. Were you there?

6 A. The Waterfront Advisory Commission, yes.

7 MR. NOONAN: I would like to go to Exhibit 13
8 which are Minutes of the South Kingstown Waterfront
9 Advisory Commission minutes dated February 1, 2018. If
10 you could pull those up, Mr. Moore?

11 If I could make a note. When we submitted all of
12 our exhibits I had a certified copy of this and we
13 submitted the uncertified copy. I emailed to Mr. DeSisto
14 and Mr. Capizzo and Mr. Wagner the certified copy this
15 morning. I have the original in my office.

16 So like I said, if we could pull that document up.
17 If there are any questions about authentication, please
18 let me know. Otherwise, Tony, you have that. I would
19 ask -- and Mr. Capizzo and Mr. Wagner have it. I'm sorry
20 I did not send it to the Chair, but I would ask that be
21 admitted as a full exhibit.

22 CHAIRWOMAN CERVENKA: And is this Exhibit 13 a
23 certified copy?

24 MS. NOONAN: I have a certified copy of it.

1 The one that you're looking at right now unfortunately is
2 not. I do have the certified copy. I know Mr. DeSisto
3 and opposing counsel have it. It was just an error in
4 putting our documents together. I have the original here
5 in my office. It was replaced today.

6 MR. DESISTO: I see a certification --

7 MS. NOONAN: Just ignore everything I said.
8 Fine. I still want it to be a full exhibit if possible.

9 MR. DESISTO: Are there any objections?

10 MR. WAGNER: No objection.

11 MR. DESISTO: I'm waiting for Mr. Capizzo.

12 MR. CAPIZZO: No objection.

13 [EXHIBIT #13 MARKED]

14 Q. In looking at these Minutes starting on Page 1, the first
15 hearing matter, public comment matter, this is in regards
16 to the Segar Cove site, correct, Mr. Raso?

17 A. Yes.

18 MS. NOONAN: I'd like to go down to -- and I
19 don't believe these pages are numbered, but I believe
20 it's Page 4 right before it says "old business." I think
21 you need to come up a little bit. Maybe it's 3, I'm
22 sorry. That's it.

23 Q. So in looking at that where it says "old business," I'd
24 like to go up a few lines there.

1 May I ask you first, again, I asked you this. You
2 were at that February 1st meeting, Mr. Raso, correct?

3 A. Yes, I was.

4 Q. And was the South Kingstown harbormaster present at that
5 meeting?

6 A. Yes, he was.

7 Q. And is that Mike Stach?

8 A. Yes.

9 Q. And in the Minutes it says the following, and this is
10 four lines up from where it says "old business." This is
11 Exhibit 13, is that correct? Exhibit 13. It says:

12 "The harbormaster noted that three acres of useable
13 water obviously constricts the area. However, there are
14 no safety concerns or issues related to the boats and
15 waterways ordinance. He also noted that the proposed
16 site is not a common fishing area or an area where he has
17 commonly seen people fishing."

18 Q. Is that consistent with what you heard Mr. Stach say
19 at that meeting?

20 MR. WAGNER: Objection.

21 MS. NOONAN: It speaks for itself. May I have
22 a moment, please, Madam Chair?

23 [PAUSE]

24 Q. One of the issues that was raised during the staff report

1 that Mr. Beutel talked about was water quality. Can you
2 explain, and I know this is your life's business and
3 work, can you explain for the committee the effect that
4 oysters have upon water circulation including flushing
5 turbidity and sedimentation? And take it slow because,
6 let us know -- take it a little show when you talk.

7 A. Oysters are filter feeders eating phytoplankton in
8 microscopic plants that are naturally occurring in water.
9 They improve water quality by the mechanism by which they
10 feed. They retain particles of food, microscopic plants,
11 and use them for growth, reproduction, energy.

12 Phytoplankton isn't bad for the environment, but
13 phytoplankton photosynthesizes all day when the sun comes
14 up, and when the sun goes down they can't photosynthesize
15 so they respirate, or breathe, take oxygen out of the
16 water.

17 After a long hot day there is a lot of phytoplankton
18 in the water. When the sun goes down after that long hot
19 day, that's when there's the most amount of phytoplankton
20 and -- oysters and other filter-feeding organisms reduce
21 that amount of phytoplankton and therefore increase the
22 amount of dissolved oxygen available to other living
23 things which in turn increases biodiversity, as does the
24 three dimensional structures, the substrate that's

1 created by the oysters here.

2 It also increases the amount of light penetration to
3 the sea floor and reduces turbidity and increases how
4 much sunlight can reach the sea floor which promotes
5 bottom vegetation which is essential for fish habitat.

6 Q. Can you describe what turbidity is for those who are not
7 familiar?

8 A. There's clear a glass jar of water, and if it's cloudy
9 it's high turbidity. If it's clear, it's low turbidity.

10 Q. All right. Based on your education and experience, does
11 or will the proposed farm have a negative effect on
12 either water circulation or turbidity or sedimentation?

13 A. It will not.

14 Q. And in fact, will there be any positive effects from the
15 proposed farm?

16 A. Yes, there will be.

17 Q. Okay. In terms of the gear and the pontoon boat that you
18 have going out there, will that interfere with boat
19 traffic at all?

20 A. It would be something that people would have to navigate
21 around, you know, if they were going in what I would deem
22 to be a very rare occurrence if they were going through
23 that area. But like I said, I situated the farm in an
24 area that is not heavily used. It's the least heavily

1 used area in the pond I believe there is.

2 Q. In terms of recreational activity such as paddle
3 boarding, kayaking, canoeing, will the farm or the
4 pontoon boat that you use interfere with those
5 activities?

6 A. In the instance where the pontoon boat is accessing the
7 farm or leaving farm, yes, no more so than any other boat
8 coming in and out of the cove.

9 Q. So again, it's sort of an issue of navigation of all the
10 different competing uses on the pond?

11 A. Yes, I do think it's within the balance of the pond.

12 Q. Okay. And so with that, do you believe that the project
13 will affect the existing public access to or use of the
14 tidal waters or of the shore?

15 A. I do not.

16 Q. Okay. And will the proposed farm interfere with
17 navigation -- strike that back.

18 You're familiar with there's a number of private
19 docks in the Segar Cove, correct?

20 A. I am.

21 Q. And will the proposed farm interfere with navigation to
22 and from those docks?

23 A. It would be situated away from all of those docks
24 purposely.

1 Q. I think we talked already. I'm just kind of concluding a
2 few things here. What steps will be taken to limit any
3 noise during your operations at the proposed farm?

4 A. Well, we -- I think the major concerns were the potential
5 of someone playing a radio and the potential of power
6 washing being used. I agreed not to use any of those
7 things that became a concern.

8 Q. So if this committee was favorable on your application,
9 you would be willing to accept a restriction not to have
10 a tumbler or like a high pressured hose on the pontoon
11 boat?

12 A. Yes.

13 Q. And in terms of plant and animal and plant life,
14 Mr. Beutel talked about deer swimming. Let me ask you
15 generally what steps would be taken to protect animal and
16 plant in and around the proposed aquaculture farm?

17 A. The oyster farm increases biodiversity in the pond. I
18 did situate the farm in a way that would have limited
19 impact on the navigation and the farm itself increases
20 ecosystem services. It's not proven to have negative
21 impacts, especially at this scale.

22 Q. Okay, and What measures have you taken or do you plan to
23 take to minimize any adverse scenic impacts to the
24 surrounding area?

1 A. The scallop gear, which is the gear on the western most
2 side, is submerged with the exception of the floats. The
3 oyster gear, the one and a half acres of oyster gear is
4 using low-profiling floats to minimize the visual impact.

5 MS. NOONAN: Madam Chair, I would ask that
6 Exhibits 1 and 1A which are the application to CRMC be
7 made full exhibits.

8 CHAIRWOMAN CERVENKA: Yes, I agree with that.
9 Tony, how do you want to handle that? Do you want to ask
10 for objections as we go through this? How do you want to
11 proceed?

12 MR. DESISTO: I think it's appropriate to see
13 whether or not there's any objection to these matters
14 coming in, I guess to preserve the record and make sure
15 there's not any arguments later on that anything should
16 not have come in.

17 CHAIRWOMAN CERVENKA: Okay. So I guess as we
18 go through the exhibits, Mr. Capizzo and Mr. Wagner, you
19 should indicate if you have an objection.

20 MR. WAGNER: I do ask that all the attachments
21 to the staff recommendation be included in that exhibit.

22 MS. NOONAN: What we will to do, since we made
23 it an exhibit, we will upload that as soon as we can to
24 make sure and we'll do the whole thing for the record.

1 MR. WAGNER: Thank you.

2 [EXHIBIT #1 AND #1A ADMITTED FULL]

3 MS. NOONAN: Okay, so that's in full. Madam Chair,
4 may I have a moment? I believe I'm finished with my
5 questioning, but I just want to double-check. Thanks.

6 [PAUSE]

7 MS. NOONAN: I have no further questions of
8 Mr. Raso at this time.

9 CHAIRWOMAN CERVENKA: Thank you, Ms. Noonan.
10 Tony, should we have counsel question now or after the
11 cross-examination of the objectors?

12 MR. DESISTO: I think it's appropriate now for
13 questions by the subcommittee. Once those questions are
14 done, then the legal counsel can conduct their
15 cross-examination. I think it's appropriate. And by the
16 way, after the cross-examination there may be some
17 further questions by the subcommittee members and that
18 would be appropriate also.

19 CHAIRWOMAN CERVENKA: And then Ms. Noonan might
20 want to do a redirect.

21 MR. DESISTO: After the brief cross-examination
22 by counsel and any questions from the subcommittee.

23 CHAIRWOMAN CERVENKA: Okay. Thank you.
24 Subcommittee members, do you have any questions for

1 Mr. Raso on what he just testified to?

2 MR. GOMEZ: Yes.

3 CHAIRWOMAN CERVENKA: Mr. Gomez.

4 MR. GOMEZ: It was a very good presentation and
5 I had all the exhibits here and able to see them. The
6 one question I have would be, I saw the rectangle, and I
7 guess that was Option A that was the original
8 application, more rectangular layout of the farm. And
9 this Option B, which lengthened it, it appeared, and
10 changed the shape of it, was the one that was chosen.

11 I just would like to get Mr. Raso to give me an
12 indication of how that happened and what he saw as the
13 benefits of changing it from a rectangle. When I look at
14 the rectangle, it doesn't go as far, and I think that's
15 the north and in front of next point and house. That
16 seemed to be a reasonable layout. I guess Option B is
17 too. I would just like his opinion on the two layouts.

18 THE WITNESS: The option that I initially
19 submitted, you know, it's got that more symmetrical,
20 would be easier to lay out from a farmer's perspective,
21 you know, in trying to respond to some of the objections
22 being the waterskiing, tubing in the pond. I configured
23 it in the way such that it would reduce that impact.

24 So of course the rectangular symmetrical option is

1 the same. It is more desirable. But I would be willing
2 to do either B or C for that matter. However, the CRMC
3 suggested B so I would go with that.

4 MR. GOMEZ: And yet, you did not throughout a
5 couple month time frame observe a lot of waterskiing or
6 tubing in that area?

7 THE WITNESS: No. Throughout the years, I'm --
8 there is a cove called Skier's Cove in the north end of
9 the pond which is much larger, and that's where people
10 usually tube or ski. In very few instances would you see
11 someone in Segar Cove skiing or tubing.

12 MR. GOMEZ: The Option B does bring you closer
13 to a second house which is further to the north. One of
14 the good points that I got from you is that about half
15 the pond is -- half of your lease would be floating and
16 the other half isn't, so the visible part is smaller, but
17 it did seem to stretch out in length and cover more of
18 the shoreline.

19 THE WITNESS: Yes. If I were to keep that
20 configuration, you know, whatever is permitted is what
21 I'll keep. But to keep the configuration of the floating
22 gear being on the eastern side, it would be elongated
23 compared to the original rectangle proposal.

24 MR. GOMEZ: So what I'm getting is from your

1 opinion, it's more efficient to keep the original of the
2 rectangular, if you will, proposal as opposed to the odd
3 shape that we're now proposing.

4 THE WITNESS: Yes.

5 MR. GOMEZ: And just one other quick question.
6 Where do the boats stay? Are they moored out there at
7 all? Do you keep any gear on site, or do they go back
8 and forth?

9 THE WITNESS: There would be no boats or work
10 platform left on the farm overnight, or any unmanned
11 boats or platforms would never be left out there.

12 MR. GOMEZ: When you're not working the boats
13 are not there or the platforms are not there?

14 THE WITNESS: Correct.

15 MR. GOMEZ: Thank you.

16 CHAIRWOMAN CERVENKA: Thank you, Mr. Gomez.

17 MS. REYNOLDS: Madam Chair?

18 CHAIRWOMAN CERVENKA: Yes, Ms. Reynolds.

19 MS. REYNOLDS: I wanted to follow up on the
20 operation plan that was referenced as being submitted as
21 part of the application. I know that there was some
22 testimony that there were hours that were restricted
23 during certain months to protect migratory birds. I
24 know, Mr. Raso, you mentioned that you visit the pond

1 daily. So I'm just wondering how much activity actually
2 happens at this 3-acre site? Is there something that
3 happens there every day for several hours all through the
4 year, or is it something that you occasionally visit just
5 to check on? I'm just wondering about how much active
6 time per average is sort of happening in those three
7 acres.

8 THE WITNESS: So in those three acres when I
9 lived there for the five or six years I lived there, I
10 very seldom, if ever, I have no recollection of people
11 using that area. However, I do remember people, you
12 know, harvesting shellfish on the point. Not in the
13 farm.

14 Now, when I took pictures of the farm when I applied
15 for the farm, and since I've applied for the farm, I
16 visited much more frequently including every single day,
17 or nearly every single day, that I took pictures, the
18 time, date-stamped photos. And so that was -- and prior
19 to that the wild harvesting that I did on that pond
20 usually in the summer months, you know, when I didn't
21 live there and when I did live there I was accessing the
22 farm. So that would be my experience.

23 MS. REYNOLDS: How about once you established
24 the farm, is it like a traditional farm where you put any

1 -- is there some sort of wait time while things are
2 growing, or do you go there every single day once the
3 farm is established to harvest?

4 THE WITNESS: There's different maintenance
5 that's required on a shellfish farm, similar to any farm.
6 There will be different year classes of animals on the
7 farm so they won't -- all of the gear won't be full of
8 market size or near market size animals and all of it
9 won't be -- except from the very beginning if it happens.
10 So there is -- there might not be anything to do on the
11 farm on a -- there's always something to do on a farm.

12 My crew works, you know, normal hours, you know,
13 Monday through Friday, and hours we usually start no
14 earlier than eight and end no later than five. Usually
15 on a farm around eight and off the farm around four. I
16 anticipate the hours of this proposed farm would be the
17 same or very similar. Depending on what the highest
18 priority to do is on any given day, it might be an
19 assemblage of gear that -- and if we don't have any
20 market size animals to harvest or to fill an order, then
21 we will work on that. If we have an order for market
22 size animals and there are market size animals on there,
23 we will be harvesting that row of gear and harvesting
24 market size animals. So there is always something to do,

1 and the more you put into it the more you get out of it.
2 The better you take care of them, the more survival, the
3 better growth you'll have. And so we're always doing the
4 most -- the highest priority item, and that will change
5 depending on the time of year and what demand is.

6 MS. REYNOLDS: Okay. Thank you.

7 A. I think you asked a migratory bird question before as to
8 why I chose 9 a.m. to 3 p.m. That was at the advice of,
9 I am not sure if it was DEM or CRMC, to maintain those
10 hours between November 15th and March 15th. And that's
11 why I put that, added that in my application.

12 MS. REYNOLDS: Okay, thank you.

13 CHAIRWOMAN CERVENKA: I just have a follow-up
14 to the back and forth about when you'll be out at the
15 farm. Is it fair to say that you would be out there at
16 least weekly?

17 THE WITNESS: Yes.

18 CHAIRWOMAN CERVENKA: And for periods of time
19 you'll be out there daily?

20 THE WITNESS: Absolutely, yeah, Monday through
21 Friday almost entirely.

22 CHAIRWOMAN CERVENKA: Okay. And is that
23 seasonally dependent?

24 THE WITNESS: What I meant by almost entirely,

1 I meant, you know, almost entirely the work is
2 constricted to Monday through Friday. But there's more
3 work to do in the summer. The biofouling is more
4 prevalent, the growth of the animals is greater, and the
5 demands on market size animals is greater; however
6 there's -- the same things are going on in the winter,
7 just to a lesser extent, so it is a Monday through Friday
8 job. And the same crew would split time between the
9 existing farm and new farm probably still majority of the
10 time at the existing farm because it's a larger farm.

11 CHAIRWOMAN CERVENKA: Thank you.

12 THE WITNESS: Thanks.

13 CHAIRWOMAN CERVENKA: Any other questions for
14 Mr. Raso? I have a couple, but I'll just wait to see if
15 Mr. Coia or Mr. Murray want to ask anything.

16 VICE CHAIRMAN COIA: I'm all set, Madam Chair.
17 Thank you.

18 CHAIRWOMAN CERVENKA: Mr. Murray?

19 MR. MURRAY: Yes. With the polygon shape,
20 would the rows between the floats or the lantern
21 structures be compressed, or would you have fewer of
22 those structures because it would seem like it would be
23 less optimal in terms of the layout?

24 THE WITNESS: It is my -- I believe I should be

1 able to keep the same; however, the length of the lines
2 would be more on the west side and larger on the east
3 side.

4 MR. MURRAY: Thank you.

5 CHAIRWOMAN CERVENKA: I guess I have a couple
6 questions just on the docks and the cove. What is the
7 nearest dock to the proposed farm?

8 THE WITNESS: The nearest dock to the original
9 proposed farm is --

10 MS. NOONAN: I don't mean to interject, and he
11 can answer that question. Our next witness is going to
12 have all the distances to all the docks.

13 CHAIRWOMAN CERVENKA: All right. I will hold
14 that then.

15 THE WITNESS: All right.

16 CHAIRWOMAN CERVENKA: With respect to the low
17 profile oyster cages, looking at the sketches it looks
18 like most of the majority of the cages are submerged; is
19 that correct?

20 THE WITNESS: The oyster cages, floating gear,
21 the majority of the cages are emerged, correct. A three
22 to five-inch float will be above the water and the rest
23 of the gear will be underwater.

24 CHAIRWOMAN CERVENKA: Okay. With respect to

1 the layout of the farm, are there any avenues in the
2 proposed farm through which a recreating person could
3 pass? I'm just wondering if that's impossible or you go
4 around it?

5 THE WITNESS: No. People will, can and do on
6 the existing farm kayak and paddle board through the
7 lines of the farm. Just this Saturday on the beautiful
8 day we had people who were cruising up and down the
9 paddle boards, a group of three people. So they are able
10 to navigate between the lines especially on non-motorized
11 craft.

12 CHAIRWOMAN CERVENKA: Okay. What's the width
13 of that avenue, if you will?

14 THE WITNESS: The width between --

15 CHAIRWOMAN CERVENKA: You don't have to give me
16 exact, but sort of approximate.

17 THE WITNESS: We have -- it's looking
18 approximately 10 feet between those rows is what I'm
19 seeing. On the western side, the only thing that would
20 be 10 feet apart would be those 6-inch floats that are
21 approximately every 100 feet, and they would be
22 approximately 10 feet apart on the scallop side, or the
23 western side. On the oyster side on the eastern side the
24 floating gear would be approximately 10 feet apart.

1 CHAIRWOMAN CERVENKA: I don't know if you can
2 answer this, but if someone were to try to pick out all
3 the ways they can go through the farm, how many avenues
4 or rows could they get through?

5 THE WITNESS: Well, on the western side they
6 could, you know, navigate the -- I mean, the short answer
7 is 24 lanes and not counting the 2 lanes down the center,
8 down from east to west, so that would be 26 lanes.
9 However, for the real restriction from the floating gear
10 would be just those 12 lanes that are on the east side.
11 There's 3 sections of 12, we'll call them lines or lanes.

12 CHAIRWOMAN CERVENKA: Okay, so multiple
13 unimpeded lanes?

14 THE WITNESS: Yes.

15 CHAIRWOMAN CERVENKA: Okay. Looking back at
16 these pictures that you or your assistant took, and maybe
17 this is going to be addressed by the next witness, but in
18 some they show a dock and in others they show some
19 moorings. So I just was wondering, you know, where that
20 is because they -- I'm not sure what the vantage point
21 is, if the one that shows the dock, which is dated
22 July 30, 2019, if that is a dock across from where you
23 are propose to put the farm. Because I can see like a
24 single house in the distance.

1 THE WITNESS: Right. Taken from a boat, I took
2 them. And if they are taken from land, my assistant took
3 them from the Matunuck side facing east. If they were
4 taken from a boat, I came into the cove and took it
5 facing south. So the 30th was taken from land. It's
6 facing east. That dock you see is on the opposite side
7 of the pond that the farm is being proposed. So the farm
8 would be really to the right water edge on the far side
9 of that cove.

10 CHAIRWOMAN CERVENKA: Okay. And then there's
11 also a picture, July 27, 2019. It looks like it's taken
12 from water so presumably you took that, and it shows a
13 bunch of -- a few moorings there. What is the proposed
14 farm? Is it kind of where your boat is situated?

15 THE WITNESS: The July 27th photo?

16 CHAIRWOMAN CERVENKA: Yes.

17 THE WITNESS: That looks like that is also
18 taken from land. And what you're looking at is, it's
19 probably -- this is taken from the end of -- it's public
20 access at the end of Lake Avenue. So the farm is
21 actually probably early on. This might have been the
22 first photo that we took, I'm not sure, but it definitely
23 -- we took one the same day about two minutes after that
24 from a different vantage point on the page before that.

1 But what you're looking at is the mooring field that's on
2 the southern part of Segar Cove. So it is really -- if
3 you're going into the cove, entering the cove from the
4 only inlet that goes into the cove, the farm would be on
5 your right and those moorings are the mooring field on
6 your left on the south.

7 CHAIRWOMAN CERVENKA: Okay. Okay. Those are
8 all the questions I had. I had similar questions about
9 the work crew and when they would be out there, but I
10 think that those questions you answered those, so thank
11 you.

12 THE WITNESS: It looks like that mooring field
13 is around 1,200 feet from what would have been the
14 closest point to the original proposed farm, around
15 1,200 feet from that.

16 CHAIRWOMAN CERVENKA: The rectangle?

17 THE WITNESS: Yes.

18 CHAIRWOMAN CERVENKA: Thank you. Those are all
19 my questions. I guess then we can turn it over to
20 Mr. Capizzo. Any questions?

21 MR. CAPIZZO: Thank you, Madam Chair. Ryan,
22 can I share my screen? And Madam Chair, with your
23 permission, he's going to reference one of the exhibits
24 that I have listed for ID only at this point. I think it

1 would be helpful in regards to the offer of proof. It's
2 just the polygon shape of the proposed farm.

3 CHAIRWOMAN CERVENKA: It's one of your
4 exhibits?

5 MR. CAPIZZO: It is. It's Exhibit 1. And for
6 the Committee's edification, it is Figure 4E.

7 MR. MOORE: It's up to the Chair, but I have no
8 problem sharing your screen.

9 CHAIRWOMAN CERVENKA: That's fine.

10 MR. CAPIZZO: Thank you, Madam Chair. 4E.

11 [DOCUMENT DISPLAYED]

12 CROSS-EXAMINATION BY MR. CAPIZZO

13 Q. Mr. Raso, the proposed location of the farm, it's three
14 acres, correct?

15 A. Yes.

16 Q. It's on the -- if you're coming into Segar Cove, it's on
17 the eastern portion of that cove as you referenced in
18 your application?

19 A. Correct.

20 Q. Okay. You can't swim through this, can you, in the
21 proposed location?

22 A. Swim through the proposed farm if it was full of gear?

23 Q. Correct.

24 A. It wouldn't be an advisable thing to do.

1 Q. Why is that?

2 A. Because there's -- you have a 10-foot lane. And I'd say
3 I myself would feel comfortable paddle boarding through
4 it or kayaking through it, but maybe it's my ability of
5 swimming that would make me feel like I wouldn't want to
6 swim through it, but I certainly would feel comfortable
7 paddle boarding and kayaking through it.

8 Q. You can't boat through that, correct, with a powerboat or
9 jet ski?

10 A. Wouldn't be advisable.

11 Q. Why is that?

12 A. If you weren't very familiar with the gear you could hit
13 the gear and do damage to the gear or the boat.

14 Q. Could you get injured if you had to swim through that
15 farm?

16 A. It's certainly a possibility you could get injured.

17 Q. Okay. What about fishing in that area when you have your
18 farm there in that three acres, or no?

19 A. Yes.

20 Q. How does that work?

21 A. Well, the gear is really known to increase biodiversity
22 and three dimensional structure as essential -- as fish
23 habitat. So I think that there will be -- the floating
24 gear portion, the one and a half acres that is

1 approximately half percent of the Potter Pond, fishing
2 would be very difficult. However, fishing especially
3 perhaps fly fishing on the western side would be
4 something that would be easier. However, I did situate
5 the farm in a place where I did not feel or see people
6 fishing often or if at all.

7 Q. Okay. We'll get to that in one sec. So if you're
8 coming -- let's say you're coming from the northern part
9 of Segar Cove down that eastern shoreline, you're power
10 boating, swimming, sailing, jet skiing, you can't go
11 through it so you have to stay to the outside of it,
12 correct, to be forced more into the center of Segar Cove?

13 A. Correct.

14 Q. So what we're looking at for the record is Figure 4E for
15 ID only. Can you see that, Mr. Raso?

16 A. Yes.

17 MR. CAPIZZO: Can the members of the Committee
18 see that as well?

19 CHAIRWOMAN CERVENKA: It's working, Christian,
20 thank you.

21 MR. CAPIZZO: Thank you, Madam Chair.

22 Q. Arguably, you're going to get pushed more to the center
23 if this is there for those who are recreating?

24 A. Yeah. Well, I reduced the southern part to increase the

1 amount of that circle that is being proposed as important
2 for --

3 Q. What about -- it mentions water sports, you know, it's
4 towed water sports, waterskiing, tubing. Can a towboat
5 pull a waterskier through that?

6 A. The farm -- you know, I -- I wouldn't -- I wouldn't
7 advise it whether there was the farm there or not as its
8 adjacency to the shoreline without the gear there. I
9 wouldn't advise it because it's close to the shoreline,
10 but presumably, yes, without the farm there. With the
11 farm there, no.

12 Q. What about tubing?

13 A. Same answer.

14 Q. Why is that --

15 A. Just like you wouldn't want to go at high speeds through
16 the mooring field that is on the south part of that cove,
17 you wouldn't want to drive a motor boat at high speeds
18 through a farm with similar buoys.

19 Q. And I'm not talking about the boat, just to clarify. I'm
20 talking about someone being towed behind the boat making
21 that turn into that eastern part of the cove to make a
22 turn, and the skier is behind it. You've been
23 waterskiing before, correct, or tubing?

24 A. Yes.

1 Q. So the ski is going to go further than the boat. So my
2 question is, the waterskier being towed, if the boat was
3 to make a turn can't ski through that?

4 A. No. If there was a farm there, it would be not advisable
5 to try to ski through if that farm was existing.

6 MR. CAPIZZO: Okay. I'm going to stop sharing.
7 Thank you.

8 Q. The photos, I think July to August, a snapshot in time I
9 think you said around 12 noon. Each and every day you
10 and one of your colleagues would go out. No activity
11 based on those photos when you start that moment in time,
12 but it doesn't capture what is happening obviously on the
13 cove before that and any time in the hours before or the
14 hours after; is that fair to say?

15 A. Yeah. I did try and get the 12:00 exactly so it wasn't
16 like a discriminate type of wait until people leave the
17 pond. I tried to do it exactly, but of course I didn't
18 do it exactly every day.

19 Q. I think you captured it well. Again, it's just a
20 snapshot in time. My question was, there could have been
21 activity before that, there could have been activity
22 after that. We're just getting a moment in time, right?

23 A. Yes, every day of several photos over the course of a few
24 minutes.

1 Q. Okay, fair enough. You attended several meetings in your
2 testimony to Beth. You attended the South Kingstown
3 Waterfront Advisory Commission Meeting?

4 A. Correct.

5 Q. As part of that exhibit that was presented, and you
6 reviewed Mr. Beutel's staff report which I believe
7 contained a letter from the Rhode Island Fishery Council
8 which is required to give its recommendation to Coastal,
9 you attended that meeting, correct?

10 A. Yes.

11 Q. Okay. There was a second South Kingstown Waterfront
12 Advisory Commission that you attended on February 14,
13 2018. Do you recall attending that meeting?

14 A. I remember a Waterfront Advisory Council meeting. I only
15 remember one that the substance that we're talking about
16 happened. Off the top of my head, I don't remember a
17 second meeting. I do remember all the substantive issues
18 that occurred at the Waterfront Advisory Council meeting
19 if there was two of them. I'm sure I can recall anything
20 that may have happened.

21 Q. Would the Minutes of that South Kingstown Waterfront
22 Advisory meeting on the 14th help you remember if you
23 were there or not?

24 A. If it says I was there, I believe I was there. In my

1 head there was one Waterfront Advisory Council meeting,
2 and I remember it clearly. But yeah, if you want to
3 remind me of that, that would be great.

4 MR. CAPIZZO: Madam Chair, I ask to share my
5 screen again for the committee members and for Beth,
6 Dean, excuse me. It's Exhibit 12 for ID only right now.

7 [PAUSE]

8 [EXHIBIT DISPLAYED]

9 Q. Mr. Raso, can you see the screen?

10 A. Yes, Exhibit 12, yes.

11 Q. Okay. I'm going to scroll down. For the record, it says
12 South Kingstown Waterfront Advisory Commission Meeting
13 Minutes, February 14, 2018; is that correct?

14 A. Yes.

15 Q. Then you look down on the first page it says, "Guest
16 Perry Raso." That's you?

17 A. Yes.

18 Q. So you attended that meeting?

19 A. I believe so. Is that the same one where the
20 harbormaster spoke at as well or a different one?

21 Q. That's a different one. So that's been introduced into
22 evidence as an exhibit. That was on February -- I think
23 it was February 1st.

24 A. So this was two weeks later?

1 Q. Correct.

2 A. Okay.

3 Q. This was a day before the South Kingstown Waterfront
4 Commission issued the letter which was part of
5 Mr. Beutel's report. That's already part of an exhibit.
6 Was Mr. Beutel with you at this meeting?

7 A. I don't believe so.

8 Q. His name doesn't appear there, does it?

9 A. Not that I see, no.

10 Q. Your name appears several times there, correct?

11 A. Yes. Perhaps they didn't vote the first meeting and they
12 had to wait for the second meeting.

13 Q. Drawing your attention to the page that is on the screen
14 now it talks about the vote; is that correct?

15 A. Beginning at the top, a discussion took place?

16 Q. Correct. And then you go to the next paragraph and it
17 says, "Commissioner made a motion to object to the
18 proposed 3-acre oyster bay scallop farm."

19 A. Yes, I see that.

20 Q. "Noting that it would pose significant negative impact of
21 public recreational activity in that area."

22 A. Yes, I see that.

23 Q. You heard the testimony -- strike that.

24 You heard the people that are listed there,

1 including my client David Latham who is on the screen
2 right now. You listened to their objections, both --
3 those who attended in support of your application but
4 also against your application, correct?

5 A. I don't think there was anyone in support of that
6 application there to my recollection. I think I was -- I
7 did not look for supporters to attend that meeting, and I
8 showed up to hear from anyone that might object and I
9 tried to address those concerns. So I did not, you know,
10 send it out to see if people wanted to come to help
11 support it. So I don't think there were any supporters
12 there. I didn't ask any supporters to join me.

13 Q. Okay. But you did submit a letter to Mr. Beutel that he
14 referenced that you tried to address. It was an undated
15 letter, but you attempted to address some of the concerns
16 that you heard, not only at this meeting, but other
17 meetings that you attended in regards to your
18 application?

19 A. I am sorry. Can you repeat the question?

20 Q. Yeah, I sure can. Mr. Beutel testified that he received
21 a letter from you as part of that package, that staff
22 report, and you attempted to address in an email to him
23 some of the objections that you were encountering to try
24 to minimize the impact of the farm; is that correct? You

1 submitted an email to Mr. Raso?

2 A. Yes. It's labeled at Page 1 after the Rhode Island
3 Fisheries Council. It's a two-sentence email?

4 Q. Hold on one sec. It's the second to the last page,
5 "Response to the letters of objection to the shellfish
6 [ZOOM INTERRUPTION]

7 A. That's it, yes.

8 Q. You submitted that to Mr. Beutel, correct?

9 A. Yes.

10 MR. CAPIZZO: Madam Chair, I move for this
11 Exhibit, Minutes of the February 14th, 2018 to come in as
12 a full exhibit, Exhibit 12.

13 CHAIRWOMAN CERVENKA: Ms. Noonan, do you have
14 any objection?

15 MS. NOONAN: It should have been a certified
16 copy, but it appears to be accurate so I won't dispute
17 the accuracy of this document. No objection.

18 CHAIRWOMAN DESISTO: Mr. DeSisto?

19 MR. DESISTO: That's fine for what it's worth.
20 I think it goes to the weight and the fact that it's not
21 a certified copy. So it's in, but that's something for
22 the subcommittee to judge later on.

23 CHAIRWOMAN CERVENKA: Okay. We'll admit it,
24 and then Mr. Capizzo, if you can get a certified copy

1 before we end this, and then that will eliminate that
2 issue.

3 MR. CAPIZZO: Will do. Thank you.

4 [EXHIBIT #12 MARKED]

5 Q. Mr. Raso, did you attend a meeting, and I'll mark this
6 for ID only, Exhibit 13, Rhode Island Marine Fishery
7 Council meeting as part of your application?

8 A. Is the Fisheries Council meeting Minutes part of my
9 application?

10 Q. No. My question is, did you attend that meeting?

11 A. Yes.

12 Q. Okay. That meeting was on March 14, 2018?

13 A. I believe so.

14 Q. Okay. I'm showing you a document for ID only, Rhode
15 Island Marine Fisheries Council for the record meeting
16 summary March 14, 2018; is that correct?

17 A. Correct.

18 Q. I want to draw your attention to the Rhode Island Marine
19 Fishery Council members that are present. Do you know
20 those individuals?

21 A. I see those names, yes.

22 Q. Dave Monti, T. Barao, J. Grant, A. Deangelo, M. Rice, and
23 Chris Rein?

24 A. Yes.

1 Q. Is that the same -- is it Michael Rice who is going to be
2 testifying on your behalf today?

3 A. Yes, it is.

4 Q. Okay. He's part of that Rhode Island Marine Fisheries
5 Council and he was in attendance that night, correct?

6 A. I don't recall who specifically was there, but I see his
7 name as present so I believe that.

8 Q. Mr. Beutel was there with you as well?

9 A. I believe so.

10 Q. I believe Mr. Beutel was there and he testified before
11 the Rhode Island Marine Fisheries Council, correct?

12 A. Correct.

13 MR. CAPIZZO: Madam Chair, I'd ask that this be
14 marked as a full exhibit as well. For the record, it's
15 Rhode Island Marine Fisheries Council meeting summary,
16 March 14, 2018. It was obtained from Rhode Island
17 Secretary of State's website. I ask it be admitted as a
18 full exhibit.

19 CHAIRWOMAN CERVENKA: Ms. Noonan, the same
20 comment?

21 MS. NOONAN: Same comment on certification. I
22 would also object to in terms of the fact that we have
23 the letter, the actual letter from the Division of Marine
24 Fisheries. I don't know if it adds much to it. With

1 that same certification problem, I won't object.

2 CHAIRWOMAN CERVENKA: Okay. Well, we'll admit
3 it with the same issues, you know, going to the weight as
4 far as authenticity and relevance given the actual letter
5 already is an exhibit.

6 [EXHIBIT #13 MARKED]

7 MR. CAPIZZO: Correct. If I could have a
8 couple minutes while I'm looking at my notes, Madam
9 Chair. I just reserve the right to ask a couple
10 follow-up questions as I look at my notes. So we're not
11 wasting time, I would defer to Mr. Wagner if he has any
12 questions.

13 CHAIRWOMAN CERVENKA: Okay. So you're going to
14 reserve. After Mr. Wagner, we'll come back to you to see
15 if you have any follow-up.

16 MR. CAPIZZO: That would be great. Thank you.

17 CHAIRWOMAN CERVENKA: Mr. Wagner?

18 MR. WAGNER: Thank you.

19 CROSS-EXAMINATION BY MR. WAGNER

20 Q. Good afternoon, Mr. Raso.

21 A. Hi.

22 Q. You testified that the location of the proposed 3-acre
23 farm is the least heavily used part of the pond?

24 A. I guess it was at least the heavily used part of the pond

1 that would not interfere or come close to docks. It was
2 as removed from people's docks and mooring areas and
3 fishing areas and it was the area where I felt the most
4 -- the least user conflict.

5 Q. You're not denying that people do use that area, right?

6 A. In my experience on that pond, that particular area, not
7 on the shoreline, but off the shoreline in that one area
8 it is very seldom used. You know, and if I had to
9 recall, you know, ever seeing someone fishing or boating
10 through that area with the exception of when they threw a
11 party on the farm, for those farm sites, I don't recall
12 that instance. I do know it's a very seldom used area.
13 I'm sure it's been used before though.

14 Q. Well, you're aware of the many letters of objection and
15 there's going to be public comment about what uses and
16 activities occur in that area. Did you read any of those
17 letters of objection?

18 A. I did.

19 Q. Didn't quite a few of them say there's constant activity
20 in that area?

21 A. Some people said it was the best fishing area in the
22 state.

23 Q. Okay. You agree that the people actually live, work and
24 play on or near Segar Cove are in the best position to

1 inform this committee as to what activities actually
2 occur on Segar Cove; is that right?

3 A. I believe I'm one of those people. I have a different
4 opinion.

5 Q. Okay, but the people who actually live there -- you don't
6 live there now, right?

7 A. I live on Potter Pond, I do.

8 Q. You don't live on Segar Cove.

9 A. I do not, not any longer.

10 Q. What is your address, sir?

11 A. I don't know if I have to --

12 Q. You don't have to. I'll strike the question.

13 Do you live on Perge (phonetic) Cove?

14 A. I live on the north part of the cove, north part of the
15 pond that is referred to as Skier's Cove. That's the
16 common name for the cove that I live on, the north pond.

17 Q. No eelgrass out by your house, right?

18 A. I don't believe so. There might be some, but it's not a
19 bed.

20 Q. Did you have ever consider putting a shellfish farm out
21 in front of your house?

22 A. I would absolutely love to. That area, that cove, is
23 more frequently used though and it's also Type 1 waters,
24 which I don't believe aquaculture is allowed there and

1 it's definitely more frequently used, especially tubing
2 or skiing.

3 Q. And do you agree that people actually use recreational
4 boating in this area?

5 A. In the pond?

6 Q. Yeah.

7 A. In the pond, yeah, where the farm is very limited.

8 Q. What about waterskiing?

9 A. In the pond, yes. Where the farm is being proposed, I've
10 seen it in the pictures that were taken for the purposes
11 of this meeting, I believe. But, you know, it would not
12 be something that I would say is commonly occurring in
13 that, especially where the farm is.

14 Q. Well, you took pictures for the purpose of this meeting,
15 didn't you?

16 A. Absolutely.

17 Q. And you took pictures at noon every day?

18 A. Correct.

19 Q. You didn't take pictures in the morning or the afternoon?

20 A. I did not.

21 Q. Okay. What about kayaking?

22 A. Kayaking happens in the pond. It happens in Segar Cove.
23 It would still be able to happen in Segar Cove through
24 the farm and around the farm.

1 Q. Let's talk about the 3-acre parcel and if you're
2 successful in getting a 3-acre parcel in that area. I
3 think you testified that you can't swim in that area if
4 there's a farm?

5 A. I wouldn't be comfortable swimming around an assemblage
6 of lobster pots or an assemblage of moorings or through a
7 deeper water oyster farm.

8 Q. You can't pilot a boat in that area?

9 A. You would have to really know your route to be able to
10 pilot a boat through the area.

11 Q. And you certainly can't sail a boat through the area?

12 A. No.

13 Q. Okay. You already have a 6.9-acre shellfish pond in
14 Potter Pond, correct?

15 A. Correct.

16 Q. You use that farm for your restaurant?

17 A. I use the farm -- it's a separate business from the
18 restaurant. We sell oysters to other restaurants, so the
19 farm existed before the restaurant and I wouldn't say the
20 farm -- the farm is certainly not there for the
21 restaurant. The restaurant is there because of the farm.

22 Q. Okay. Are you looking to sell shellfish beyond the
23 restaurant?

24 MS. NOONAN: Objection. Objection. I don't

1 think this is relevant to the aquaculture application for
2 Segar Cove.

3 MR. WAGNER: One of the requirements is that he
4 show a need for the farm, a 3-acre farm. It's clearly
5 relevant.

6 MR. DESISTO: Madam Chair, do you mind if I
7 weigh in? That's only if the need is the one in use.
8 Frankly, for other aquaculture applications the end users
9 has not been an issue for the Council. I do think you
10 can argue that later on, but he can certainly answer the
11 question now. The issue is the effect it's going to have
12 on Potter Pond, not who the end users are.

13 MR. WAGNER: If I could address that. One of
14 the criteria is the applicant has to demonstrate need for
15 the proposed activity. I'm asking questions about why he
16 needs it if he has 7 acres already.

17 MR. DESISTO: Well, that's something that he
18 can go beyond, but wouldn't that go more to the total
19 economy as to who the end user is?

20 In other words, what you're doing is setting the
21 parameters. I'm not so sure that's the case here. I
22 only say that because the argument, if it goes beyond
23 CRMC, will be what the Council has done with other
24 applications. I can tell you that that's not the case.

1 If you're saying that the economics of it doesn't
2 justify the expansion, that's one question. But it
3 doesn't go to who he sells to even if it's just selling
4 to himself.

5 Do you see my point?

6 MR. WAGNER: I don't. I frankly think it's
7 absurd that he wouldn't answer as to why he needs another
8 3 acres to the exclusion of the rest of the universe, and
9 so I think it's very important that he answer the
10 question. If he doesn't, that's fine. I'll move on.

11 MS. NOONAN: He does not answer. I objected to
12 it, Dean, so let's get it straight as to what it is.

13 MR. DESISTO: I'm only saying this, and we have
14 a bunch of lawyers here. Here is my question. Is it
15 that your question is limiting it to whether or not this
16 is just an accessory use to his restaurant? Isn't your
17 real question whether or not the economy is justified?
18 That's not something that the Council has inquired into
19 before. Does it make a difference if he's selling it to
20 himself or he's selling it to someone else?

21 That's not something that has happened before the
22 Council. In fact, he's probably the only person that
23 actually uses it for himself. I don't know that to be
24 the case, but it seems to me that the majority of the

1 aquaculture farms is selling to other users, and that's
2 not something in the regs at all, limiting where they go.

3 So my question -- I understand what you're inquiry
4 is. I just think you're limiting it to something that
5 doesn't make a difference. You should be delving more
6 into the economic questions of this as opposed to who he
7 is selling to. Do you see my distinction?

8 MR. WAGNER: Sure. If he wants to answer the
9 question, that's fine. If he doesn't --

10 Q. Your need, sir, is a commercial interest; is that
11 correct?

12 A. I guess "need" is a strange word depending on how we're
13 using it. My desire for the farm is because I feel that
14 I love to grow shellfish. I feel it's my -- I'm
15 passionate about it, and "need" is a funny word and I
16 would use the shellfish commercial, yes.

17 Q. You are looking to make more money; is that fair?

18 MS. NOONAN: Objection and argumentative.

19 MR. WAGNER: I'm not trying to be
20 argumentative.

21 MS. NOONAN: You sure sound like it, Dean.

22 MR. WAGNER: I apologize.

23 CHAIRWOMAN CERVENKA: I'm going to sustain that
24 objection because I do think, Mr. Wagner, you're being

1 highly argumentative. And I understand cross-examination
2 is a little different than direct, but --

3 MR. WAGNER: I apologize, Madam Chair, and I
4 apologize to the witness. So I'll move on.

5 CHAIRWOMAN CERVENKA: Thank you.

6 Q. Mr. Raso, I don't mean to be argumentative.

7 A. That's fine.

8 Q. Why do you think that it's in the best public interest
9 for the CRMC to grant you exclusive use of another 3
10 acres when it's going to affect the public ability to use
11 that area?

12 A. It's not exclusive use. It's still the public trust
13 which are all Rhode Islanders would continue to own. I
14 think if it's within the balance of boat recreational and
15 aquaculture use of the water body, this is about one
16 percent of the pond that's being requested.

17 Q. Is it your understanding that the maximum size that you
18 could apply for is 3 acres?

19 A. It was brought up today. I think now that it was brought
20 up, I think it was something that I became aware of as a
21 new rule maybe over the last five or six years, but it's
22 not something I'm totally a hundred percent familiar
23 with, but I have heard of it before. It's --

24 Q. I'm sorry. Were you finished?

1 A. It's a new rule. It didn't exist when I applied for my
2 initial farm.

3 Q. All right. Well, Section 1.3.1K17AA provides that:

4 "Any new lease in a coastal salt pond shall be
5 limited in size as follows: AA, a maximum 3 acres from
6 methods used in gear including but not limited to racks,
7 bags and floating cages."

8 Does that sound like your project?

9 A. I believe my project is a 3-acre farm with racks and
10 lantern nets and spat bags.

11 Q. So would you agree with me that you applied for the
12 maximum size that you could possibly get?

13 A. Three acres is that size, and it was existing in 2017.
14 If that rule was applied in 2017 then, yes, I did.

15 Q. In going through this process, you made attempts to deal
16 with some of the objections raised by the various
17 objectors, right?

18 A. Yes, yes.

19 Q. And you made change to the shape in 2018 that we've
20 already talked about?

21 A. I think it was December of '17 I think that I proposed
22 those changes, but it might have been accepted in January
23 of '18, yes.

24 Q. And I think there was some discussion about the South

1 Kingstown Conservation Commission's denial of or
2 objection to the application; do you recall that?

3 A. I recall discussing that. I was not invited to that
4 meeting.

5 Q. Okay. They found that the leased area is excessive in
6 size and could be reduced to minimize impacts. Do you
7 remember that?

8 MS. NOONAN: Objection. I don't know what
9 you're referring to, and he indicated he wasn't at the
10 meeting.

11 Q. I'll let you answer the question because I asked you if
12 are you aware of it.

13 A. I'm aware that Conservation Commission is required to
14 invite the participants to the meeting, and I was not
15 invited. So I listened to the audio of the meeting, and
16 I remember hearing things that were not accurate and,
17 frankly, it frustrates me still to this day that I wasn't
18 invited to that meeting to be able to explain the
19 application.

20 Q. You never saw the letter from that Conservation
21 Commission to the CRMC?

22 A. Sure, I read it. I don't recall the verbiage in it at
23 all.

24 Q. You never made any proposal to reduce the size from the

1 maximum 3 acres, right?

2 A. No, I did not.

3 Q. It's always been the maximum or nothing for you?

4 A. In this case of this farm, I was applying for a 3-acre
5 farm.

6 Q. You heard of 147 objections to it and you didn't want to
7 try to reduce the size of it to meet those objections?

8 MS. NOONAN: Objection. Asked and answered.

9 A. I also, as a wild shellfish harvester in that cove,
10 people objected to the wild shellfish harvesting that
11 lived in the cove, many of the same people that objected
12 to this application. And preferably bountiful fishery is
13 now closed because some of the same objectors objected to
14 those wild harvesters harvesting steamers, and now
15 there's no more fishery because of that. So I took that
16 into account, and I understand the objectors' point of
17 view in many cases.

18 Q. But you still haven't agreed to reduce the size of the
19 farm, right?

20 A. I have not.

21 MR. WAGNER: I don't have any further
22 questions.

23 CHAIRWOMAN CERVENKA: Mr. Capizzo, do you have,
24 any follow-up after reviewing your notes?

1 MR. CAPIZZO: Yes, very briefly.

2 FURTHER EXAMINATION BY MR. CAPIZZO:

3 Q. You know my client Kevin Hunt; is that correct?

4 A. Yes.

5 Q. Mr. Hunt, Kevin, has his property right on the point of
6 Ram's Point, and he's going to be the closest to your
7 facility, his house?

8 A. Yes. Well, I'm not sure if he's the closest or not, but
9 yes, he is there.

10 Q. Along his western shoreline, eastern part of the cove,
11 his house is right there, correct?

12 A. Yes.

13 Q. Would Mr. Hunt or any members of his family be able to
14 use a boat, a powerboat, in that area to access a shore
15 to get to his access road with that farm there?

16 A. On the -- he would be able to navigate between the farm
17 and the shoreline in Segar Cove or also access his road
18 which is like an isthmus type of a driveway on the
19 Sycamore side as well.

20 Q. Okay. He would have to be in between your operation and
21 his shoreline, correct?

22 A. Yeah. There's ample space to motor a boat in between the
23 farm, eastern most boundary and the shoreline. That's
24 for purposes of potential shellfish harvest on that

1 shoreline.

2 Q. Well, in some areas it will be five feet to the
3 shoreline?

4 A. There is at the -- there's one corner that, and I'm not
5 sure that 5 feet is exactly what I have depicted in my
6 original, certainly not 5 feet in my original
7 application, and you know, it is something that I worked
8 on with people as far as getting the coordinates, people
9 from Department of Environmental Management and CRMC to
10 come up with these coordinates because I can't share my
11 screen. I mean, this corner right here is the one you're
12 discussing. It's more than 10 feet.

13 That's my share page technology.

14 Q. That was in your original proposal, correct?

15 A. If you look at the original proposal and the original
16 lease, there were certainly more than 5 feet from that
17 closest corner which you're describing. It's only that
18 one corner that comes anywhere near as close as that one
19 corner does, and it's more than 5 feet in my application.
20 And the estimation of what I propose with the help of DEM
21 and CRMC to come up with the coordinates, not that they
22 helped me decide on that area, but I didn't need
23 assistance coming up with proper GPS coordinates and
24 there was a software available through DEM that I used

1 and worked with someone from DEM to configure this lease.
2 So 5 feet I don't believe is accurate to what is
3 proposed. There's several different maps now that I'm
4 looking at that has that corner closer than what I had
5 proposed on my initial application.

6 Q. That was the information that you had submitted with your
7 initial application, correct?

8 A. Yes. December 29th is the stamp on it.

9 Q. You would agree with me that it is going to be more
10 difficult for Kevin to access his property at that
11 location?

12 A. I don't -- I mean, if he's coming from his boat trying to
13 access his driveway from his dock, the quickest route he
14 would have is to go in Sycamore Cove. If he wanted to
15 access the side of his driveway with his boat for
16 whatever reason, he could do it that way. If he wanted
17 to access it from the other cove, the quickest route to
18 do that would not intersect the farm.

19 Q. But I'm asking on the other side on Segar Cove. He --

20 A. From Segar Cove if he went along the shoreline, the
21 quickest route would not intersect the farm. Now, if he
22 went all the way into Segar Cove and wanted to do a loop
23 like a crescent and then zip in, he would have to
24 navigate around north through the farm.

1 Q. Okay. Are you aware -- and I know Ms. Noonan said
2 there's going to be testimony very shortly from your
3 experts -- of a dock that was located, a submerged dock
4 that was located in that area on the Cooneys' property?

5 A. Submerged dock? There's nothing visible of a submerged
6 structure that I've ever seen there.

7 Q. That would be in the northern portion. The Cooneys'
8 property is to the northern portion of your farm,
9 correct?

10 A. So if you go northern more in that cove, you could see
11 the Cooneys' dock, but you couldn't see the Cooneys' dock
12 from the farm or the farm from Cooneys' dock.

13 Q. I'm not talking about the existing dock. I'm talking
14 about a prior dock in that location. You recreated on
15 that pond, you've shell fished on that pond, and you said
16 you know it well. You don't know if there's a dock in
17 that same location as you farm?

18 A. There's nothing visible in that location, and I don't
19 know when the last time there was a dock along that
20 location.

21 MR. CAPIZZO: Okay. I don't have any other
22 further questions.

23 MS. NOONAN: Just a few questions, Madam Chair?

24 CHAIRWOMAN CERVENKA: I'm sorry. Say that

1 again.

2 MS. NOONAN: Just a few questions to finish up
3 with Mr. Raso?

4 CHAIRWOMAN CERVENKA: Okay.

5 REDIRECT EXAMINATION BY MS. NOONAN

6 Q. Mr. Raso, Mr. Capizzo was just asking you about
7 Mr. Hunt's ability to navigate off the shoreline. Is it
8 fair to say that when you have changed from the rectangle
9 original 3-acre plan to the Plan B, that that obviously
10 impacts -- it does impact Mr. Hunt more, from his
11 perspective, right?

12 A. If it was -- Plan B definitely hugs the shoreline closer.
13 So if that was viewed as impact to him, if he did want to
14 for whatever reason access his driveway from his boat --
15 from his dock, I guess the language would have to
16 navigate would be narrower, but -- yeah.

17 Q. So it's kind of a push and pull. If you pull it in
18 closer to get more skiers, then you might impact some
19 shoreline access, correct?

20 A. Yes.

21 Q. In terms of what Mr. Wagner was asking you about need,
22 you're aware of the 5 percent carrying capacity that is
23 in the CRMC 5 percent rule that is in CRMC's regulations
24 that is also referenced in staff report which is

1 Exhibit 17, correct?

2 A. Yes.

3 Q. All right. And if the site is permitted, the allowable
4 aquaculture in Potter Pond will only be 3 percent; is
5 that correct?

6 A. The new farm would be less than 1 percent of the pond,
7 and altogether there would be 3 percent of the pond being
8 used for farming if it was permitted.

9 Q. Okay. And in terms of again going back to the shoreline.
10 Mr. Capizzo asked you about abilities of let's talk just
11 motorized boats at this point. You're aware that there's
12 a Town of South Kingstown ordinance that says the
13 following:

14 "No person shall operate a personal watercraft
15 within 200 feet of swimmers, divers, shore, or more
16 vessels except at headway speed."

17 Correct?

18 A. Correct.

19 Q. So no waterskier or tuber can operate within that
20 200-foot buffer off of the shoreline in Segar Cove where
21 your plan is proposed because you can't tube or jet ski
22 at headway speed, right?

23 A. With that rule, yes.

24 Q. Yes.

1 CHAIRWOMAN CERVENKA: Ms. Noonan, what is the
2 site on that?

3 MS. NOONAN: Certainly. It's Section 4-86, I
4 believe, is the Town of South Kingstown ordinance.

5 CHAIRWOMAN CERVENKA: Thank you.

6 MS. NOONAN: No further questions. Thank you,
7 Mr. Raso.

8 THE WITNESS: Thank you.

9 MR. WAGNER: Can I ask some follow-up
10 questions?

11 MR. DESISTO: I'm going to tell you no. I'm
12 going to tell you why. This is a subcommittee of an
13 administrative body, and I don't want to get into a
14 situation where there's recross and then redirect and
15 everything else. You know, the fact that there's
16 cross-examination of at least this witness and other
17 expert witnesses, it's fine. But no follow-ups after
18 that.

19 MR. WAGNER: Mr. DeSisto, this is our
20 opportunity to question this witness. If --

21 MR. DESISTO: This is your second bite at the
22 apple.

23 MR. WAGNER: I want to --

24 MR. DESISTO: By the way, I submit to you, if

1 you were in Superior Court you wouldn't get a recross.

2 MR. WAGNER: I disagree with you.

3 MR. DESISTO: I'm going to advise the Board on
4 this. You had cross-examination, you've had a follow-up.
5 It's time for the next witness.

6 I'm going to say too, by the way. Coming in late, I
7 understand you want to ask some follow-up questions. But
8 the fact that you're coming in late, that doesn't give
9 you the opportunity to recross again. I think you need
10 to move along.

11 MR. WAGNER: Thank you.

12 CHAIRWOMAN CERVENKA: We are at 4:24, so I
13 think it's time for a break before we go on to the next
14 witness. I think everyone would appreciate that. So
15 let's do 4:45 to come back on.

16 MS. NOONAN: Mr. Moore, if I might, I'm going
17 to be using Exhibits 5, 6 and 7 with my next witness.

18 [RECESS WAS TAKEN OFF THE RECORD FROM 4:25 TO 4:50]

19 CHAIRWOMAN CERVENKA: I think we're ready to go
20 back on the record. Ms. Noonan, would you like to call
21 your next witness?

22 MS. NOONAN: Yes. My next witness is Audie
23 Osgood. Audie, you need to be sworn in so if you can
24 speak up so the stenographer can see you.

1 AUDIE OSGOOD,

2 Being duly sworn testifies as follows:

3 COURT REPORTER: Please state your name for the
4 record.

5 THE WITNESS: Audie Osgood.

6 MR. DESISTO: Madam Chair, and Beth, of course,
7 is this witness being offered as an expert?

8 MS. NOONAN: Yes, Mr. DeSisto. He is a
9 professional engineer from DiPrete Engineering.

10 MR. DESISTO: Okay. As the subcommittee
11 members know, I typically advise that the witnesses even
12 offering so-called expert testimony or opinion testimony
13 not be qualified as experts. However, in this instance,
14 I am going to advise the subcommittee that any witnesses
15 that will be offering opinion testimony in fact be
16 qualified as experts.

17 And the reason for that, that ties back to the
18 Chair's initial comments at the start of the hearing, and
19 that is that expert witnesses will be allowed to be
20 cross-examination of them. So I think it's important to
21 put their qualifications on the record and have the Board
22 accept them as experts and that will allow opposing
23 counsel to cross-examine them afterwards. That makes a
24 distinction between fact witnesses and expert witnesses.

1 So that's my advice, Madam Chair.

2 CHAIRWOMAN CERVENKA: Mr. DeSisto, do we need
3 to -- if there is a proffer to qualify the expert and for
4 us to accept that, do we need to vote on that as a
5 subcommittee?

6 MR. DESISTO: Yes.

7 CHAIRWOMAN CERVENKA: Okay. Thank you.

8 DIRECT EXAMINATION BY MS. NOONAN

9 Q. I was going to say good afternoon, but it's dark. So
10 good evening, Mr. Osgood. How are you?

11 A. I'm doing well. How are you?

12 Q. I'm very well, Thank you. I'd like to pull up for
13 everyone to see Exhibit 5, which is the curriculum vitae
14 of Mr. Osgood. What I'd like to do is ask him a few
15 questions before I qualify him.

16 Mr. Osgood, can you please describe your
17 qualifications as set forth in Exhibit 5?

18 A. Yes. I'm a licensed professional engineer. I've been
19 practicing 25 plus, actually now 30 plus years. The last
20 15 of which have been in Rhode Island, Connecticut,
21 Massachusetts. Wide variety of projects from small OTS
22 systems to large commercial and residential projects,
23 that couple projects that number of projects in South
24 county, but couple there in Potter Pond or that general

1 vicinity. All residential developments from few north.

2 Q. A basic question even though it's at the top of your
3 resume and behind your shoulder, who do you work for?

4 A. DiPrete Engineering, Cranston, Rhode Island.

5 Q. Have you testified before other boards in the State of
6 Rhode Island?

7 A. Yes, and CRMC.

8 Q. Have they accepted you as an expert professional engineer
9 in any of those boards?

10 A. Yes.

11 MS. NOONAN: Madam Chair, I would ask
12 that Mr. Osgood be accepted as a professional engineer
13 expert.

14 CHAIRWOMAN CERVENKA: So we'll I guess
15 entertain a motion to accept Mr. Osgood as a Rhode Island
16 engineer, professional engineer.

17 VICE CHAIRMAN COIA: Madam Chair, Ray Coia be
18 recognized?

19 CHAIRWOMAN CERVENKA: Yes, Mr. Coia.

20 VICE CHAIR COIA: Madam Chairman, based on the
21 representations made and the CV that I'm looking at on my
22 screen, I would move to recognize him as a professional
23 engineer. I know you stated Rhode Island, but I'm
24 looking at the CV. I think he's licensed in Connecticut

1 as well, but I know he's testifying here in Rhode Island.
2 So I don't want to say he's limited to Rhode Island.

3 CHAIRWOMAN CERVENKA: It's your motion,
4 Mr. Coia. You can do what you want.

5 VICE CHAIRMAN COIA: That would be my motion.

6 CHAIRWOMAN CERVENKA: Okay. All right. Is
7 there a second to Mr. Coia's motion?

8 [NO RESPONSE]

9 CHAIRWOMAN CERVENKA: I'll second the motion of
10 Mr. Coia.

11 MR. DESISTO: Madam Chair, before the vote,
12 just for the record again, I wonder if there's any
13 objections by either Mr. Wagner or Mr. Capizzo.

14 MR. WAGNER: No objection to him testifying as
15 an expert engineer.

16 MR. CAPIZZO: As an engineer.

17 CHAIRWOMAN CERVENKA: Okay. So we're good to
18 proceed, Mr. DeSisto?

19 MR. DESISTO: Yes.

20 CHAIRWOMAN CERVENKA: I think I seconded the
21 motion of Mr. Coia and asked if there is any discussion.
22 If not, then I'll do the roll call. Ray Coia?

23 VICE CHAIRMAN COIA: Ray Coia votes aye.

24 CHAIRWOMAN CERVENKA: Patricia Reynolds?

1 MS. REYNOLDS: Reynolds votes aye.

2 CHAIRWOMAN CERVENKA: Don Gomez?

3 MR. GOMEZ: Gomez aye.

4 CHAIRWOMAN CERVENKA: Vin Murray?

5 MR. MURRAY: Murray, aye.

6 CHAIRWOMAN CERVENKA: Myself, Jennifer
7 Cervenka, aye. The motion carries to admit Mr. Osgood as
8 a professional engineer.

9 MS. NOONAN: Thank you. I would also ask that
10 Exhibit 5 be admitted full, his curriculum vitae.

11 CHAIRWOMAN CERVENKA: That's admitted. I don't
12 think we need another roll call for that. Thank you.

13 MR. DESISTO: Correct.

14 [EXHIBIT #5 MARKED]

15 Q. Mr. Osgood, first of all, have you been on the call, the
16 Zoom, call since it began?

17 A. Yes, I have.

18 Q. All right. So you heard the testimony of Mr. Raso,
19 correct?

20 A. Yes.

21 Q. All right. Have you had an opportunity to review the
22 proposed aquaculture farm application which is Exhibit 1?

23 A. Yes, I have.

24 Q. Did you have an opportunity also to review the CRMC staff

1 report?

2 A. Yes, I did.

3 Q. And did you hear Mr. Beutel testify today?

4 A. Yes, I did.

5 Q. And I'd like to pull up, if Leslie Parker can do that for
6 me, Exhibit 6. She is the one doing the exhibits.

7 MS. PARKER: I'm having technical difficulties.

8 [PAUSE]

9 CHAIRWOMAN CERVENKA: Do you object to
10 Mr. Moore putting up the exhibit like he did previously?

11 MS. NOONAN: No, that would be fine. Thank
12 you.

13 THE WITNESS: I could also share here if it
14 would be helpful.

15 MS. NOONAN: Audie, do you want to put it up?

16 THE WITNESS: That would be fine.

17 MS. NOONAN: That's why we have engineers.

18 Thank you.

19 Q. So Mr. Osgood, can you tell us what this is?

20 A. Yes. This is an exhibit that we prepared to show the
21 proposed location of the site with respect to Segar Cove
22 and Sycamore Cove, in particular highlighting the three
23 abutters who have expressed proposition to the project.
24 And those are Mr. Quigley and Ms. Cooney at 95 Cedar

1 Court in the upper part of that site north of the
2 proposed 3-acre aquaculture farm, and Mr. and Ms. Hunt at
3 98 Segar Court, and David Latham at 298 Prospect Road
4 here at this southern part of the -- actually, the cross
5 part of Segar Cove from the site.

6 Q. And then in red can you describe what you have
7 highlighted in red near the farm area?

8 A. Yes. So we use the coordinates that were provided in the
9 application to plot -- to the 3-acre farm as proposed
10 site and hatch that in. We also used the coordinates and
11 the intent -- there was one coordinate here on the B
12 layout that was a duplicate of another point, but we've
13 coordinated that with -- and plotted that location as
14 it's intended to show up that 3-acre alternate layout as
15 well.

16 Q. While you're here, can you give us -- this was a question
17 from one of the committee members -- the distance at the
18 opening of Segar Cove between the Hunts and Mr. Latham?

19 A. Yes. We have that as 200 feet. I rounded these
20 dimensions off to the nearest 10 feet generally and this
21 plan and the other plans, we prepared this information,
22 GIS related. Also there's tides that affects where the
23 edge of the flow would be from time to time. So just
24 keep in mind that there's a certain level of accuracy

1 inherent in the GPS. I think that we're more accurate
2 than the nearest 110 feet, but I wanted to be safe.

3 Q. So in fact, I mean, when you say -- I think what I asked
4 you to do is give us a layout obviously as best you can
5 showing the area, the farm and the docks; is that fair to
6 say?

7 A. Correct. We prepared a separate exhibit that highlights
8 the locations of the docks with the dimensions, those
9 features if you'd like to move on to that.

10 Q. Let's stay with this before we move to that. If I could
11 ask you, Mr. Osgood, first of all and maybe I asked you
12 this already, but have you visited the location of the
13 proposed aquaculture farm and the surrounding area?

14 A. I have.

15 Q. Could you describe the aquaculture farm that's proposed
16 in that surrounding area?

17 A. Yes. There are several people noted just west of what's
18 known as Ram Point here. This area when I was there was
19 open water. I did see one other sailboat out in Potter
20 Pond, but really no activity at all in Segar Cove which
21 was just earlier this month which you would expect maybe
22 a little less traffic now than in the summer, but no
23 visible activity along the shoreline even as far as paths
24 or access points that people use frequently. Otherwise,

1 no visible obstructions or markers of any kind in that
2 area.

3 Q. Great, thanks. In terms of Exhibit 6, did you and
4 DiPrete Engineering develop this plan?

5 A. Yes.

6 MS. NOONAN: I would like to admit this as
7 Exhibit 6 full.

8 CHAIRWOMAN CERVENKA: Are there any objections?

9 MR. WAGNER: No objection.

10 MR. CAPIZZO: No objection.

11 [EXHIBIT #6 MARKED FULL]

12 Q. In terms of the plan that we have up in front of us and
13 the aquaculture farm, I think you -- you know what,
14 actually, let me do Exhibit 7 too. I'm sorry. Audie,
15 can you put up Exhibit 7?

16 A. Yes.

17 Q. In terms of this Exhibit 7, can you describe what it
18 shows?

19 A. Yes. So this is a little bit further view out. I show a
20 little bit more of the pond and to allow us to show some
21 of the separations that docks and the mooring, farther
22 north or south of the proposed farm area.

23 Q. Okay. Using that one, and I'm going to go through it
24 sort of piece by piece. While narrative is good, I want

1 to get some particular questions so we can identify.

2 First of all, the existing farm is shown on this
3 plan, is it not?

4 A. Right this location, correct.

5 Q. Great. And, again, we have the red areas that were in
6 Exhibit 6 also, correct?

7 A. Yes, the same areas.

8 Q. Okay. This plan similar to Exhibit 6 was prepared at
9 DiPrete Engineering under your direction?

10 A. Yes, it was.

11 MS. NOONAN: I'd like to move Exhibit 7 full,
12 please.

13 MR. WAGNER: No objection.

14 MR. CAPIZZO: No objection.

15 CHAIRWOMAN CERVENKA: So admitted.

16 MS. NOONAN: Thank you.

17 [EXHIBIT #7 MARKED FULL]

18 Q. There's lot of information on here. If you could go
19 through and describe maybe by color or whatever is best
20 for you to describe what this Exhibit 7 is depicting for
21 the committee.

22 A. Sure. Sort of the first piece of this that we were
23 looking at was distances from the proposed site to the
24 existing docks in the area. We really focused our

1 dimensioning on the first choice that the applicant
2 proposed, the rectangle. So all our dimensions are from
3 that.

4 You'll see that the sort of light blue dimensions
5 are to existing docks in the area, and this is one of the
6 closest docks listed as -- the straight measurement would
7 be obviously the lot would be a little longer, but we are
8 at 480 feet. I believe the dock on the south here that's
9 450 feet, but those would be the closest two docks.

10 And then we sort of looked at anything else that
11 would be in the general vicinity, this main part of Segar
12 Cove. So the dimensions there range from just over
13 500 feet to a little over 1,100 feet. The mooring field,
14 although we didn't call attention to it, would be just
15 beyond that area. The closest dock to the west would be
16 720 feet on the opposite side of Segar Cove.

17 Also we looked at some of the dimensions from the
18 proposed site, the shoreline, and again we rounded these
19 off to the nearest 10 feet just because of the accuracy
20 of the data. So we're looking at approximately 10 feet
21 at northeastern corner, 30 feet would be the narrowest
22 point along the eastern side of the proposed farm area,
23 and approximately 70 feet at the very southern end.

24 So as Mr. Raso mentioned, the intent I believe is

1 strong here to leave access to this side of the farm area
2 for a powerboat to be able to get through here and get
3 around this end as well. We also looked at the alternate
4 -- and the dimensions are similar, close to couple
5 vantage points to as much as 10 feet, and then a little
6 less along the east side but still enough room to get
7 through there. As you mentioned earlier, it's a balance
8 of our outing to the pond versus how close to shore.

9 We also looked at the dimensions in green. Where
10 the line in green is a 200-foot offset from the
11 shoreline, I believe you had mentioned earlier that the
12 South Kingstown ordinance regarding operating personal
13 watercraft in a 200-foot offset from the shoreline, so we
14 wanted to look at what was really available in the cove
15 for those activities, and you can see that it's pretty
16 limited compared to the entire cove, that the northern
17 and southern ends are excluded really from that ability
18 to operate a personal watercraft there for anything other
19 than head speed. Obviously, at 240 feet wide there's not
20 enough room to maintain 200 feet from shore and go and
21 out of this channel so that should, by ordinance, would
22 eliminate that portion of the cove as well.

23 Probably worth pointing out is the point that
24 roughly 75 percent of the proposed site is in that

1 200-foot coastal offset that would be excluded from
2 operating a personal watercraft. Obviously it is open to
3 any other use, but a watercraft shouldn't be operated
4 there.

5 Q. Okay, and --

6 A. Just really quickly.

7 Q. Sure.

8 A. This 214 feet wide by approximately 16 feet wide actually
9 varies a little bit. The northern end isn't quite
10 squared off. Just to give everyone a sense of how large
11 an area we're talking about here.

12 Q. The same with the Map B, what are the dimensions of that?

13 A. That one is average is about 200 feet wide and is about
14 700 or 750 feet on average. I have my note. Maximum
15 width on that is 270 feet wide by 835 feet north to
16 south.

17 Q. All right. There's also an additional 200-foot South
18 Kingstown buffer and you have not depicted that on your
19 plan, correct?

20 A. There's a buffer of 200 feet from docks or other
21 obstruction, so we did look at that on these, but most of
22 that is covered by the 200-foot shoreline. Obviously if
23 a dock sticks out another 30 or 50 feet that would
24 protrude just a little bit more into the cove, but I

1 think we looked and it may be an extra acre of
2 restriction over what was shown here in this green
3 highlight.

4 Actually, real quickly, these green dimensions in
5 here were also to sort of help illustrate how much room
6 is available to operating personal watercraft. You can
7 see that you got 590 feet across the middle of the cove
8 here, so the same 200-foot restriction from shoreline
9 applies to other vessels or swimmers or kayakers,
10 stand-up paddle boarders. So there happens to be a
11 kayaker or any user out here in the middle of the cove,
12 by the time you maintain a 200-foot buffer it's almost
13 impossible by ordinance to have enough room in Segar Cove
14 to operate a personal watercraft. The restriction from
15 skiers are a little less than that because they can
16 approach closer to shore by ordinance, but that doesn't
17 necessarily mean it's any better place to be operating or
18 water skiing than it is operating the watercraft.

19 Q. Okay. Anything else? Let me go back. Anything else on
20 this plan or the other site plan, Exhibit 6, that you
21 want to touch on right now?

22 A. I'll just add that these numbers on these docks were
23 added just for reference to assist in if the Board has
24 questions or the Council has questions about the specific

1 location, they can help identify that location rather
2 than try to describe assessor's plat and lot number.

3 Q. And the measurements that you took --

4 CHAIRWOMAN CERVENKA: I just missed, I was
5 looking at something else. But the mooring field that we
6 looked at with the pictures that Mr. Raso had taken, I
7 missed where that is. You were indicating something,
8 Mr. Osgood.

9 THE WITNESS: The mooring field generally is in
10 this area.

11 CHAIRWOMAN CERVENKA: In that little squished
12 area? Okay.

13 THE WITNESS: Yeah.

14 CHAIRWOMAN CERVENKA: Thank you.

15 Q. And then in terms of how you measured the docks, what
16 point are those measurements taken from the dock or the
17 land?

18 A. We took the measurements from the outer most end of the
19 docks.

20 Q. Okay. In terms of your familiarity now and based upon
21 your review of the proposed farm in the surrounding area,
22 does the proposed aquaculture farm meet applicable zoning
23 ordinances?

24 A. Yes, to the best of my understanding.

1 Q. Again, based on your review of the proposed farm and
2 surrounding area and expertise in engineering, does the
3 proposed aquaculture farm meet applicable building codes
4 and flood hazard standards?

5 A. Yes.

6 Q. Why?

7 A. I don't think there are any particular flood hazard
8 standards or building codes actually that apply to this
9 proposed project.

10 Q. Thank you. In terms of environmental requirements,
11 that's what the regulations state. Do you have an
12 opinion on whether or not it meets certain environmental
13 or will it impact certain environmental requirements?

14 MR. WAGNER: Objection. I don't think this
15 witness has expertise in that area.

16 Q. Mr. Osgood, based on your work as a professional
17 engineer, do you do any analysis in terms of storm water?

18 A. Yes.

19 Q. And is this an application that involves any storm water
20 analysis?

21 A. All projects in Rhode Island we consider that from an
22 engineering standpoint. Obviously this project, because
23 it's completely water based and has no land site reported
24 to it, it has no increase in runoff or any of that

1 interest, no, no environmental water impacts.

2 Q. So even though it's over an acre, it doesn't require
3 anything like a RIPDES permit, correct?

4 A. Right.

5 Q. And in terms of traffic, based upon your experience, have
6 you ever testified or been familiar with traffic issues?

7 MR. WAGNER: Foundation.

8 MS. NOONAN: I just asked him his experience.

9 MR. WAGNER: This witness has been to this site
10 once I think he testified to.

11 MR. DESISTO: I hate to jump in, but the
12 question not so much as his -- if it goes to foundation,
13 it's not to the observations as much as it is to whether
14 or not he's qualified to be able to give an opinion in
15 the first place. So I think that's the predicate
16 question that needs to be addressed. And then once it
17 is, any objections can be interposed when it comes to
18 whether or not he has actually done enough work on it.
19 We're not quite there yet.

20 Q. Mr. Osgood, did you view the site with Mr. Raso?

21 A. Yes, I did.

22 Q. Did you go out on a pontoon boat to visit the site?

23 A. We went out on his boat. His skiff, not the pontoon
24 boat.

1 Q. The skiff, okay. I got the pontoon boat, okay.

2 Do you have -- aside from what I asked you
3 specifically, do you have any engineering opinions
4 related to the site that would be helpful to this
5 subcommittee?

6 A. Just observations from the standpoint of the engineering
7 purview of the environmental constraints. As we
8 mentioned, there is no storm associated with this use.
9 Since there's no land base, facilities proposed is part
10 of this. It will be served by existing facilities.
11 There are no increases for parking areas or vehicles. So
12 we are not talking about trips per day of traffic.
13 There's no parking areas or anything like that that would
14 generate runoff. There's no lighting that would have
15 environmental impacts to the area regarding habitat or
16 anything of that nature. Noise levels at the proposed
17 use at this site are minimal, although it's required by
18 ordinance, they are no different than the boats that --
19 no different than the boats on the cove already.

20 So within those constraints of the environment and
21 engineering, I would say there are no negative impacts by
22 this project.

23 Q. Thank you. Did you perform any calculations of the total
24 area of Segar Cove that would be occupied in relation to

1 the proposed aquaculture and the setbacks and the buffers
2 that are part of South Kingstown ordinances?

3 A. Yes, I did.

4 Q. Can you explain what you did?

5 A. Yes. We superimposed the area of the proposed farm and
6 the 200-foot restricted shoreline area and calculated
7 that approximately 2.2 acres of the proposed site is
8 within that 200-foot shoreline area and less than an acre
9 of [ZOOM INTERFERENCE] is actually beyond that. So you
10 can see that on this figure would be, generally speaking,
11 this other corner of the site, there's approximately 25
12 percent of that area is outside of that.

13 Mr. Raso also pointed out that the western half of
14 this site is actually all submerged farming. So the only
15 thing that would be placed out here are floats. So there
16 would be no visual or surface obstructions to worry about
17 in that portion of the site.

18 Q. Okay. What was the overall acreage of the Segar Cove on
19 the water?

20 A. The overall acreage is 53.3 -- I'm sorry .5 acres.

21 Q. Okay. And what area is within 200 feet of the shoreline?

22 A. One second. I calculated it at the opposite direction in
23 my notes. There is only 17 and a half acres that is not
24 within that 200-foot area. So if I can do a little math,

1 36 acres is in that 200-foot shoreline area.

2 Q. And in looking at and going through this here, looking at
3 the calculations, what impact does this proposed site
4 have on the acreage of Segar Cove for other uses, I
5 suppose?

6 A. Obviously vary by use. If it's paddle boarding or
7 kayaking, it doesn't seem to present any restriction to
8 use. Some restrictions on swimming, and obviously some
9 restrictions on personal watercraft and skiing or tubing.
10 The areas as a percentage we were to look at, even 3
11 acres in the cove is less than 6 percent of the total
12 area of Segar Cove.

13 Q. Okay. So as a result of those calculations there is a
14 reduction in the recreational use, correct?

15 A. Yes. Depending on the type of recreation that you're
16 talking about, yes, there's some restrictions.

17 Q. Okay. And did you do -- what were the calculations --
18 just so I'm clear, what were the calculations you did
19 about that reduction?

20 A. We looked at -- so if you were to exclude the entire 3
21 acres of that use, you would be excluding 5.6 or 6
22 percent. The area that that .8 acres that is beyond the
23 200-foot shoreline area is actually only 1.5 percent of
24 the Segar Cove. Pretty small numbers.

1 Q. And in your professional opinion and based on your review
2 of the property, will the proposed project impair the
3 existing access to or use of the area in Segar Cove?

4 MR. WAGNER: Objection.

5 MR. DESISTO: Grounds?

6 MR. WAGNER: Foundation. I don't think he can
7 testify and give an opinion on that.

8 MR. DESISTO: You feel the calculations don't
9 allow him to render an opinion on that specific issue, is
10 that it?

11 MR. WAGNER: Yes.

12 A. I can tell you that there are no restrictions to access
13 the cove itself. There are numerous permanent access,
14 none of which would be obstructed by this use.

15 MS. NOONAN: Can you give me a moment, please,
16 Madam Chair?

17 CHAIRWOMAN CERVENKA: Yes.

18 [PAUSE]

19 Q. Mr. Osgood, just for clarification, the numbers you are
20 talking about, do they apply to both the original
21 rectangular proposed sites, or how does it compare
22 between the original rectangular site and the Plan B?

23 A. I don't know that I did the actual percent-wise
24 comparisons, but I know that Plan B occupies more of Plan

1 B of the 3 acres within the 200-foot shoreline offset.
2 So it's a smaller area that's within the -- there is a
3 smaller percentage of the farm that's outside of that 200
4 offset so those percentages would change, but the 3 acres
5 as a percentage of the total Segar Cove would be the
6 same.

7 And under Option B, the amount of the one and a half
8 percent that I mentioned as impact would be even less as
9 far as a percentage of Segar Cove.

10 MS. NOONAN: No further questions for
11 Mr. Osgood.

12 CHAIRWOMAN CERVENKA: Thank you. Are there
13 questions that subcommittee members have for Mr. Osgood?

14 MR. GOMEZ: Madam Chair, there was a question
15 that I wanted to pursue. We saw major impacts between
16 the rectangular proposal and the polygon approach on
17 public use and safety. And it looks, as you've
18 indicated, that hasn't been indicated, and it's small
19 given the 200-foot restriction. But from a safety
20 standpoint, probably a wash, probably not a safety
21 problem, but I just would like to hear the expert expound
22 on that a little bit.

23 THE WITNESS: I'm not a safety expert, but just
24 from a dimensional physical constraint standpoint, the

1 maximum distance from either system from the outermost
2 point to the shoreline in both configurations is
3 approximately the same. I would note, I guess, that the
4 distance from the 200-foot restriction out is as a result
5 pretty much the same as well just because of the geometry
6 of the cove. That may change a little bit if we actually
7 measured this, but again, we're talking about customized
8 10 feet with a level of accuracy to begin with. So
9 insignificant difference, I would say, without doing some
10 more precise measurements.

11 MR. GOMEZ: And that's what I've been saying,
12 that I didn't see any major impact difference one
13 configuration to the other, and I think you've just
14 stated that you think that it's insignificant. Correct?

15 THE WITNESS: Dimensionally, I don't see a
16 significance between the two projects as far as how they
17 project into the cove and how they might impact safety
18 from that perspective.

19 MR. GOMEZ: Does that corner, which I guess is
20 a northeast corner, the original proposed, that's fairly
21 narrow in there. Do you see that as a problem?

22 THE WITNESS: No. I think that 10 feet is
23 enough room to get most vessels through. It's not enough
24 room to get everything through, and it would depend on

1 the tide. I can say that I was conservative in my
2 approach so if it was -- if it's more than 10 feet and I
3 round it down to that number, so I think that if anything
4 that would be the point at which we might want to think
5 about tweaking this just a little bit.

6 MR. GOMEZ: Okay. That's fine. Good. Thank
7 you for your input.

8 CHAIRWOMAN CERVENKA: Any questions from the
9 other subcommittee members?

10 MS. REYNOLDS: Madam Chair, Reynolds. I just
11 wanted to follow up. Audie, that 10 feet where you'd
12 like to tweak is with the original proposal. Would you
13 have the same comment with Option B where that constricts
14 to 10 feet that maybe that should be moved out a little
15 bit also?

16 THE WITNESS: I hadn't -- I guess I was looking
17 at this corner as being very easy to move, but you could
18 take a slightly different approach I guess. There are a
19 lot of options. The entire field could be slid out 10
20 feet farther to the west, keep the preferred rectangular
21 shape and improve access on the shoreline at both the
22 north end and on the east side.

23 MS. REYNOLDS: But you weren't concerned about
24 this one that's a little bit further south?

1 THE WITNESS: The 10-foot dimension there is on
2 alternate B. If we slid either alternate 10 feet further
3 to the west I think it would have not a significant
4 impact on the useable area of Segar Cove and would
5 improve the access along that shoreline probably by a
6 greater benefit than the opposite side. That's just from
7 an engineering standpoint and not from the overall
8 perspective of fisheries management or anything else.

9 MS. REYNOLDS: Okay, thank you.

10 CHAIRWOMAN CERVENKA: Mr. Osgood, I just have a
11 follow-up to that.

12 So what you're talking about is the two 10-foot
13 marks in the northeast and then a little bit further
14 south, just from an engineering standpoint, passage
15 standpoint, it could benefit from an additional 10 feet,
16 so it would be 20 feet?

17 THE WITNESS: Yes, that was my observation.

18 CHAIRWOMAN CERVENKA: Okay. So that's in the
19 two spots, the northern one --

20 THE WITNESS: Yes.

21 CHAIRWOMAN CERVENKA: Okay. I had a question
22 about the additional buffer that I think you said wasn't
23 necessarily depicted, but it ends up being the same as
24 the buffer that we've been talking about restricting

1 motor craft. And is that a buffer from 200 feet from the
2 end of docks and other obstructions, is that what you
3 said?

4 THE WITNESS: Yes, that's correct.

5 CHAIRWOMAN CERVENKA: Okay. And so when you
6 take the tips of those docks that are depicted, it
7 roughly ends up being around the same line that you have
8 shown here?

9 THE WITNESS: Yes. So for example, this dock
10 No. 5, if we were to put a circle on this outer end
11 point, I would expect that we might end up with an arc or
12 something like this that would end up being additionally
13 restricted. If this dock is one of the longer ones the
14 shorter docks would have even less of an impact in this
15 area encroaching beyond that 200 feet that's shown.

16 CHAIRWOMAN CERVENKA: Are there obstructions
17 other than the docks?

18 THE WITNESS: Not within the limits of this
19 green line that I've shown here. The mooring field would
20 obviously be other obstructions that we would need to
21 worry about if we were closer.

22 CHAIRWOMAN CERVENKA: Okay. Would you happen
23 to have the citation to that additional buffer? I can
24 check with counsel to get that later. If you had it, I'd

1 take it.

2 THE WITNESS: I don't know that I have it
3 immediately available, but if you'll bear with me for a
4 second I think I can find it.

5 [PAUSE]

6 THE WITNESS: The South Kingstown Boats and
7 Waterways Ordinance, Part 3, Chapter 4, 4-8(1). Are my
8 notes correct here?

9 CHAIRWOMAN CERVENKA: Thank you. Any other
10 questions from subcommittee members for Mr. Osgood?

11 [NO RESPONSE]

12 CHAIRWOMAN CERVENKA: Okay. I can't see
13 everyone, but I'm assuming you would say something. All
14 right. I think then we will open it up to --

15 MR. MURRAY: Madam Chair, I would reiterate
16 your question regarding those two so-called pitch points.
17 It does seem awfully close on that easterly side, so I
18 would just kind of underscore the concerns of your
19 question raised in terms of the proximity to land for
20 what it's worth.

21 CHAIRWOMAN CERVENKA: Okay. Thank you.
22 Anything else from subcommittee members?

23 [NO RESPONSE]

24 CHAIRWOMAN CERVENKA: Okay. I'm going to open

1 it up to cross-examination from Mr. Capizzo if he has any
2 questions.

3 MR. CAPIZZO: Thank you Madam Chair.

4 CROSS-EXAMINATION BY MR. CAPIZZO

5 Q. Audie, did I hear you correct that I think you said that
6 6 percent of the cove would be restricted from
7 waterskiing based on the current operation; is that
8 correct?

9 A. Less than 6 percent of the surface area of the cove would
10 be occupied by the proposed site. So some of that area
11 would already be restricted from waterskiing just because
12 of its proximity from shore. I don't have exact
13 percentage on what would be restricted, but it would be
14 less than 6 percent.

15 Q. Did you figure out the acreage of that as well?

16 A. If you tell me how close you can waterski to shore, I can
17 calculate the area of that if that's what you're asking.

18 Q. That leads to my next question then. Do you have any
19 navigational experience?

20 A. Do I? Yes, I'm a power boater and a sailor.

21 Q. How many hours do you have behind your vessels?

22 A. I have not tracked that. I would say over the last 30
23 plus years, as an adult I would say that it would be in
24 the thousands of hours for certain. Multiple thousands

1 of hours.

2 Q. Have you navigated on Segar Cove before?

3 A. I have not.

4 Q. Okay. When did you first become involved in this matter?

5 A. DiPrete Engineering was brought in a while before I was.

6 I've been involved for about a month now, I think.

7 Q. One month. So you weren't involved in this project in

8 2017 when Mr. Raso submitted his application?

9 A. I was not personally, no.

10 Q. Okay. Was anyone at DiPrete?

11 A. I'd have to double-check. I don't know that answer right
12 off --

13 Q. You said you only had been involved in a month so. Can
14 you tell me if anyone from DiPrete was involved in 2019?

15 A. I can get back to you with that answer, but I don't have
16 it available right now.

17 Q. Okay. So other than your involvement in one site visit
18 to this area, that's been your only involvement on this
19 project?

20 A. I am sorry. I was trying to figure out if there is a way
21 to get that answer to the last question. What was this
22 one?

23 Q. We'll keep you focused on this one. There's no one else
24 that -- you haven't work -- the only time you worked on

1 this project was within the last month, correct?

2 A. Correct.

3 Q. You didn't meet with Dave Beutel about this at all over
4 the course of the last three years?

5 A. No. That's correct.

6 Q. Okay. So if you do -- since you're familiar with
7 boating, would you agree with me that, and you heard
8 Mr. Raso's proposal about the floating cages, would you
9 agree those are stationary objects?

10 A. I would.

11 Q. Do you agree that would pose some navigational issues?

12 A. Yes.

13 MS. NOONAN: I'm going to object. I'm not sure
14 how far we want to go down the navigational road. If
15 you're asking him as a matter of engineering, that's
16 fine. Not as boater experience.

17 MR. CAPIZZO: I think --

18 MR. DESISTO: It's my advice to the
19 subcommittee that he can ask those questions. I do think
20 it's relevant to the issue. It can go to the weight of
21 what his answers are. It does stray a bit from his
22 expertise; however, he did make some testimony to that,
23 and I do think it's relevant for impeachment purposes.

24 So my advice is that the line of questioning can

1 continue so long as it doesn't go the entire length of
2 Potter Pond.

3 MR. CAPIZZO: Yes, Mr. DeSisto.

4 Q. So Audie, back to that question. Do you consider
5 stationary footing objects you said you do consider those
6 navigational hazards?

7 A. I don't know if hazard is what I would use, but an
8 obstacle that you would navigate around for sure.

9 Q. So the answer is yes?

10 A. I would avoid them.

11 Q. Okay. Now when you applied your 200-foot buffer to the
12 shoreline, did you apply it to the western portion of
13 Mr. Raso's proposal as well? Because that's a stationary
14 object, right?

15 A. I looked at it sort of -- I split this. Because the way
16 the proposal is developed, that western half of the area
17 is the submerged lanterns. So the only thing on the
18 surface there are the floats. So I wouldn't look at
19 those necessarily the same. So I assume I applied a
20 200-foot offset from the eastern half of the field.

21 Q. Not the western half, closer to the exterior closer to
22 the center of Segar Cove, correct?

23 A. Correct.

24 Q. Okay. Now, you heard Mr. Raso testify that either way

1 it's cited, you can't swim through it, you can't
2 powerboat through it, you can't waterski through it,
3 can't sail through it, right? So you got to stay to the
4 outside of that, to the western part of that. You're
5 forced, I guess you could say, to the western side of
6 that proposed location closer to the center of the cove,
7 correct, if you were to navigate that way?

8 A. With a powerboat or a sailboat, yes. I believe what I
9 heard him say was that you could kayak over the top of
10 the submerged lantern bags with no problem at all.

11 Q. Would you agree with me that this proposed location would
12 push those other uses out to the center of the cove
13 compressing the area to navigate?

14 A. Yes.

15 Q. Compressing the area to recreate?

16 A. For those specific recreation uses, yes.

17 Q. And that we're talking about those specific uses. We're
18 talking about waterskiing, tubing, sailing, swimming?

19 A. Yes.

20 Q. Do you have experience with waterskiers?

21 A. It's been a few years, but yes.

22 Q. All right. What happens when you compress it water --
23 and you have multiple boats or other members of the
24 public or private who live on the cove recreate in that

1 cove and you start to compress that area?

2 A. I think you just answered your own question. You begin
3 to compress the area.

4 Q. What does that do to those who are recreating on the
5 pond? Does it make it more safe or less safe?

6 A. Well, um, I think that we've gone well beyond my
7 engineering, and I'm trying to stay away from the safety
8 issue so --

9 Q. I think you're trying to avoid the question, which is, is
10 it safe or not safe when you compress an area based on
11 your experience and thousands of hours of boating, when
12 you compress it, does it make it more safe or less safe?

13 MS. NOONAN: Object to that question.

14 MR. DESISTO: I'll jump in right there. It's
15 okay to ask a fact question. You're not asking to
16 testify as an expert. That goes back to what Mr. Wagner
17 said. He wasn't qualified for that. I'm not so sure
18 that his CV allows him to give an expert opinion on that.

19 I understand your earlier question because you were
20 talking about dimensions. That's fine. But now you're
21 asking him to testify as an expert in either the field of
22 boating or in waterskiing. I'm not so sure he can give
23 an opinion on that, unless he thinks he can, which I
24 doubt he can because it's not on his CV.

1 My advice to the Board, I'll sustain the objection.

2 MR. CAPIZZO: I think the point has been made.

3 All right. Madam Chair, may I have one minute to look at
4 my notes? I know we're coming up at the 6:00 hour.

5 CHAIRWOMAN CERVENKA: Yes.

6 [PAUSE]

7 Q. Audie, did you take any measurements of the depth of the
8 proposed farm and Mr. Hunt's property?

9 A. I did not.

10 Q. You don't know -- would that area between, it would now
11 be the eastern portion of Mr. Raso's aquaculture farm and
12 Mr. Hunt and Ms. Cooney's property, you don't know how
13 deep it is, whether it is 10 feet from the shoreline,
14 70 feet from the shoreline, or I think you said 30 feet
15 from the shoreline?

16 MS. NOONAN: Objection. Asked and answered.

17 MR. DESISTO: Do any of the subcommittee
18 members recall his earlier answer to that? Would it be
19 helpful for him to answer again?

20 MR. CAPIZZO: That's okay, Mr. DeSisto. I'll
21 move along.

22 Q. Audie, on the dimensions that you had on Ram Point, I
23 think you testified that it was between Ram Point and
24 Gardner Island. Do you recall I think you said 240 feet

1 shore to shore?

2 A. That's correct. That's what I have on my plan, yes.

3 Q. Did you base that on GPS coordinates or did you base that
4 on satellite imagery?

5 A. It was based on using the GIS information available from
6 the town and overlaying that with the satellite imagery.

7 Q. Okay. Did you calculate the navigable area between those
8 points, I know it's shore to shore, but the actual area to
9 navigate?

10 A. No.

11 MR. CAPIZZO: I don't have any further
12 questions. Thank you, Audie.

13 CHAIRWOMAN CERVENKA: Mr. Capizzo, turn it over
14 to Mr. Wagner. And Mr. Wagner, if you could try to be a
15 little more civil in your tone I think we'd appreciate
16 it.

17 MR. WAGNER: I will. How is this for being
18 civil, I have no questions.

19 CHAIRWOMAN CERVENKA: That's pretty civil.

20 MS. NOONAN: A few clean-up, Madam? Just a few
21 questions?

22 CHAIRWOMAN CERVENKA: Yes, please.

23 REDIRECT EXAMINATION BY MS. NOONAN

24 Q. Mr. Osgood, in terms of the waterfront ordinance, clearly

1 we set forth in our opening that we are not certain South
2 Kingstown has the power to do this, but since it's been
3 raised by the objectors we're going to analyze it and
4 that's what we've asked you to do.

5 There are two different sections of that that we're
6 talking about, and the first one is the 4-81. And is it
7 correct that that pertains to only waterskiers in his or
8 her boat, and that they shall not approach any stationary
9 or moving object closer than 200 feet; is that your
10 understanding of that ordinance?

11 MR. WAGNER: Objection.

12 A. I can read it to you if that would help the Council. I
13 have it in front of me. It does say that no waterskier
14 or his or her boat shall approach any stationary or
15 moving object closer than 200 feet except maybe
16 incidental to starting or finishing a run, nor shall any
17 waterskier be within any designated channels.

18 Q. Thank you. Mr. Capizzo asked you about recreational
19 vehicles, and when he did he said, "Wouldn't that 200
20 feet also apply to sailboats and boats?"

21 Based on your analysis and your understanding of
22 what Mr. Capizzo just asked you, what does that ordinance
23 only apply to?

24 A. Only to waterskiers.

1 Q. Okay.

2 A. Or the ski boat.

3 Q. And then in terms of your involvement with the project,
4 you are aware that Mr. Duhamel in your office had been
5 working with our office prior to your involvement,
6 correct?

7 A. Absolutely, yes. I know that DiPrete was involved as
8 early as March of 2020. I don't know about 2019.

9 Q. Okay. Mr. Duhamel was unavailable to testify so you're
10 testifying today, correct?

11 A. Correct.

12 Q. And then last --

13 MS. NOONAN: Just one moment, if I might, Madam
14 Chair.

15 CHAIRWOMAN CERVENKA: That's fine.

16 MS. NOONAN: Thank you.

17 [PAUSE]

18 MS. NOONAN: I have no further questions for
19 Mr. Osgood.

20 CHAIRWOMAN CERVENKA: Okay. We're at 5:46. We
21 end at 6:00. I'll give you the choice, Ms. Noonan, if
22 you want to start your next witness or just end and then
23 pick up with that full examination tomorrow.

24 MS. NOONAN: The latter would be my preference

1 to start with Ms. Byron tomorrow. Dr. Byron, I'm sorry.

2 CHAIRWOMAN CERVENKA: That makes sense. So
3 this is going a little bit slower than I anticipated,
4 which is fine, you know. We're getting through
5 everything. But it means that public comment will not
6 start at the beginning of our session tomorrow. It may
7 start at some point in that 4-hour time period, but I'm
8 thinking that it's probably unlikely given that we have
9 to work through the rest of the applicant's witnesses
10 with cross-examination and questions from subcommittee.
11 Then we have to go to the objectors' witnesses and do the
12 same thing.

13 I think it's likely that public comment will start
14 next Tuesday. I think that people should still be
15 available if we need to start it, unless Mr. DeSisto or
16 Mr. Willis, you have a different idea if we should just
17 say we're going to start it on the following Tuesday so
18 the people in the public don't have to sit for another
19 four hours.

20 I'm okay either way with your recommendation.

21 MR. DESISTO: That's fine. You know, for the
22 public, I just want to make it clear, and I'm going to
23 ask. The Zoom meetings are recorded, and they will be
24 available to the public. If someone, some member of the

1 public is unable to watch the Zoom meeting in realtime,
2 they would be allowed to do that afterwards; is that
3 correct?

4 MR. WILLIS: Mr. DeSisto we can make recordings
5 available from this point forward for sure.

6 MR. DESISTO: Okay. It's in the nature of a
7 public record. I think if we're going to say that the
8 public is going to have their opportunity on Tuesday, you
9 know, perhaps if they can see what transpires prior to
10 their testimony it would either help them for what they
11 have to say, or perhaps tailor what they have to say
12 afterwards.

13 MR. WILLIS: It does make sense to me that we
14 start the public period on Tuesday for sure given that we
15 have a 4-hour hearing tomorrow and might need all of it.
16 I think we will let the public know. We'll post
17 something on the website. We have emails. We can get
18 the word out that's how we're going to do it. Record
19 tomorrow's session, make sure that's available, too. I
20 don't think the transcript will be ready in time.

21 MR. DESISTO: That's correct, and I think for
22 the ease of the public, if the recordings can be made
23 public off the website that will help everybody.

24 CHAIRWOMAN CERVENKA: I agree with that. I

1 just ask my fellow subcommittee members if they are okay
2 with what we've been discussing, and then officially
3 scheduling public comment to start on that third session
4 which is next Tuesday.

5 VICE CHAIRMAN COIA: Madam Chair, Ray Coia. I
6 have a question. Do we anticipate then a fourth date?

7 CHAIRWOMAN CERVENKA: I anticipate a fourth
8 date because we have to do our workshop. And the pace of
9 this makes me believe that we'll probably need perhaps a
10 little bit of overflow, but certainly we'll need it for
11 our workshop.

12 MR. WILLIS: Okay.

13 CHAIRWOMAN CERVENKA: I don't know if we need
14 to reserve five hours for our workshop, but we'll
15 certainly probably need another session.

16 Anyone else want to comment from the subcommittee?

17 [NO RESPONSE]

18 CHAIRWOMAN CERVENKA: Okay. All right. So I
19 think we have a plan. Ms. Noonan, you'll start with your
20 second witness at the start of tomorrow's session and
21 we'll continue to work our way through your case in chief
22 with public comment starting on the following Tuesday.

23 MS. NOONAN: Thank you.

24 CHAIRWOMAN CERVENKA: Okay. All right, thank

1 you, everyone. And I'll entertain a motion to adjourn.

2 VICE CHAIRMAN COIA: Madam Chair, Ray Coia be
3 recognized?

4 CHAIRWOMAN CERVENKA: Yes, Mr. Coia.

5 VICE CHAIRMAN COIA: I would move to adjourn at
6 this point.

7 CHAIRWOMAN CERVENKA: Thank you. Is there a
8 second?

9 MS. REYNOLDS: I'll second that.

10 MR. GOMEZ: I'll second.

11 CHAIRWOMAN CERVENKA: Couple of seconds. All
12 those in favor say aye.

13 [UNANIMOUS VOTE TAKEN]

14 CHAIRWOMAN CERVENKA: Goodnight everyone.

15 [ADJOURNED AT 5:55 P.M.]

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

I, Lisa M Reis, hereby certify that the foregoing Pages 1 through 168, 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.

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

#	50:12;104:6;145:9	36:14	13:12;23:7;29:8; 38:8;61:7;139:17; 151:15,22;152:23	affect (2) 79:13;115:10
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