

# D'OVIDIO LAW



COUNSELOR AT LAW

October 19, 2021

**Sent via [ltturner@crmc.ri.gov](mailto:ltturner@crmc.ri.gov)**

Ms. Lisa A. Turner  
Office Manager  
Coastal Resources Management Council  
Oliver Stedman Government Center  
4808 Tower Hill Road; Room 116  
Wakefield, RI 02879

Re: **CRMC Application 2018-12-037**

Dear Ms. Turner:

This office represents Ms. Robin Squibb, an objector to the above-referenced application, which is scheduled for a CRMC hearing on October 26, 2021.

Enclosed, please find the following for submission to the record for the hearing:

1. List of expert and lay witnesses;
2. Subject matter of the witnesses' reports and testimony; and
3. Witnesses' reports and their CV's.

Cordially,

Christopher A. D'Ovidio

**Enclosures (8)**

## WITNESS LIST

### CRMC APPLICATION 2018-12-037

1. Gordon Perkins, GISP

EDR

Division Manager, Visualization

Subject Matter:

- Project's impacts on public trust and coastal resources, aesthetic and scenic resources, and cumulative impacts; and
- Project's location relative to the Town's South Ferry Mooring Field.

Report/Evidence:

- "Representative Visual Simulations for Proposed Residential Pier"

2. Peter Alarie, Captain and Yachtmaster

Project Manager, Grand Prix Resources

Captain, PAA Marine Consulting

Chief Instructor; Confident Captain/Ocean Pros

Subject Matter:

- Vessel operation relative to proposed boat lift.

Report/Evidence:

- "Report on Boat Lift CRMC# 2018-12-037"

3. Stephen L. Nightingale

Subject Matter:

- Project's impacts on public trust and coastal resources, aesthetic and scenic resources, and cumulative impacts; and

Report/Evidence:

- "Boatlift Report"

**CRMC APPLICATION 2018-12-037  
BOAT LIFT ANALYSIS AND REPORT  
BY STEPHEN NIGHTINGALE**

I am an owner of the property at 22 and 28 Waterway, down the street from the property that is the subject of the above-referenced application. I oppose the application, especially the request for approval of a 30,000 lb. boat lift and a jet-ski lift.

CRMC Regulatory and Policy Background

The CRMC's regulations provide:

- "The primary goal of all Council efforts to preserve, protect, and, where possible, restore the scenic value of the coastal region is to retain the visual diversity and often unique visual character of the Rhode Island coast as it is seen by hundreds of thousands of residents and tourists each year from boats, bridges, and such public vantage points as roadways, public parks, and public beaches." RICRMP 1.3.5.A.1
- In Type 2 waters, "The Council's goal is to maintain and, where possible, restore the high scenic value, water quality, and natural habitat values of these areas, while providing for low intensity uses that will not detract from these values." RICRMP 1.2.1.C.2.a
- "Since the Council has determined that boat and float lifts detract from the high scenic value and important visual characteristics of Type 2 waters, and, since these structures may be considered an unacceptable intensification of use within certain public waters designated for low intensity use, boat and float lifts are prohibited from all Type 2 waters" within 16 specified waterbodies, including Wickford Harbor. RICRMP 1.3.1.P.3.c
- "It is the Council's policy to assess all boat and/or float lifts for their appropriateness given site conditions, including impacts on public trust and coastal resources, aesthetic and scenic resources, and cumulative impacts. Boat and/or float lifts in Type 2 waters shall be allowed only for the minimum amount necessary to accommodate a residential dock." RICRMP 1.3.1.P.1.b
- Because boat and float lifts require special justification in Type 2 waters, a full hearing before the Council is required before they can be approved. RICRMP 1.3.1.P.2.b

To evaluate the effect of a particular boat lift on the Bay's scenic values, the Council should consider whether it represents a significant departure from other structures on the Bay in the vicinity of its proposed location.

**CRMC APPLICATION 2018-12-037  
BOAT LIFT ANALYSIS AND REPORT  
BY STEPHEN NIGHTINGALE**

Methodology

The West Passage, within which the proposed boat lift/jet ski lift will be located, is a discrete and particularly scenic area of the Bay. To determine whether the proposed lift would be an outlier in that area with the potential to alter its scenic characteristics, I directed a request to CRMC staff for all files relating to applications for docks in the West Passage. Staff kindly provided me with the files listed in Exhibit B.

I reviewed each of these files and extracted the following information: (i) whether the application included a request for a float or boat lift, (ii) the final action on the application, and (iii) the characteristics of the boat/float lift sought. The results are shown in Exhibit A.

Findings

The boat lifts approved by the Council in the West Passage have been as follows:

In the Saunderstown area (south of the Jamestown Bridge in Narragansett and North Kingstown), the Council has approved a float lift and two boat lifts (a “dinghy lift” and a lift about 10 ft. long). One application for a dinghy lift was returned after having been found deficient. None of these lifts presents the challenges involved in maneuvering a 30,000 boat into a lift in the seas typical of this area. In fact, they would be suitable for storing much smaller boats that could reach a moored boat.

- In North Kingstown north of the Bridge, the Council has approved the modification of a dock to add a 24,000 lb. boat lift and a float lift and the relocation of an existing lift. Another owner withdrew a request for a float lift. As noted, boat lifts are prohibited in Type 2 waters in Wickford Harbor because of their impact on its scenic value.
- In Jamestown, the Council has approved two docks including a 1200 lb. boat lift, a dock with two 6 x 8 ft. lifts for “personal watercraft,” and a dock with a jet-ski lift. One of the 1200 lb. lifts is south of the Bridge. All of the other lifts are to its north.

The proposed dock, by contrast, would elevate a jet ski and a large vessel (up to est. 42’ based on 30,000 lb. lift capacity) above the water. Nothing like it is visible in the West Passage south of the Jamestown Bridge, a relatively undeveloped area with substantial seas resulting from the prevailing breeze. In and

**CRMC APPLICATION 2018-12-037  
BOAT LIFT ANALYSIS AND REPORT  
BY STEPHEN NIGHTINGALE**

off itself, the proposed boat lift would have a substantial impact on the scenic value of the immediate area. When combined with the unprecedented shoreside structure already present on the applicant's property, it will mar the scenic values that the CRMC's regulations specifically protect.

The CRMC has approved more than 20 other docks without lifts in the South Passage, and there are many other sites whose owners could satisfy the requirements for a dock. Each of these would be a candidate for a lift like the one in the application before the Council. If boat lifts of this size were to multiply, they would materially impact the scenic value of the West Passage as a whole.

**Stephen L. Nightingale** has been retired since 2007. He has been a member of Connecticut Historical Society's Board of Trustees since 2010 and a member of the Board of Greater Hartford Legal Aid since 1996, with three years as President of the Board. He is also active in the United Way and hopes to return as a tutor at the Rawson School in Hartford when the pandemic permits. Prior to his retirement, after clerking for a federal judge in New York, he practiced law for 30 years, first with a law firm in Washington, DC, then as a member of the Solicitor General's Office in the US Department of Justice, and finally as an in-house attorney with Aetna and ING. Mr. Nightingale received his A.B. degree from Princeton University and a J.D. degree from Harvard Law School. His wife, Vaughan Finn, was a partner at Shipman & Goodwin. They have two grown children and three grandchildren, live in West Hartford, and share a family property in Saunderstown, RI.

## EXHIBIT A SUMMARY OF CRMC FILES RELATING TO DOCKS IN TYPE 2 WATERS IN WEST PASSAGE

### DOCKS WHOSE APPLICATIONS INCLUDED REQUESTS FOR FLOAT/BOAT LIFTS

<u>File No.</u>	<u>Type of Lift Requested</u>	<u>Action on Float /Boat Lift Request</u>	<u>Location</u>
Pending Request			
2018 - 12-037	30,000 BOAT LIFT JET-SKI LIFT	Pending	Saunders town
<b>South of Jamestown Bridge</b>			
Narragansett/North Kingstown			
1988-11-075	WINCH TO LIFT FLOAT	Approved	Saunders town
2004-03-026	DINGHY LIFT	Approved	Just north of URI
2014-12-015	DINGHY LIFT	Application for Boat Lift Returned	Saunders town
2	~ 10 FT. BOAT LIFT	Approved	Saunders town
Jamestown			
2008-10-13	1200 LB BOAT LIFT	Approved	South of Bridge/North of Dutch Island
<b>North of Jamestown Bridge</b>			
North Kingstown			
2001-5-118	RELOCATION OF EXISTING LIFT SYSTEM	Approved	Fox Island
2002-10-112	FLOAT LIFT	Application Withdrawn	Near Chaffee Rome Point Preserve
2011-04-094	MODIFICATION OF DOCK TO ADD 24,000 BOAT LIFT AND FLOAT LIFT	Approved	Near Fox Island
<b>Jamestown</b>			
2003-07-065	TWO 6 X 8 FT. LIFTS FOR PERSONAL WATERCRAFT	Approved	Across from Fox Island
2006-01-021	JET-SKI LIFT	Approved	Across from Fox Island
2019-12-020	LIFT FOR 12' 1200 LB "TENDER"	Approved	Just North of Bridge

**EXHIBIT B**  
**WEST PASSAGE DOCK FILES PRODUCED BY CRMC STAFF**

Narragansett Files (West Passage)

2002-12-048  
2004-03-026

North Kingston Files

1976-08-010  
1988-11-075  
2001-05-118  
2001-07-073  
2002-07-091  
2002-10-112  
2003-06-002  
2004-01-047  
2005-11-088  
2007-04-007  
2011-04-094  
2014-12-015  
2015-10-106  
2016-12-012

Jamestown Files (West Passage)

1982-01-001  
1985-06-042  
1990-01-032  
1996-01-050  
1999-04-099  
1999-06-060  
2001-01-011  
2001-10-046  
2003-07-065  
2003-12-004  
2006-01-021  
2007-05-043  
2008-01-064  
2008-10-013  
2018-09-095  
2019-12-020  
2020-09-085

2 Windward Dr.  
Barrington, RI 02806  
USA  
+1 401.965.8515 mobile  
[alarie505@gmail.com](mailto:alarie505@gmail.com)

## Peter A. Alarie

### Employment

March 2020-Present

**Project Manager; Grand Prix Resources**                      **Portsmouth, RI**

Managing, maintaining and transporting racing sailboats and private power yachts, charter captain services.

2005-Present

**Professional Sailor, Captain, Coach; PAA Marine Consulting**                      **Worldwide**

Racing, coaching, captaining, and instructing on all types of vessels, from sailing dinghies to 150' Superyachts.

Chosen as Safety Officer for all Superyacht events aboard the 47 meter *Visione*. Managed the *Morning Glory* International Racing Team.

2006-Present

**Chief Instructor; Confident Captain/Ocean Pros**                      **Newport, RI**

Teach US Coast Guard captain's courses and Royal Yachting Association Yachtmaster Offshore shore based and practical classes.

1997-2005

**Owner and Business Manager; Guck, Inc.**                      **Bristol, RI**

Custom boat shop specializing in repairs and modifications to performance sailboats.

1990-1997

**Project Manager; Breakfast Woodworks**                      **Guilford, CT**

Coordinated all elements of construction projects, managing a 12 person workshop.

### Education, Licenses, Certifications

- **Yale University**, History 1989
- **Royal Yachting Association/Maritime & Coastguard Agency** (Certificate 35751) Yachtmaster Offshore, Master of yachts up to 200 Gross Tons on commercially and privately registered yachts.
- **Royal Yachting Association/Maritime & Coastguard Agency** (Certificate 35751) Yachtmaster Instructor for Sail.
- **Royal Yachting Association** Certificate for Shorebased Instruction (RYA Reference #920297903)



- **Royal Yachting Association/Maritime & Coastguard Agency** Maritime Radio Operator Certificate of Competence, Short Range Certificate (Certificate Number Y 758025)
- **US Merchant Mariner Credential** (USA000473389) Master of Self Propelled Vessels-Including Auxiliary Sail of less than 100 Gross Register Tons Upon Inland Waters.
  - Assistance Towing
- **Federal Communications Commission** Marine Radio Operator Permit.
- **International Maritime Organization** Standards of Training, Certification and Watchkeeping for Seafarers (**STCW**) 2010.

# Peter A. Alarie Report on Boat Lift CRMC # 2018-12-037

September 12, 2021

As a professional sailor, boating instructor, avid fisherman, and licensed captain, I have spent hundreds of days on the water in a wide range of vessels, both sail and power. My work has taken me all over the United States, Europe, Australia, New Zealand, South Africa, and South America. I have seen and experienced boating in almost every form, in every imaginable location. In addition, I grew up in North Kingstown, RI, and currently live in Barrington, RI, so I have extensive local experience and I am very familiar with the Saunderstown, RI area and the area for the proposed dock. During the warmer months I am typically on a boat 5-7 days a week, either underway or dockside, and I pay close attention to the wind, sea state, tide and tidal current conditions as part of my work.

Having recently travelled almost every area of the RI waterways, I have only observed 4 boat lifts in what I consider "open water" locations. These open water locations are outside of tight harbors or inlets. Three of the boat lifts are in a cluster on the north end of the Sakonnet River (one is owned by a close friend), and the fourth one is just west of Fox Island, roughly 2 miles north of Saunderstown. The 3 Sakonnet River lifts are for power driven vessels in the 25-30' range, and the Fox Island lift appears to be for a 35' power driven vessel. While all of these lifts are in open water, each of them is in a location that is protected from waves and/or strong, prevailing winds. The Sakonnet location experiences virtually no natural wave state, being 8 miles north of open ocean and well protected by natural land features. In the case of the Fox Island lift, it is sheltered from both the prevailing southerly winds and waves, as it is north facing and tucked into a cove that provides good shelter in almost every weather condition.

I have personally used boat lifts and find them to be challenging in all but the most calm conditions. In July of this year, I went out with the owner of one of the Sakonnet River lifts on his 26' Black Watch power boat. When I arrived at his house, the boat was on a nearby mooring, as the conditions were too rough to use the lift. He rowed out to the boat and brought it into his floating dock where we loaded up for our outing. At the end of the day the wind had settled down and the owner decided to try and put the boat back up on the lift. The wind was about 10knots from the south, and with 4 experienced boaters onboard, it took us three tries to successfully land the boat on the lift. The difficulty was in keeping the boat straight as we approached the lift, and then once we were inside the lift, it was quite a challenge to safely hold it in place while the lift slowly picked up the boat. Even in these moderate wind conditions, the boat was lurching up and down as well as side to side as the wind and waves worked on the vessel. This speaks to the more typical installations that one sees throughout the country; these boat lifts are usually found in small, sheltered areas such as canals or small inlets where the wind and tide are not such a factor.

The proposed boat lift in the Saunderstown location poses a number of problems for practical use. This area is truly open water, with no natural protection from the prevailing southerly wave direction, and significant wave height can be observed here most summer days. In addition to

## Peter A. Alarie Report on Boat Lift CRMC # 2018-12-037

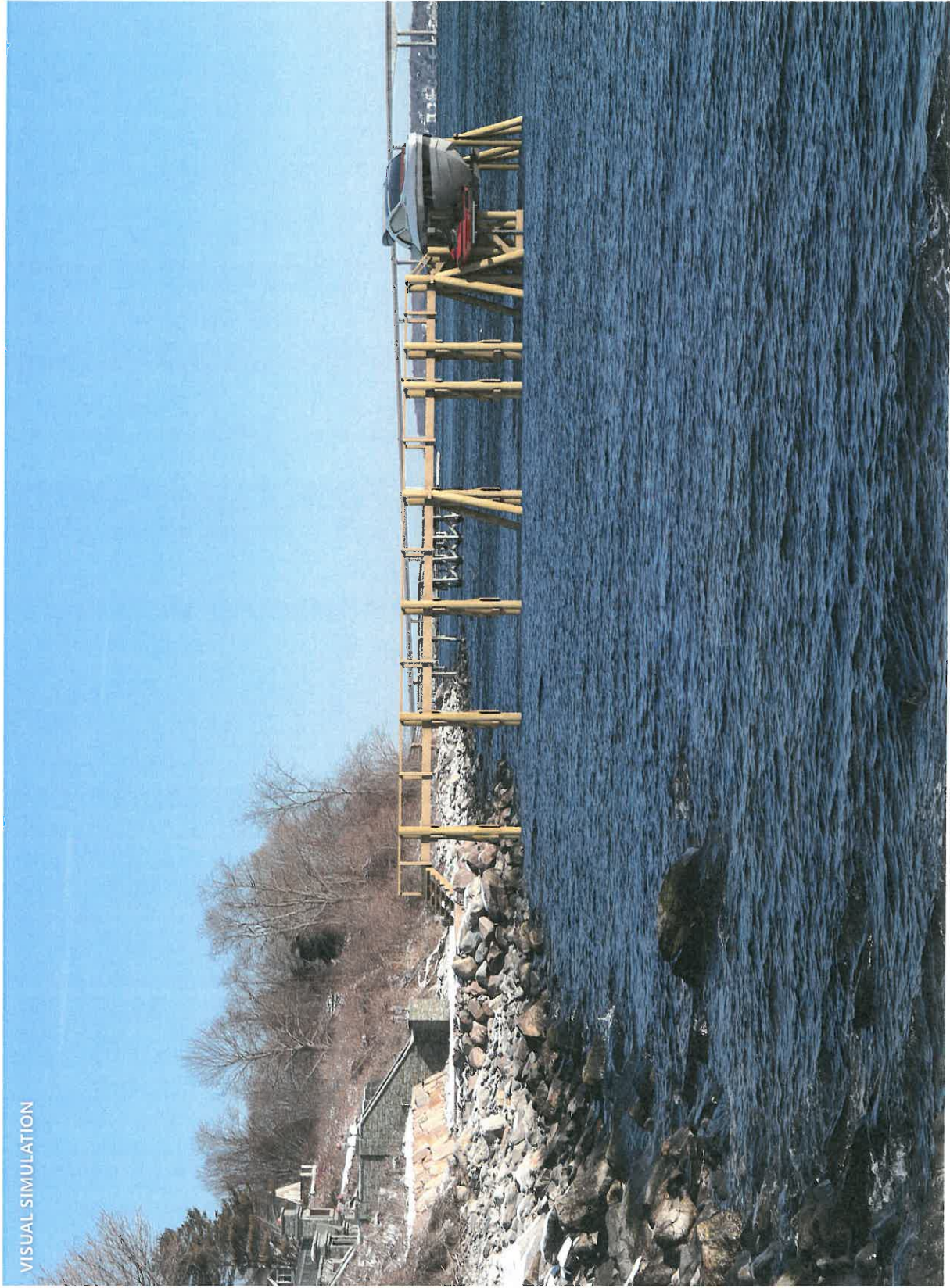
the naturally occurring waves, this is also a popular transit location for boats entering and leaving Narragansett Bay, and their boat wakes add other wave forms. This area is also very exposed to the majority of wind directions, with the southerly winds being both the most common and the most disruptive for the proposed boat lift. On a typical summer afternoon, one would expect to see 13-16 knots of breeze from the south with significant wave height in the 2–4-foot range. Finally, one must consider the expertise of the operator. Use of a boat lift requires a high level of competency, as the boat must be maneuvered into and held in a tight location in ever changing conditions. Obviously, a larger vessel makes all of this even more critical, as there is more windage and mass to account for, and visibility is often limited by the operator's location on the vessel.

The application is for a 30,000-pound lift, enough for a very large yacht. For example, a Silverton 43' Convertible has a published displacement of 28,000 pounds in cruising trim, a draft of 3'7", a beam of 14'11". This vessel would require a minimum of 5' of water depth (for a clearance of only 17" below the hull), and the lift would have to be at least 17'11" wide to allow for 18" of clearance on each side of the boat. These dimensions would be the absolute minimum that would be reasonable for a vessel of this size. I feel that this size vessel would be very difficult to use on a boat lift in the proposed location, and would be reckless for all but the most experienced skipper in all but the most calm conditions. Even a smaller vessel, in the range of 25', would be equally difficult to use in the proposed location.

It is my opinion that the proposed boat lift would be extremely difficult to use in all but the most docile wind and sea conditions. The challenge of using a boat lift is holding the vessel in place while the lift slowly rises. Until the lift has cleared the water's surface, there is significant risk for damage to the hull, as the waves cause the boat to surge up and down, as well as fore and aft. I feel that this is the main reason that one does not see these lifts in open water locations: the wind and waves make it practically impossible to hold the vessel stationary while the lift is rising, a process that can take several minutes. I feel one would need less than 10 knots of wind and wave heights of less than 1 foot to make use of the proposed lift. With this in mind, I would estimate that the lift would be unusable more than 50% of the summer, daylight hours due to these issues.

Captain Peter Alarie

VISUAL SIMULATION



Representative Visual Simulations  
Proposed Residential Pier

Aerial View of Narragansett Bay in the vicinity of  
186 Waterway  
Town of Narragansett  
Washington County, Rhode Island

Viewpoint Technical Data

Camera Type.....Canon EOS 5D Mark IV  
Viewpoint Location.....41.50184° N, 71.42101° W  
Viewpoint Elevation.....12.5 Feet AMSL  
Photograph View Direction.....Northeast  
Horizontal Distance to Proposed Pier.....452 Feet  
Time of Photograph.....1005 AM  
Date Photograph Taken.....February 12, 2021

The residential pier depicted in these visual simulations was modeled on the CIVIC Venance Application D-2019-0302. The model includes the pier structure, site, components, construction, and accessories associated with the intended purpose of the pier and associated periphery structures.



Viewpoint Location and View Direction

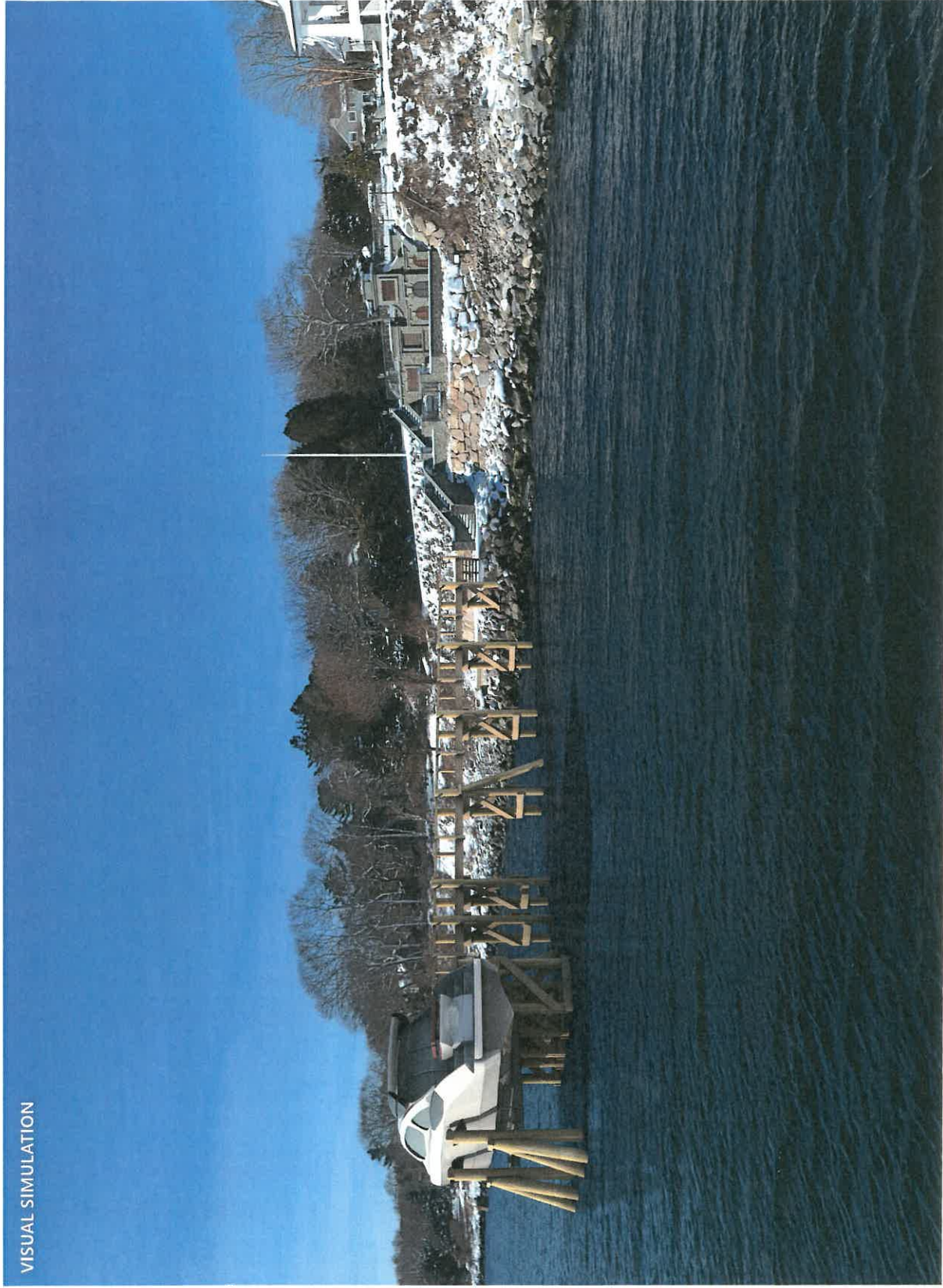
Original Photograph



Prepared For:

Prepared By:  
**D'VIDIO LAW**  
EDR

VISUAL SIMULATION



Representative Visual Simulations  
Proposed Residential Pier

Aerial View of Narragansett Bay in the vicinity of  
165 Waterway  
Town of Narragansett,  
Washington County, Rhode Island

Viewpoint Technical Data

Camera Type.....Phantom 4  
Viewpoint Location.....41.50327° N, 71.41987° W  
Viewpoint Elevation.....11.5 Feet AMSL  
Photograph View Direction.....West Southwest  
Horizontal Distance to Proposed Pier.....115 Feet  
Time of Photograph.....1003 AM  
Date Photograph Taken.....February 12, 2021

The residential pier depicted in these visual simulations was prepared using aerial imagery and data collected on-site. Dated April 9, 2020 and accurately depicts the proposed size, components, construction, and accessories associated with the intended purpose of the pier and associated periphery structures.



Viewpoint Location and View Direction



Original Photograph

Prepared For: Prepared By:



VISUAL SIMULATION



**Representative Visual Simulations  
Proposed Residential Pier**

Aerial View of Narragansett Bay in the vicinity of  
188 Waterway  
Town of Narragansett  
Washington County, Rhode Island

**Viewpoint Technical Data**

Camera Type ..... Phantom 4  
Viewpoint Location ..... 41.50287° N, 71.41893° W  
Viewpoint Elevation ..... 243.3 Feet AMSL  
Photograph View Direction ..... West  
Horizontal Distance to Proposed Pier ..... 322 Feet  
Time of Photograph ..... 10:07 AM  
Date Photograph Taken ..... February 12, 2021

The residential pier depicted in these visual simulations was modeled based on the CDMC Vantage Application Data. The model includes pier size, components, construction, and accessories associated with the intended purpose of the pier and associated periphery structures.



Prepared For: Prepared By:

DOVIDIO LAW EDR



Gordon is a Division Manager, Visualization, with 20 years of professional experience. Gordon is one of the leading expert consultants in Visualization and Visual Impact Assessment in the Northeast and is well known in the renewable energy industry. Gordon has extensive expertise in the technical methodologies associated with visual impact assessment, visual resource assessment, and scenic landscape assessment.

As a Division Manager with EDR, Gordon's responsibilities include the ongoing evaluation and development of our technical methodologies used in visual impact assessment, including new techniques in data collection, processing and analysis, and 3-D modeling. Gordon is also responsible for assigning, scheduling and coordinating assistance from the in-house multi-disciplined team of professionals. He remains hands-on throughout the project, overseeing and advising the EDR Team as needed, as well as providing quality assurance.

### Education

- Bachelor of Landscape Architecture, Ecology Emphasis, State University of New York College of Environmental Science and Forestry, 2001
- Associate of Arts, Keystone College, La Plume, PA, 1998

### Certifications

- Certified Geographic Information Systems Professional (GISP)
- Federal Aviation Association, Unmanned Aerial Vehicle (UAV) Pilot Certification for Commercial Flights

### Professional Affiliations

- Member, Alliance for Clean Energy New York
- Member, American Wind Energy Association

### Employment History

- Division Manager, Visualization, Environmental Design & Research, Landscape Architecture, Engineering, & Environmental Services, D.P.C., Syracuse, NY, 2020-present
- Senior Project Manager, Environmental Design & Research, Landscape Architecture, Engineering, & Environmental Services, D.P.C., Syracuse, NY, 2016-2020

### Project Experience

**Sunrise Wind Farm Project, Visual Impact Assessment, Offshore MA/RI-** Completed the visual assessment associated with state renewable energy development bid process and provided technical oversight of all visual impact studies including field photography and survey, visual simulation, and preparation of the visual assessment report.

**Revolution Wind Farm, Visual Impact Assessment, Offshore MA/RI-** This project includes the on-going preparation of a visual impact assessment associated with an offshore wind farm located off the coasts of Massachusetts and Rhode Island. Senior project manager responsible for technical oversight of all visual impact studies including field photography and survey, visual simulation, and preparation of the visual assessment report.

**South Fork Wind Farm, Visual Impact Assessment, Offshore MA/RI-** This project involved a visual impact assessment associated with an offshore wind farm located approximately 19 miles off the coast of Block Island Rhode Island. Served as senior project manager and provided technical oversight for field photography and survey, curvature of the earth calculations, viewshed methodology, simulations, and report production. Also provided graphic support for public outreach and education efforts.

**Skipjack Wind Farm, Visual Impact Assessment, Offshore DE-** This project includes a full visual impact assessment associated with an offshore wind farm located off the coast of Delaware and Maryland. Provided project management and technical oversight for field photography and survey, curvature of the earth calculations, viewshed methodology, simulations, and report production. Also provided graphic support for public outreach and education efforts.

**Icebreaker Wind Project, Erie County, Cleveland, OH-** This project included Visual Impact Assessment for a proposed 20 megawatt (MW) offshore wind project in Lake Erie. Obtained photographs, assisted with preparation of visual simulations, and oversaw production of Visual Impact Assessment Report.

**NYSERDA Offshore Wind Master Plan –** Completed a Visibility Threshold Study for the New York State Offshore Wind Masterplan to determine the potential visual impact threshold for the placement of offshore wind energy area nominations. The study included an analysis of past weather data to predict prevailing conditions and visibility, visual simulations, and a compendium report.

**Galloo Island Wind Project, Jefferson County, NY-** Prepared Visual Impact Assessment and technique support for proposed 30-turbine wind energy facility located on an island in Lake Ontario.

**Block Island Wind Farm, Block Island, RI-** This project involved a proposed 30 MW wind farm facility located in the Atlantic Ocean, 3 miles off the coast of Block Island. Provided preliminary visual simulations and involved in on-going research associated with daytime and nighttime visibility thresholds of offshore turbines. Also involved in studies associated with the public acceptance of offshore wind farms.

**Long Island Offshore Wind Park (LLOWP), Long Island, NY-** Prepared visual simulations of the Long Island Offshore Wind Park (LLOWP) Project, a proposed 140-megawatt offshore wind power project. Provided daytime simulations of the project from multiple locations on the southern Long Island shoreline. As a sub consultant to ENSR, EDR performed photographic and survey fieldwork and detailed computer modeling to develop realistic simulations of the proposed wind farm. EDR also participated in public outreach meetings and workshops concerning the project.

**Cape Wind Offshore Wind Farm, Nantucket Sound, MA-** Created survey accurate visual simulations for America's first offshore wind proposal. Completed daytime and, first in the industry nighttime visual simulations, depicting a 420-megawatt wind farm. Provided fieldwork oversight and photography from critical points throughout Cape Cod and the Islands.

**BOEM Offshore Visualizations for the MA/RI WEA- Prior to EDR,** Created over 500 surveys accurate visual simulations depicting the BOEM wind energy areas in Massachusetts and Rhode Island. Used digital imaging techniques to depict four seasons and four times of day from each viewpoint. Contracted survey and meteorological experts to produce predictive visibility models.

**Tobacco Valley Solar Farm, Simsbury, CT-** Completed an abbreviated visual assessment for a 26-megawatt solar facility and created a mitigation plan which included vegetative screening, project setbacks from residential properties, and alternative fencing materials. Also testified before the Connecticut Siting Council and participated in settlement negotiations with the Town of Simsbury.

**Canisteo Wind Farm, Steuben County, NY-** Developed a Visual Impact Assessment (VIA) under Article 10 Regulations, for a 122-turbine project. The Visual Impact Assessment Report evaluated potential project visibility within the study area, identified key views, and assessed visual impacts associated with the proposed wind power project. Also completed a Visual Impact Assessment for the associated transmission line under Article VII regulations.

**Alle-Catt Wind Farm, Allegany, Cattaraugus, and Wyoming Counties, NY-** Developed a Visual Impact Assessment (VIA) under Article 10 Regulations for a 117-turbine project. The Visual Impact Assessment Report evaluated potential project visibility within the study area, identified key views, and assessed visual impacts associated with the proposed wind power project.

**Hardscrabble Wind Power Project, Towns of Fairfield, Norway, & Little Falls in Herkimer County, NY-** Developed viewshed maps and created visual simulations for the Visual Impact Assessment (VIA) for a 61-turbine project. Assisted with preparation of the Visual Impact Assessment Report which evaluated potential project visibility within the study area, identified key views, and assessed visual impacts associated with the proposed wind power project.

**Maple Ridge Wind Farm, Lewis County, NY-** Assisted in the completion of a visual analysis for a 320-megawatt wind farm in upstate New York. Completed field verification (balloon study), visual simulations, viewshed analysis, and nighttime impact assessment.

**Jordanville Wind Power Project, Towns of Stark & Warren in Herkimer County, NY-** Developed viewshed maps and created visual simulations for the Visual Impact Assessment (VIA) for a proposed 150 MW, 75-turbine project. The VIA report described visible components of the proposed project, defined the visual character of the study area, and inventoried and evaluated visual resources and viewer groups. The study also evaluated potential project visibility within the study area, identified key views, and assessed visual impacts associated with the proposed wind power project.

**Cohocton Wind Power Project, Town of Cohocton in Steuben County, NY-** Prepared visual simulations for the Visual Impact Assessment (VIA) for an 82 MW, 41-turbine project. Assisted with preparation of the Visual Impact Assessment Report which evaluated potential project visibility within the study area, identified key views, and assessed visual impacts associated with the proposed wind power project.

**Marble River Wind Farm, Towns of Clinton & Ellenburg in Clinton County, NY-** Created visual simulations for the Visual Impact Assessment (VIA) for a 200 MW, 109-turbine project. Assisted with preparation of the Visual Impact Assessment Report which evaluated potential project visibility within the study area, identified key views, and assessed visual impacts associated with the proposed wind power project.

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**Dairy Hills Wind Farm, Towns of Castile, Covington, Perry, & Warsaw in Wyoming County, NY-** Conducted visual field work and created visual simulations for a 160 MW, 80-turbine project. Assisted with preparation of the Visual Impact Assessment Report that described the appearance of visible components of the proposed project, defined the visual character of the study area, and inventoried and evaluated visual resources and viewer groups. The study also evaluated potential project visibility within the study area, identified key views, and assessed visual impacts associated with the proposed wind power project.

**Jamestown Board of Public Utilities Power Plant & Operations Center, Jamestown, NY-** Prepared visual simulations for a 40 MW clean-coal power-generating plant and operations center. Visual impacts of the project were assessed by creating computer models of the proposed facilities and computer-assisted visual simulations of potential impacts as viewed from representative viewpoints. Assisted with preparation of Visual Impact Assessment Report that evaluated project visibility and visual impact on sensitive receptors and identified mitigation options, which included recommendations regarding design and siting, the color and texture of built materials, and lighting.

**Clear River Energy Center & Burrillville Interconnection Project, Burrillville, RI -** Prepared a visual impact assessment for a proposed 900 MW natural gas generating plant and interconnection transmission line. Visual impacts of the project were assessed by creating computer models of the proposed facilities and computer-assisted visual simulations of potential impacts as viewed from representative viewpoints. Provided expert witness testimony before the Rhode Island Energy Facilities Siting Board.

**Southern Rhode Island Transmission Project, East Greenwich, RI-** Completed photography and field verification for a 7.3-mile 115kV transmission line and associated substation. Created visual simulations representing realistic and accurate right-of-way clearing and proposed improvements. Provided expert witness testimony before the Rhode Island Energy Facilities Siting Board.

**Flat Rock Transmission Line, Lewis County, NY-** Performed viewshed mapping, line of sight cross sections and field verification for visual impact assessment of a 10-mile, 230 kV transmission line. Also prepared eight photo simulations of the proposed project.

**New York Regional Interconnect, New York State-** Coordinated field operations for over 1000 visual resources over a 190 Mile (570 Square Mile) Study area. Team leader in the selection and production of simulation for over 75 viewpoints. Provided expert witness testimony before the Public Service Commission of New York State.

**Empire Newsprint Recycling & Power Plant, Rensselaer County, NY-** Created an architecturally detailed 3-D model and photo simulations of a proposed power plant (including cooling tower and stack plumes) and an associated 345 kV transmission line. Also assisted with fieldwork involving photo documentation of existing views. Simulations were part of a Visual Impact Assessment for the proposed project, prepared as part of the PSC Article VII application.

**New York State Statewide Wireless Network-** Developed visual simulations for the Generic Visual Impact Assessment (GVIA) included as an appendix of the DEIS prepared for the siting of wireless communications towers throughout New York State. The report defined landscape similarity zones and viewer groups, identified sensitive resources/receptors, supervised the development of visual simulations, and participated in the preparation of the GVIA report.

**Tompkins County Public Safety Communications System, Tompkins County, NY-** Developed viewshed maps and visual simulations for Visual Impact Assessment component of the Draft Environmental Impact Statement (DEIS) prepared for the siting of nine new towers for wireless communications.

**Bushkill Communications Tower, Town of Bushkill, PA-** Conducted fieldwork and prepared viewshed maps and visual simulations to evaluate the visibility and visual impact of a proposed wireless communication facility. The focus of the evaluation was the project's potential impact on the Delaware Water Gap National Recreation Area. Analytical results were used by the project developer in negotiations with National Park Service.

**Kaal Rock Connector, City of Poughkeepsie, NY-** Prepared a Visual Assessment for three design alternatives associated with a multiuse trail connection on the Historic Hudson River. Completed simulations for the three concept designs and designed a rating system to determine the design with the greatest visual appeal. Completed an abbreviated visual assessment report to assist regulators in decision-making.

**Hudson River Proposed Anchorage Areas, NY-** Prepared animated fly-through videos using drone footage and 3D overlays from Yonkers to Poughkeepsie, New York to demonstrate the visual effects of a proposal by the United States Coast Guard to create several new anchorage areas along the shores of the Hudson River. This fly-through animation was used in a media campaign to stop the permitting of the anchorage areas.

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**Interstate 81 (I-81) Viaduct Project, Visual Impact Assessment, City of Syracuse, Onondaga County, NY**- Prepared a Visual Impact Assessment that was conducted in accordance with Federal Highway Administration (FHWA) Visual Impact Assessment protocol as part of NEPA review as part of a consultant team with Parsons, AKRF, Inc., and TWMLA for the replacement of approximately 5 miles of elevated Interstate highways in the City of Syracuse, New York (NYSDOT PIN 3501.60, D031085).

**NYS Route 3 Community Development Study, Jefferson County, NY**- Provided graphic and technical assistance in this highway corridor development guideline package prepared for the Tug Hill Commission. Assisted in creating a professional, full-length video and a 150 slide DVD presentation with 3-D animations and videography.

**University Avenue, Syracuse, NY**- This project included recommendations and guidelines for street improvements along University Avenue, a main corridor onto the Syracuse University campus. Responsible for creating photo-renderings from conceptual plans that illustrated the proposed improvements to pedestrian and vehicular spaces.

**Hamlet of Brewerton Revitalization Project, Onondaga County, NY**- *Prior to EDR*, This project included a multimillion-dollar highway and park design improvement project. Provided expertise in state design guidelines and federal grant guidelines. Presented at major televised public outreach events.

**Walden Pond Shoreline Erosion Assessment & Monitoring**- *Prior to EDR*, Designed a system by which MASS DCR can photographically document erosion rates and severity. Produced an interactive map package which allows the user to compare multiple years of erosion data and photographs. Provided field survey and documentation to demonstrate to rate of erosion.

**Town of Dennis Comprehensive Dredge & Beach Nourishment Plan, Town of Dennis, MA**- *Prior to EDR*, Completed dredge design and grading for the Bass River and associated mooring basins. Created permitting drawings for dredge and beach nourishment using LIDAR and bathymetry survey data. Assisted the Town of Dennis in a cost benefit analysis to prioritize dredging activity.

**Winchester Country Club Course Expansion, Winchester, MA**- *Prior to EDR*, Provided the design, grading and permitting for a 15-acre golf course expansion. Provided expertise in invasive species management and wetland buffer enhancement. Performed cut fill calculations and watershed analysis.

## Additional Employment History

- Project Scientist – Visualization and GIS Specialist, ESS Group, Inc., East Providence, RI, 2011-2016
- Senior Visual Analyst, Project Manager, Saratoga Associates Landscape Architects, Architects, Engineers, and Planners, P.C., Syracuse, NY, 2008-2011
- Project Manager and Visualization Specialist, Environmental Design & Research, Syracuse, NY, 2001-2008

## Publications and Presentations

- NYSERDA Learning from the Experts, a webinar series. The Science of Visibility June 23, 2021
  - Perkins, Gordon W., "The Application of Lidar Data for Determining the Area of Potential Effect Associated with Offshore Wind Projects on the Outer Continental Shelf" (2019). Visual Resource Stewardship Conference. 13. <https://digitalcommons.esf.edu/vrconference/13>
  - Southern New England Offshore Wind Energy Science Forum. University of Rhode Island . Graduate School of Oceanography 2017. Speaker on Community Impacts.
-

East Pond – East Side: Commencing at an approximate point (E 330745, N 112813) running approximately 920' +/- in a northwesterly direction to an approximate point (E 330056, N 113240), thence running in a southwesterly direction approximately 3600' +/- to an approximate point (E 328617, N 109884), and running in a northeasterly direction, 50' offset from the shoreline/docks, to the point of origin. The approximate area of this mooring field is 1,102,400 sq. ft. (25.3 acres).

East Pond – West Side: Commencing at an approximate point (E 328378, N 111718) running approximately 300' +/- in a southeasterly direction to a point (E 328658, N 111573), thence running 2600' +/- in a southwesterly direction to an approximate point (E 326752, N 109775), then running 250' +/- in a westerly direction to an approximate point (E 326503, N 109755), and running in a northeasterly direction, 50' offset from the shoreline/docks, to the point of origin. The approximate area of this mooring field is 506,735 sq. ft. (11.6 acres).

Stallion Cove: Commencing at an approximate point (E 326057, N 112302), thence running approximately 400' +/- in a westerly direction to an approximate point (E 325660, N 112258) thence running in a southerly direction to an approximate point (E 325927, N 111709), then running in an easterly direction 150' +/- to an approximate point (E 326067, N 111749), and running in a northeasterly direction, 50' offset from the shoreline/docks, to the point of origin. The approximate area of this mooring field is 114,601 sq. ft. (2.6 acres).

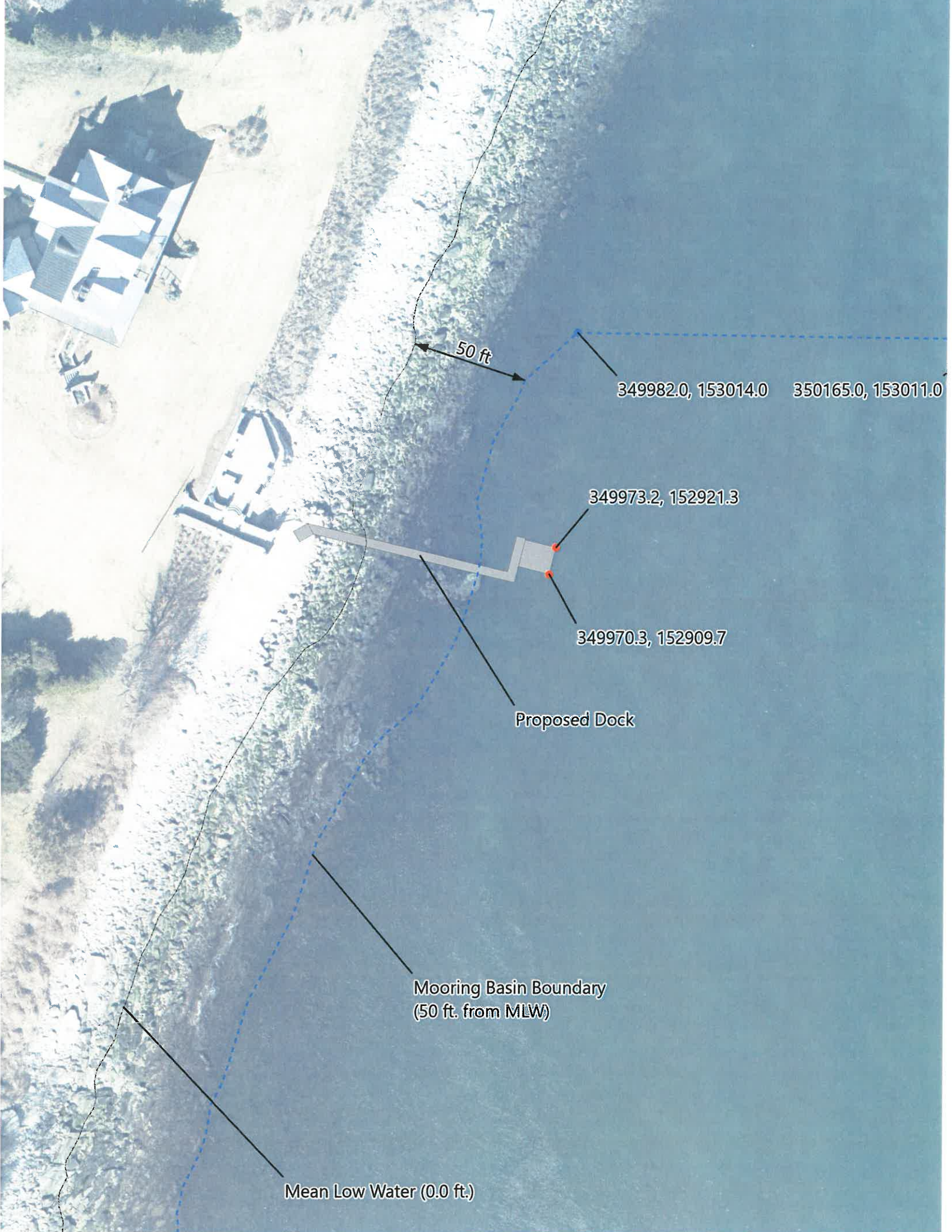
Potato Island: Commencing at an approximate point (E 326919, N 114066) thence running in a southerly direction for approximately 1425' +/- to an approximate point (E 326732, N 112658) thence running in a northeasterly and then a northwesterly direction, 50' offset from the shoreline/docks, to the point of origin. The approximate area of this mooring field is 735,518 sq. ft. (16.8 acres).

### **Mooring Area C**

South Ferry: Commencing at an approximate point (E 349982, N 153014) running approximately 175' +/- in an easterly direction to an approximate location at (E 350165, N 153011), thence running in a southerly direction approximately 3900' +/- to an approximate point at (E 350292, N 149118), thence running northwesterly for approximately 700' +/- to an approximate point (E 349814, N 149600) and running in a northerly direction, 50' offset from the shoreline/docks, to the point of origin. The approximate area of this mooring field is 1,728,370 sq. ft. (39.6 acres).

Riverdell: Commencing at an approximate point (E 342101, N 152470), running approximately 85' +/- in a westerly direction to an approximate point (E 342012, N 152478), thence running in a southerly direction approximately 430' +/- to an approximate point (E 342012, N 152046), then running in an easterly direction approximately 215' +/- to an approximate point (E 342232, N 152053), and running in a northerly direction, 50' offset from the shoreline/docks, to the point of origin. The approximate area of this mooring field is 81,697 sq. ft. (1.8 acres).

Pettaquamscutt: Commencing at an approximate point (E 342431, N 151405), running in a southerly direction approximately 500' +/- to an approximate point (E 342436, N 150900), then running in an easterly direction approximately 200' +/- to an approximate point (E 342642, N 150900), and running in a northerly direction, 50' offset from the shoreline/docks, to the point of origin. The approximate area of this mooring field is 71,011 sq. ft. (1.6 acres).



349982.0, 153014.0 350165.0, 153011.0

349973.2, 152921.3

349970.3, 152909.7

Proposed Dock

Mooring Basin Boundary  
(50 ft. from MLW)

Mean Low Water (0.0 ft.)

50 ft



October 13, 2021

Sent via [tsilvia@crmc.ri.gov](mailto:tsilvia@crmc.ri.gov)  
[jwillis@crmc.ri.gov](mailto:jwillis@crmc.ri.gov)

Tracy A. Silvia  
Sr. Environmental Scientist  
Coastal Resources Management Council  
Oliver Stedman Government Center  
4808 Tower Hill Rd, Suite 116  
Wakefield, RI 02879

Re: **CRMC Application 2018-12-037**

Dear Ms. Silvia:

This office reviewed the staff report for the above-referenced matter. We thank you for noting the circuitous history of this application and the edits to the prior staff reports reflecting the information provided by our experts and my office. However, the report contains an internal inconsistency that is misleading, which should be corrected - or at a minimum, the Council members should be apprised of the misleading statement at the upcoming hearing in this matter. We ask that this letter be made part of the CRMC record in this matter. Please confirm same.

The internal inconsistency is between Section B.4 and 6 and Section C.4. In sum, the Town/Harbor Management Commission **DID NOT** sign off on the 50' setback mooring field issue on May 5, 2020, because, as noted by you, neither CRMC nor the Commission were aware of the issue on May 5, 2020. Instead, as noted by you, the ..."Commission re-heard the proposal on 9/7121 and voted to place the matter on file."

Section B.4. notes that the "...[a]lthough the mooring field location/setback was not included on the plans reviewed, staff presumed the Commission reviewed the project relative to its Harbor Management Plan which includes mooring fields."

Section B.6 notes "Additionally, the Town of Narragansett's Harbor Commission re-heard the proposal on 9/7121 and voted to place the matter on file. That motion results in no additional formal action at this time from the Town."

Section C.4 states, "The Narragansett Harbor Management Commission met on May 5, 2020, and approved the boating facility 6-0 without discussion. **...[h]owever past CRMC practice is to consider a Town signoff on a mooring issue as support for the setback variance.**" (Emphasis added)

The Commission specifically and intentionally avoided a vote to approve, deny or “sign-off” on the application; in particular, as to the 50’ setback issue, **because the applicant did not request relief from the 50’ setback**, as such, there was nothing for the Commission to rule upon.

CRMC approved Town of Narragansett Mooring Field Ordinance 72 Art. IV Div. 5 Sect. 82-200:

All designated mooring fields sited within the tidal waters of the town shall not be established, nor any vessel moored or anchored, so as to interfere with the free and unobstructed use of channels, fairways, or shore side facilities within the harbor. Public mooring areas shall provide, where possible, a 50-foot setback from all residential docks, piers, floats, public launching ramps, federal navigation channels, fairways, anchorages, and/or turning basins. If an approved public mooring area conflicts with an application for the new construction or addition to a residential deck, pier or float, then the applicant may request relief from the recommended 50-foot setback from the harbor management commission. If the relief is approved by the harbor management commission, then the harbor management commission shall recommend to the town council an amendment to the approved mooring area. Setback limits from riparian moorings and shoreline public rights-of-way shall be sufficient to allow for ingress and egress and to prevent interference with the exercise of private or public rights in these areas. Mooring areas shall be setback least three times the U.S. Army Corps of Engineer' authorized project depth from federal navigation projects (e.g., navigation channels and anchorage areas).

Respectfully submitted,  
Ms. Robin Squibb,  
By her Attorney:



Christopher A. D'Ovidio





February 8, 2021

Sent via [tsilvia@crmc.ri.gov](mailto:tsilvia@crmc.ri.gov)

Ms. Tracy Silvia, Sr. Environmental Scientist  
Coastal Resources Management Council  
Stedman Government Center, Suite 116  
4808 Tower Hill Road  
Wakefield, RI 02879-1900

Re: **CRMC Application 2018-12-037**

Dear Ms. Silvia:

Attached, please find a report prepared by EA Engineering Science and Technology, Inc. ("EA"), on behalf of Ms. Sally Robinson Squibb, regarding the above-referenced application. The EA report and the information below, shall supplement the objections previously submitted by the office.

I. **Proposed Activity will have Adverse Impacts on Coastal Resources**

The project will significantly impact coastal resources and, therefore, should be denied and/or modified to mitigate impacts.

Section 1.2.1(C)(2)(a) states it is the Council's goal is to maintain and, where possible, restore the high scenic value, water quality, and natural habitat values of Type 2 waters, while providing for low intensity uses that will not detract from these values.

Section 1.2.1(C)(2)(c) requires the applicant to demonstrate that there will be no significant adverse impact to coastal resources, water dependent uses or public's use and enjoyment of the shoreline and tidal waters of the State. If an impact exists, it is grounds for denial or modification of an application for an Assent.

A. **Scenic Values**

Section 1.3.5 Policies for the protection and enhancement of the scenic value of the coastal region, provides, in relevant part:

The primary goal of all Council efforts to preserve, protect, and, where possible, restore the scenic value of the coastal region is to retain the visual diversity and often unique visual character of the Rhode Island coast as it is seen by hundreds

of thousands of residents and tourists each year from boats, bridges, and such public vantage points as roadways, public parks, and public beaches.

Section 1.3.5(a)(1).

B. Boat Lift Standards

Section 1.3.1(p)(3)(c), states the negative impacts of boat lifts:

... [t]he Council has determined that boat and float lifts detract from the high scenic value and important visual characteristics of Type 2 waters...”

Section 1.3.1(p)(1)(b) defines CRMC’s boat lift review standards:

It is the Council’s policy to assess all boat and/or float lifts for their appropriateness given site conditions, including impacts on public trust and coastal resources, aesthetic and scenic resources, and cumulative impacts. Boat and/or float lifts in Type 2 waters shall be allowed only for the minimum amount necessary to accommodate a residential dock.

Section 1.3.1(p)(2)(c) requires CRMC to review a boat lift, separate and apart from its review of a residential boating facility. As such, the efficacy of a residential boating facility should not be dependent on a boat lift. Section 1.3.1(p)(2) states:

Boat and float lifts (defined in § 1.1.2(A)(18) of this Part) are considered by the Council to be accessory structures to residential boating facilities, and as the Council only approves or denies a recreational boating facility on the merits of the structure given existing site conditions, boat and/or float lift requests shall not be deliberated by the Council unless the Council has separately or previously approved an application for a residential boating facility. Such an application for a residential boating facility may include a request for a boat and/or float lift; however, the Council shall not weigh the benefits or disadvantages of a boat or float lift as an argument for a residential boating facility approval or denial in its deliberations of a residential boating facility application.





1. The residential boating facility and the boat lift will have Adverse Impacts.

The Applicant failed to demonstrate that the residential boating facility and/or the boat lift will not have adverse impacts to Coastal Resources. The application merely (and erroneously) states:

[t]his pier will be in conformance in [sic] with surrounding area. There are exiting piers within the area.

In reality, the proposed dock length and boat lift are incongruent to this area. The area has seasonal moorings and seasonal 50' docks in the immediate vicinity (not 72' permanent docks). There are no boat lifts. This atypical dock and boat lift will mar the neighbors' viewsheds. The applicant has not provided sufficient evidence to demonstrate that § 1.2.1(C)'s polices to maintain high scenic values are met, as required by § 1.2.1(C)(2)(d).

Moreover, the applicant has not satisfied the minimum information required by section 1.3.1(p)(1)(b); i.e., "the minimum amount necessary to accommodate a residential dock." At a minimum, the additional 22' protrusion unnecessarily detracts from the neighbors' scenic viewshed.

C. Water Dependent Uses

Section 1.3.1(A)(1)(g) requires the applicant to demonstrate that the project will not result in significant conflicts with water dependent uses and activities, such as, recreational boating, fishing, swimming, navigation, and commerce.

The application asserts, "Water adjacent to the proposed pier are not deep enough and [sic] to support any active recreational boating, fishing and navigation, or commerce activities." If true, the dock has no utility because, the applicant could not use these waters with his recreational boat.

Notwithstanding the self-proving statement that the dock has limited utility, the public's use and enjoyment of the near shore will indeed be impacted by this dock. Years ago, the Narragansett Harbor Master directed Ms. Squibb to remove her outhaul, which extended beyond her seasonal dock. Removal was necessary to prevent small recreational vessel propellers from snagging the outhaul line. Ms. Squibb regularly sees near shore users, such as: small fishing boats, long distance swimmers, paddle boarders, kayakers, canoers, rowers as well as small sailboats. The near shore water is calmer than further away from the shore. If the subject application is approved these users will be impacted by having to pass through the mooring field, or worse, traverse deeper waters with stronger currents and navigate the comings and goings of a large power boats and jet skis. Eliminating the additional unnecessary 22' of dock would mitigate water-dependent user conflicts.

In closing, Ms. Squibb respectfully objects to this application and requests a hearing to present evidence in support of her objections.

We thank you in advance for your attention to and consideration of these comments.

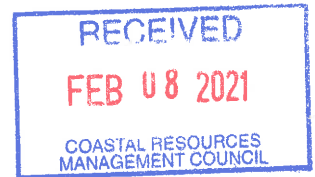
Respectfully submitted,  
Ms. Robin Squibb,  
By her Attorney:



Christopher A. D'Ovidio

**Enclosure (1)**





## TECHNICAL MEMORANDUM

**TO:** Christopher D'Ovidio  
**FROM:** Jonathan D. Alvarez, CPG, EA Project Manager  
**DATE:** 5 February 2021  
**SUBJECT:** Regulatory Consistency Review  
CRMC Application # 2018-12-037  
166 Waterway Drive  
Saunderstown, Rhode Island  
EA Project No. 63548.01

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EA Engineering, Science, and Technology, Inc., PBC (EA) hereby presents D'Ovidio Law (D'Ovidio) with the results regulatory consistency review of the application materials submitted to date for a proposed residential boating facility (the Project) for the above referenced site.

### KEY FINDINGS

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- The residential boating facility as designed would require drilling ledge anchors and rock sockets where each piling is not capable of being driven in to the subsurface. As such, the applicant would be required to seek a variance from §1.3.1.D.11(r) due to the intent to core and grout each pier location as specified by the engineer in the Application;
- The project currently identifies the need for 40 pilings across the 111' of developed length. A review of the existing residential boating facilities in the West Passage of Narragansett Bay indicates the scope and size of the proposed Project would make it one of largest private recreational facilities in the waters of the West Passage;
- The residential boating facility as designed would project into the existing Town of Narragansett South Ferry municipal mooring area. As such, it would (i.) require a CRMC variance from § 1.3.1.D.11(m); and (ii.) require relief from the recommended 50' setback from the Narragansett Harbor Management Commission. If the relief is approved by the Harbor Management Commission, then the Harbor Management Commission shall recommend to the Town Council an amendment to the approved mooring area, thereby reducing the overall size of the mooring basin immediately adjacent to the proposed facility;
- While the Revised Application (April, 2020) reduced the length of the previously proposed facility by 3.0', the proposed facility has increased the capacity of the boat lift to 30,000-lbs.;
- The residential boating facility as designed and presented to Coastal Resources Management Council (CRMC) does not appear to meet the six criteria for issuance of a variance to the



standards established in § 1.3.1.D.11, of the Coastal Resources Management Plan (CRMP) as administered by the CRMC; and

- The Applicant incorporated recommendations from CRMC staff to minimize the length, reducing the design by 3', however did not address relocation of the facility to the north.

## 1. SUMMARY OF SCOPE

Mr. Jon Janikies (the Applicant) is proposing a recreational boating facility at 166 Waterway Drive in Saunderstown, Rhode Island. While the property is identified in Saunderstown, the property straddles two towns, with the residential structure in North Kingstown and the dock under consideration located in Narragansett. This regulatory consistency review only considers the portion of the property which is in Narragansett, and the regulatory programs of the Town of Narragansett. EA has reviewed the following relevant permit applications and Client document:

- December 13, 2018 – Application 2018-12-037
- January 2, 2019 – Public Notice/Application Package (29 pages)
- February 1, 2019 – Squibb Objection Letter (4 pages)
- February 6, 2020 – Revised Plans (11 pages)
- April 2, 2020 – Revised Plans (10 pages)

EA has reviewed the above-mentioned documents against both the Town of Narragansett and CRMC regulations related to permitting and variances, where applicable for the construction of a new recreational boating facility at the Property. From this review, EA developed the following technical work products that consider regulatory consistency and offer considerations to the likely impacts of the project and offers comments to the Client.

## 2. CRMC RED BOOK CONSISTENCY REVIEW

The Applicant submitted an Application for State Assent (2018-12-037) on December 13, 2018. The Project application to CRMC includes the following project description:

“Construct and maintain a 4' x 114.3' residential pier with a 10,000# boat lift and a 4 post 4 motor float lift. Pier to extend 75' beyond mean low water. Variance is requested from CRMC §1.3.1.D.11.1”.

The applicant submitted a Revised Application for 2018-12-037 on February 6, 2020. The project included the following revised description:

1) Pier now proposed to extend 85' beyond mean low water.

2) Boat lift is now located at end of pier, where the water depth is 6.5' during a low tide.

3) New jet ski lift added to the south end of the fixed access pier.

The applicant subsequently submitted a second Revised Application for 2018-12-037 on April 2, 2020. While the submittal did not include a summary of the revisions, EA would opine the

following from statements made by the Applicant's engineer in a letter dated September 21, 2020:

- 1) Pier now proposed to extend 72' beyond mean low water.
- 2) Boat lift is now located at end of pier, where the water depth is 5.0' during a low tide.
- 3) Boat lift has increased in capacity to 30,000-lbs.
- 3) Jet ski lift previously added to the plans remains along the south end of the fixed access pier.
- 4) Applicant intends to use his mooring during storm events.

EA therefore summarizes the Revised Application to be for the following for the purposes of this consistency review:

**To construct and maintain a 4' x 111' residential pier with a 30,000-lb boat lift, a 3-post mounted jet ski lift with motor, and a 12-post 4-motor float lift. Pier to extend 72' beyond mean low water.**

EA has reviewed the entirety of Sections 1.3.1.D.11 (Residential Boating Facilities), 1.3.1 (P) and 1.1.7 (Variances) and provides the following comments:

#### **2.1 § 1.3.1. D.11(l)**

The Applicant is seeking a variance from §1.3.1.D.11 (l) to construct a new dock that would extend beyond the allowable length by 22 feet. Specifically, §1.3.1.D.11 (l) (residential docks, piers and float standards) states:

*Residential and limited recreational boating facilities shall not extend beyond that point which is: (1) 25% of the distance to the opposite shore (measured from mean low water), or (2) fifty (50) feet seaward of mean low water, whichever is the lesser.*

The Applicant had stated in the 2018 application the variance was required due to the presence of a large rock in the path of the proposed facility. EA has reviewed the Applicant's engineering plans and the supporting documentation of a letter dated December 10, 2018 from the Applicant's engineer stating in Section (A) 1.b:

"In order to provide clearance beyond an existing large rock outcrop, it is requested to extend an addition 25'". (Page 19 of 29 in Application PDF)

The applicants' February 2020 revised plans sought an additional 10 feet of variance above that which was sought in the original 2018 application (increase from a 25-foot to 35-foot variance seaward from MLW) was not explained at the time. The April 2020 revised plans seek a variance to install the facility 22-feet seaward of MLW.

Should the facility be relocated to avoid the rock, a variance would not be required and provide the Applicant with a facility that offers a reasonable use to access the adjoining waters where the Applicant has a mooring.

## 2.2 §1.3.1.D.11 (m)

EA has measured the bounds of the Town of Narragansett's municipal mooring basin to be approximately 50 feet seaward of mean low water adjacent to the Applicant's shore, and as such, would be coincident with the seaward limit of a conformable dock under § 1.3.1.D.11(l). Additionally, EA has mapped the occurrence of moorings and moored vessels immediately adjacent to the Applicant's proposed pier and would consider the tidal waters as satisfactory to support active recreational boating, fishing, navigation and commerce, contradicting the Applicant's statement in a December 10, 2018 letter to CRMC. In consideration of this condition, EA would offer the following comments where:

§1.3.1.D.11 (m) states:

*"All residential and limited recreational docks, piers, and floats shall meet the setback policies and standards contained in municipal harbor management plans and/or harbor ordinances approved by the Council. However, in all cases, residential and limited recreational docks, piers, and floats shall be setback at least fifty (50) feet from approved mooring fields and three-times the U.S. Army Corps of Engineers authorized project depth from federal navigation projects (e.g., navigation channels and anchorage areas)."*

EA would assume that the Applicant be required to seek a variance from §1.3.1.D.11 (m). Additional documentation that would be required to gain relief from the Town's Harbor Management Plan is included in Section 3.0 herein.

## 2.3 §1.3.1.D.11(r)

Bedrock is suspected of being a shoreline feature in the vicinity of the Applicant's Project, and is considered on Sheet 9 of 10 of the Applicant's engineered drawings. The engineered detail includes the following specifications for ledge anchors and rock sockets that would be added in each instance where driven piles would not achieve 10 feet of penetration:

- Ledge anchor – 4' deep carbide rock drill bits set in grout and bolted to wood piles
- Rock sockets – 10' deep augured hole through ledge set with filter stone

In consideration of this condition, EA would offer the following comment where:

§1.3.1.D.11(r) states:

*"Geologic site conditions shall exist which are appropriate for driven pile structural support."*

EA reviewed the Applicant's engineered plans and found that in addition to the statement included in Section 2.1.1 herein, the Applicant's engineer stated in Section (A) 4.a of the 2018 application:

*"The proposed extension will provide the clearance from the existing rock outcrop to allow the facility to safely operate. (Page 20 of 29);"*

And in Section (A) 5.a of the 2018 application:

*“Limiting rock outcrops are present at the site and are a natural condition”.* (Page 20 of 29).

EA would question the ability to readily install “driven pile structures” as evidenced by the depiction of cored ledge anchors extending 4 feet and rock sockets augered 10 feet below ledge for each occurrence where a pile would not be capable of being driven beneath bedrock. Due to the absence of site specific geotechnical information, EA considers the conditions where many of the proposed vertical and batter piles will not be “appropriate for driven pile structural support” and may require rock coring and grouted sockets as suggested by the Applicants submission. As such, as reviewed and included by the Applicant’s engineer, EA has reviewed §1.3.1.D.11(r) and found the application would require a variance of said section due in part to the geologic site conditions, notably the likelihood to core and grout ledge anchors and auger rock sockets for each pile where the minimum required 10-foot driven depth is not achieved.

## 2.4 §1.3.1.P

EA has reviewed the standards in Section 1.3.1 (P) and the contents of the Application, notably the Applicant’s Revised Plans. EA offers the following comments where:

§1.3.1.P.4(a) states:

*“Boat lift and float lift structures may only be authorized as an accessory structure connected to a fixed pier or shoreline bulkhead. When raised, the gunwale of the vessel or the deck of the float shall not be any higher than the deck of the fixed pier or shoreline bulkhead to which it is attached, or the bottom of the vessel or float shall not be greater than five (5) feet above the high tide level, whichever is lesser. When a lift system can allow a vessel or float to be raised higher than this standard, then mechanical stops limiting the height allowance must be employed.”*

EA reviewed the Applicant’s engineered plans and found that the 30,000-lb boat lift will have “...stop blocks to prevent the gunwale of vessel from elevating above deck elevation of 12.0’”. EA reviewed the plans and scaled depictions that use MLW as the vertical datum. In the raised position, a vessel as depicted would be required to have a gunwale height above the lift <1.8-feet to not exceed the height of the adjacent fixed pier. For context however, a fully loaded vessel of approximately 10,000-lbs (vessel, fuel and (2) 300hp outboards) with an 8.5-foot beam would have a gunnel height of approximately 4.0’ above the lift (e.g. Grady White Canyon 271). That example vessel would require the lift blocks to be maintained at an elevation 4.0-feet below the adjacent fixed pier at 8.0 feet or there about. A vessel that approaches the upper load of 30,000-lbs, while maintaining the 10-foot proposed lift width, would presumably have a deeper draft and/or gunwale height.

## 2.5 CRMC Section 1.1.7 – Variances

The Application includes a letter, dated December 10, 2018, addressing the Applicant’s requirement to prove meeting the six criteria for issuance of a variance. In consideration of

the findings in Section 2.1, EA provides the following comment on the Applicant's burden to prove meeting the six criteria for issuance of a variance:

- Criteria 1: *The proposed alteration conforms with applicable goals and policies of the Coastal Resources Management Program.*

EA Comment:

In reviewing §1.3.1.D.11, the Application does not appear to meet the applicable goals and policies of the Coastal Resources Management Program as it relates to § 1.3.1.D.11 (l), § 1.3.1.D.11(r), and § 1.3.1.D.11 (m) outlined herein.

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

EA Comment:

EA has reviewed the standards in Section 1.3.1.D.11 and the contents of the Application, notably the Applicant's Revised Plans (Sheet 10 of 10, April 2, 2020) and the proximity of the adjacent Town of Narragansett municipal mooring field. EA has found that a use conflict exists as outlined in 1.3.1.D.11 (m), whereby the Applicant has not considered the encroachment of the municipal mooring basin and the required variances required from both CRMC and the Town of Narragansett.

- Criteria 3: *Due to conditions at the site in question, the applicable standard(s) cannot be met.*

EA Comment:

The presence of a rock, depicted as an approximate 7x10-foot boulder, **and** water depths inadequate for vessel operations as depicted in the 2018 permit and revisions, would not justify cause for an additional seaward extension of the project as included in the Revised Plans. It could be argued that existing conditions of the shore limit some uses, including larger vessels, but does allow reasonable use of the shore with a facility that satisfies the standards set forth in § 1.3.1.D.11 exists without a requested variance.

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

EA Comment:

Based on a review of the Applicant's proposed design, the 22-foot seaward extension of the Project is not the minimum reasonable alteration of the site to achieve a useful recreational boating facility. It is the opinion of EA that the applicant may have a reasonable use of a facility that satisfies the standards set forth in §1.3.1.D.11. For example, the applicant may construct a facility that meets the standards set forth in §1.3.1.D.11 to access the client's



mooring in the abutting municipal mooring field, many of which are visible in this portion of the municipal mooring field in Figure 1.

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

EA Comment:

EA has reviewed aerial imagery for the Applicant's adjoining property which will serve as means of conveyance to the dock. Beginning in or around 2010, the Applicant sought to reconstruct (CRMC 2009-06-048, 2009-08-062) a large coastal recreational facility on the shore. In proposing the new Project, it would appear the Applicant is seeking a variance as a result of connecting the existing coastal recreational facility to the proposed project, including the recent revision. It would appear if not for the existing coastal recreational facility the proposed project could be relocated to avoid the large boulder and thereby conform with § 1.3.1.D.11(I).

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

EA Comment:

The Applicant has identified the following general site conditions to be representative of the area along their waterfront in the 2018 Application:

- "Limiting rock outcrops are present at the site and are a natural condition".
- "In order to provide clearance beyond an existing large rock outcrop, it is requested to extend an addition 25' ".
- "The proposed extension will provide the clearance from the existing rock outcrop to allow the facility to safely operate. (Page 20 of 29)

EA has considered the conditions where selectively siting the dock to be coincident with a previously permitted coastal recreational facility, to create a singular coastal recreational feature, has caused the Applicant to burden themselves with the presence of the large boulder. In the absence of site specific geotechnical boring data and the presence of nearby shallow bedrock, geologic site conditions may not exist which are appropriate for driven pile structural support. Furthermore, it would appear the siting of the proposed dock to coincide with the existing coastal recreational facility has resulted in the design conflict with the large boulder by requesting the 22-foot extension beyond the allowable length. Considering the existing coastal recreational facility is intended to serve the proposed Project, and the client's

intention to use an adjacent mooring during adverse weather, a reasonable use of a smaller facility that conforms with § 1.3.1.D.11(l) would not pose a hardship to the Applicant.

### 3. NARRAGANSETT HARBOR MANAGEMENT PLAN CONSISTENCY REVIEW

EA reviewed the Town of Narragansett Harbor Management Plan, dated February 2, 2016, to determine if the Applicant's proposed project met the Town's Management Plan for the following relevant topics:

- Operating a vessel near an identified bathing area;
- Habitat Conservation Zones; and
- Permitting a new dock within 50' of an existing Town Managed Mooring Basins.

EA did not identify the Project as being near an identified bathing area (beach) or a habitat conservation area. EA did identify the Project as being located adjacent to and encroaching the Town Mooring Area C, specifically the 39.6-acre South Ferry Mooring Basin.

#### 3.1 Town Managed Mooring Area

The Town of Narragansett Harbor Management Plan outlines each municipally managed basin in § 2.4.3 of the Harbor Management Plan. The South Ferry Basin is described as follows (with emphasis added):

*“South Ferry: Commencing at an approximate point (E 349982, N 153014) running approximately 175' +/- in an easterly direction to an approximate location at (E 350165, N 153011), thence running in a southerly direction approximately 3900' +/- to an approximate point at (E 350292, N 149118), thence running northwesterly for approximately 700' +/- to an approximate point {E 349814, N 149600} and running in a northerly direction, 50' offset from the shoreline/docks, to the point of origin. The approximate area of this mooring field is 1,728,370 sq. ft. (39.6 acres).”*

EA mapped the existing bounds of the South Ferry Mooring Basin, located in Town Mooring Area C (Figure 1) using the municipal description stated above. EA has measured the bounds of the mooring basin to be 50 feet seaward of mean low water at the point of the proposed Facility, and as such, would be coincident with the seaward limit of a conformable dock under § 1.3.1.D.11(l). Additionally, EA has mapped the occurrence of moorings and moored vessels in this mooring basin and would use this proof of use by residents of the Town of Narragansett.

EA has reviewed the Project design and notes the following inconsistency with the Town codes at [Code 1986 §4-187] with emphasis added:

*“(c) All designated mooring fields sited within the tidal waters of the town shall not be established, nor any vessel moored or anchored, so as to interfere with the free and unobstructed use of channels, fairways, ore shore side facilities within the harbor. Public mooring areas shall provide, where possible, a 50-foot setback from all residential docks.”*

*piers, floats, public launching ramps, federal navigation channels, fairways, anchorages, and/or turning basins. If an approved public mooring area conflicts with an application for the new construction or addition to a residential deck, pier or float, then the applicant may request relief from the recommended 50' setback from the Harbor Management Commission. If the relief is approved by the Harbor Management Commission, then the Harbor Management Commission shall recommend to the Town Council an amendment to the approved mooring area. Setback limits from riparian moorings and shoreline public rights-of-way shall be sufficient to allow for ingress and egress and to prevent interference with the exercise of private or public rights in these areas. Mooring areas shall be setback at least three times the U.S. Army Corps of Engineer' authorized project depth from federal navigation projects (e.g., navigation channels and anchorage areas)."*

EA assumes that the project would be required to achieve Harbor Commission approval for the reprieve prior to approval from the CRMC. Additionally, the Applicant's causation for a Harbor Commission reprieve resulting in a minimization of the adjacent mooring field to build a dock greater than 50-feet from the MLW shoreline should not come at the cost of a smaller municipal offering to Town residents.

#### 4. CRMC Staff Comments to Applicant

##### 4.1 CRMC Staff Comments to Applicant

EA reviewed an email from CRMC to the Applicant's engineer, Warren Hall, dated March 1, 2019 to determine if recommendations from CRMC staff were addressed in the updated Revised Plans. The following CRMC staff comments were included with emphasis added:

*"Specifically, staff is requesting a re-design of the facility to eliminate or reduce the length variance. Past practice limits the depth at the terminus of the facility to ~3' (MLW)/50' seaward of MLW and the current proposal extends to almost 7' (MLW) at 75' seaward. A shortened facility closer to 50' seaward appears to provide ~5' (MLW) at the terminus while still spanning the rock in question. Alternatives such as a ramp/float perpendicular to the end of the fixed pier, removal of the ramp/float entirely and/or a fixed T or L pier only could also help reduce/eliminate the requested length variance and be consistent with recent CRMC dock approvals. Other options include relocation of the proposed lift and reconfiguration of the proposed angle of the pier. Although some of these options will require a re-Notice period, if they will minimize the variance request they are strongly recommended."*

##### EA Comment:

As outlined in Section 2.1.1 above, despite removing a feature of the original dock design, the Applicant had increased the variance sought from §1.3.1.D.11 (l) to construct a new dock that would extend beyond the allowable length from 25 to 35 feet following issuance of the above comments from CRMC staff. The April 2020 plans have reduced the length by 3'.

“Staff also advises a reexamination of the proposed lift calculations as well as the piling installation methodology as both are areas of concern raised by objectors. Please certify that the dock has been designed in accordance with all dock/lift policies and standards contained within Sections 1.3.1(D) and 1.3.1(P).”

EA Comment:

As currently depicted in the April 2020 revised plans, the boat lift has been relocated to shallower water and its nameplate capacity increased to 30,000-lbs. A larger capacity lift would therefore allow for use by a larger vessel. However, as discussed in Section 2.1.3, ledge anchors and rock sockets are specified in each instance where driven piles would not achieve 10 feet of penetration. Due to the absence of site-specific geotechnical information, EA considers the condition where many of the proposed vertical and batter piles not “appropriate for driven pile structural support” and may require rock coring and grouted sockets as suggested by the Applicants submission.

Additionally, as raised by CRMC in their comments, Section 2.4 discusses the implications of a lift requiring a formal hearing.

## References

CRMC. Coastal Resources Management Program, as amended, a.k.a Red Book 650-RICR-20-00-01. Effective December 16, 2018. Accessed March 12, 2019.

CRMC. 2016. Web GIS Application – Submerged Aquatic Vegetation Map. Accessed on March 12, 2019.

Town of Narragansett. Harbor Management Plan, 2016. Accessed on March 12, 2019.

<https://www.narragansettri.gov/DocumentCenter/View/6234/2016-Harbor-Management-Plan?bidId=>

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**Figure**

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