

Semi-Monthly Meeting - February 13, 2018

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COASTAL RESOURCES MANAGEMENT COUNCIL

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IN RE: SEMIMONTHLY MEETING

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Date: February 13, 2018
Time: 6:00 p.m.
Place: Administration Building
One Capitol Hill
Conference Room A
Providence, RI

MEMBERS PRESENT

Jennifer Cervenka, Chairwoman
Raymond Coia, Vice Chairman
Patricia Reynolds
Ronald Gagnon
Jerry Sahagian
Lisette Gomes
Michael Hudner
Michelle Collie

MEMBERS ABSENT: Joy Montanaro, Donald Gomez

Anthony Desisto, Esquire, Legal Counsel
John Longo, Esquire, Legal Counsel

STAFF PRESENT

Grover Fugate, Executive Director
Jeffrey Willis, CRMC Deputy Director
David Beutel
Tracy Silvia

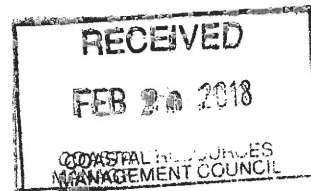
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1 MR. LONGO: We will take a five-minute
2 break.

3 (BRIEF PAUSE)

4 MR. FUGATE: Madam Chair, the next
5 applicant for the dock, the applicant hasn't arrived,
6 their legal counsel isn't here, if they are represented,
7 I don't know if they are. They are discussing the
8 redesign of the dock with the objectors. If the
9 objectors agree to the redesign, they will withdraw
10 their objection and it may not have to reappear before
11 the Council. If they don't agree, it will be back
12 before the Council for this application. So, we are
13 done.

14 CHAIRWOMAN CERVENKA: Thank you,
15 Mr. Fugate. On 2017-05-006, Edward Troiano, to create
16 and maintain a one-half acre oyster aquaculture site.
17 Do we have a report from staff, Mr. Beutel?

18 MR. BEUTEL: Yes, we do. Thank you,
19 Madam Chair. As you stated, this is for a one-half acre
20 site to grow oysters. This is south of Nayat Point, off
21 of the Barrington Country Club. It is about, the site
22 is 600 feet from the mean high water mark to the depth
23 of water that is around three feet at mean low water.
24 The method proposed is something that the Council hasn't

1 seen very much of and that's submerged, it's a suspended
2 longline that has cages hanging off of the line. So,
3 there are pipes or stakes that come up, a line strung
4 between the pipes and the actual cages or bags of
5 oysters hang on that line and then they swing with the
6 current. They're relatively small, they're about
7 three feet long and six inches in diameter. It's a
8 method that's not common in Rhode Island. We have two
9 sites that use it. It's relatively new here, but
10 internationally it's a proven method, successful to grow
11 oysters.

12 This application has gone through the standard
13 reviews and we've gotten letters from the Department of
14 Environmental Management, Water Resources, Division of
15 Fish & Wildlife and from the Historic Preservation and
16 Conservation Commission, none of which have an
17 objection. The Marine Fisheries Council has an
18 objection that this aquaculture at this site is not
19 consistent with the competing fishing activities in this
20 area. So, this area is in the upper bay, it's in the
21 conditional area A, which I don't know if that means
22 anything to you, but certainly that it is an area of
23 significant shellfishing, quahogging, it's where most of
24 the product that's landed in this State comes from.

1 In addition to the letter of objection from the
2 Marine Fisheries Council we received about a dozen
3 letters of objection from the shellfishing industry, all
4 of which are attached to the report, and I'm not going
5 to belabor all of these, but I'll read down the list of
6 what the major topics were and then I'll try and center
7 in on what staff sees as the main point.

8 The items that are mentioned here were concern
9 over conditional area A during closure period, limiting
10 access to productive fishing grounds. All of
11 conditional area A is seen as valuable to commercial
12 fishermen. Concern over potential debris from
13 aquaculture. This is a historically productive fishing
14 area. Concern over precedent and the future expansion
15 of aquaculture in the area. This is a sheltered area
16 for winter work as it is in the lead from northerly
17 weather. The aquaculture gear is not sufficiently
18 robust, that would withstand major storms. Finally, the
19 area should be maintained for free and common use
20 instead of leased for private interest.

21 It is staff's opinion that in our assessment of
22 this this particular site does not have a high density
23 of quahogs. Our site assessment had 0.27 quahogs per
24 square meter. That's a very low density. The applicant

1 surveyed the Division of Fish & Wildlife dredge survey
2 data, and for the dredge survey the bay is broken up
3 into squares and he surveyed and determined the amount
4 of quahogs taken from every survey that his little
5 square -- that his application is contained in that
6 little square. We've provided that in summary form.
7 That came up with 04.7 quahogs per square meter. Once
8 again, a very low density. So, to me this does not
9 appear, if this one-half acre site would have a
10 significant negative effect on the shellfishing
11 industry. The main concern that is brought up, in my
12 opinion, is that once one's aquaculture site goes into
13 an area, more will follow.

14 Staff agrees that this proposed site is adjacent
15 to very good quahogging, and that expansion of
16 aquaculture would likely go into the more significant
17 quahogging area but that this site in and of itself does
18 not. That's the logic that I used in recommending
19 approval.

20 On page four of this section of the Council
21 package, the fifth paragraph down really, and it starts
22 "The Rhode Island Coastal Resources Management Program,"
23 it is a long paragraph, but that really to me summarizes
24 my opinion and what the main question is in front of the

1 Council, in approval or denial of this application.
2 Overall I recommend approval. I recommend approval.

3 CHAIRWOMAN CERVENKA: Thank you,
4 Mr. Beutel. Are there questions Council members have
5 for Mr. Beutel?

6 MR. FUGATE: Dave, at any time was there
7 any discussion with the applicant that the Council
8 potentially could approve it, but lock you into a half
9 acre period and that would be it?

10 MR. BEUTEL: Yes, and the applicant said
11 he would be satisfied with a half an acre.

12 CHAIRWOMAN CERVENKA: To follow-up on
13 that, as far as productivity in a half an acre, I mean
14 that is pretty small as far as aquaculture?

15 MR. BEUTEL: That's correct. The
16 largest case in Rhode Island is four acres.

17 CHAIRWOMAN CERVENKA: So this is the
18 smallest?

19 MR. BEUTEL: This is small. This would
20 not be a main income for someone.

21 CHAIRWOMAN CERVENKA: Okay. And the
22 applicant is open to limiting to that one-half acre?

23 MR. BEUTEL: In their discussions, yes.

24 CHAIRWOMAN CERVENKA: And when you say

1 that it is close to or abutting really good quahogging,
2 how close is that?

3 MR. BEUTEL: I think you are going to
4 hear that in a minute.

5 CHAIRWOMAN CERVENKA: Okay. No. I
6 just, and we can talk about that with the applicant and
7 the objectors, I'm just curious about that. Any other
8 questions for Mr. Beutel?

9 MS. REYNOLDS: Madam Chair.

10 CHAIRWOMAN CERVENKA: Yes.

11 MS. REYNOLDS: One question about the
12 stipulation for the performance bond. Is that a
13 standard stipulation or is that something specific to
14 this application?

15 MR. BEUTEL: I'm sorry, I can't hear
16 you.

17 MR. FUGATE: I'm sorry, it is a standard
18 stipulation.

19 MR. BEUTEL: Yes. I would say that the
20 \$10,000 recommendation is high for half an acre.

21 MS. REYNOLDS: Okay.

22 CHAIRWOMAN CERVENKA: So with respect to
23 what we're looking at as far as conflicting uses, the
24 CRMP says that it cannot unreasonably interfere with the

1 public access, right, that's what we look at?

2 MR. BEUTEL: Reasonably, and the word
3 significant isn't there.

4 CHAIRWOMAN CERVENKA: Yes. Did you say
5 in addition significantly?

6 MR. BEUTEL: Yes, would not have a
7 significant impact.

8 CHAIRWOMAN CERVENKA: Okay. If there
9 are no further questions of Council members, then I
10 would ask if the applicant would like to present.

11 MR. BEUTEL: Can I add one thing. I
12 mentioned the letters of objection, and just over this
13 weekend we received six letters of support, and I think
14 that someone has provided them to you.

15 CHAIRWOMAN CERVENKA: These ones, okay.

16 MR. BEUTEL: They did not come in. They
17 came in this weekend, which is well after I wrote the
18 report.

19 CHAIRWOMAN CERVENKA: Okay. Thank you.
20 So, do we have the applicant here who would like to
21 present?

22 MR. TROIANO: I didn't realize you had
23 an overhead. I have an exhibit to show, which I think
24 would be helpful during the process.

1 MR. LONGO: Would you raise your right
2 hand. Do you swear or affirm to tell the truth, the
3 whole truth and nothing but the truth so help you God?

4 MR. TROIANO: I do.

5 MR. LONGO: Identify yourself for the
6 record, please.

7 MR. TROIANO: Edward T-R-O-I-A-N-O.

8 CHAIRWOMAN CERVENKA: Thank you.

9 Mr. Troiano, it's your presentation.

10 MR. TROIANO: Thank you all for your
11 time this evening, and I would also like to thank Dave,
12 especially, I've been kind of a pain in his back side
13 for the past few months asking a bunch of questions,
14 he's always been a professional and gotten back to me
15 very promptly with answers to my questions. So, thank
16 you, Dave. What I did is I just made a blowup kind of
17 the area that I'm proposing so that, because I think as
18 some of the objectors get up and some of the things that
19 I talk about as well, I think it would be a handy
20 reference point to kind of point out some things.

21 MR. FUGATE: Thank you. If you want to
22 say I can put it back to members of the public.

23 MR. TROIANO: We'll let it be. I'm just
24 going to give a brief overview. Madam Chair, I know

1 there are a few objectors. It's my understanding that I
2 can ask questions of objectors through you as they come
3 up.

4 CHAIRWOMAN CERVENKA: If you had
5 questions, you can present them to a limited extent.

6 MR. TROIANO: I'll try to keep
7 everything towards the end as best I can. So in the
8 beginning part of my process of looking at aquaculture,
9 an oyster farm in the upper bay, one of the first things
10 I did was to read the Shellfish Management Plan of the
11 State, which it's 300 something odd pages, and through
12 that plan what I came away with as a main theme were
13 accommodation and cooperation between user groups, as
14 well as the use of data and research to kind of guide
15 the Council and the State and how to move forward with
16 shellfish management planning, and so during the course
17 of my application that's what I tried to do. I
18 contacted as many user groups as I thought would
19 potentially be effected by this, that included Save the
20 Bay, included all the Town officials, the Harbor
21 Commission, the Harbor Control, the Town Planner and
22 Dave was, obviously, at those meetings. It included the
23 groups, like kite surfers that we talked about earlier,
24 kayakers, fishermen, members of academia, basically

1 people that I thought that would have input or would be
2 effected by my application, and that group did include
3 shellfishermen. I spoke with two shellfishermen. And
4 that process kind of brought me from my original
5 application, which included an area here off of Smith
6 Cove, which is to the east of where my application is
7 now, I submitted a preliminary determination application
8 for that area for an acre, and after speaking with Dave
9 and after speaking with two shellfishermen from the East
10 Bay area, when I brought it up, I said, you know, I have
11 been in there a lot, I've never seen anyone commercially
12 shellfish, and there was some recreational shellfishing
13 in there. Those two individuals both informed me that,
14 yes, it was an area that they used, it was an area that
15 divers went into and it was an area that was used a lot
16 during winter months. Their suggestion to me was that
17 if I wanted to do a farm in the upper bay area, that the
18 one area that they would suggest was the area that I
19 currently proposed, and a quote from one of the
20 individuals was, listen, it's a sandy area, there's
21 never been anything there, I don't think you'll have an
22 issue there, and so I began to investigate that
23 particular area, which included going out with my own
24 bull rake and sampling for about three hours in that

1 general area to see what the densities were, and then I
2 began speaking with Dave about it. So that's kind of
3 how I came to this original area here. There were a
4 variety of factors that led me to this precise kind of
5 half acre which I reduced from one acre to try and avoid
6 conflicts with the shellfishermen. Obviously, I wasn't
7 entirely successful, but I tried. And it's in shallow
8 water, you know, an area that I'm very familiar with,
9 just being a resident in Town, having boated there for
10 20 years, being out there with my kids, spending a lot
11 of time, both on the water and along this beachfront,
12 which is used by residents allowed to walk their dogs.
13 The area that I picked and the reason why it's here is
14 it's kind away from most of the residences, it's in
15 front of a grassy area by the country club, most of the
16 residences are here. I think the closest residence that
17 I measured is about a thousand feet away from the actual
18 site, and it's also adjacent to Nayat Point, which is
19 all rocks that extend out, because of the rockiness
20 there there's damage and leftover piers that extend out
21 from former residences into the water here, it's not an
22 area that there is a lot of boaters in because they know
23 it is shallow water, they know it is rocky water. They
24 try to generally stay away from the boaters. You will

1 see the blue here will come out to deeper water. So,
2 that's how I arrived at that particular site, and I'll
3 leave it at that for now. And I do have additional
4 material that I appended to my original application that
5 I think might be appropriate after objectors have been
6 heard that can perhaps be used as rebuttal evidence to
7 potential objection. So, I would like to reserve at the
8 end of my time to be able to present that to the
9 Council.

10 CHAIRWOMAN CERVENKA: Absolutely.

11 MR. FUGATE: I was just going to ask, he
12 went through a PD for the second site, I assume he went
13 through a PD for the second site?

14 MR. BEUTEL: He did.

15 MR. FUGATE: Did he have objections
16 after the second PD meeting?

17 MR. BEUTEL: Not recommendations. One
18 of the observations of the PD meeting was expect
19 objections from neighbors.

20 CHAIRWOMAN CERVENKA: I have a question
21 about the original site, you were looking at one acre
22 and then when you moved it to now the proposed site it's
23 taken down to one-half acre, is that because you were
24 cognizant of the other area, you know, close by, that

1 they are used in the good quahogging that's close by? I
2 mean, why the reduction?

3 MR. TROIANO: Because I'm cognizant of
4 what the gentlemen behind me do for a living. As I said
5 to them at previous meetings, at the marine fisheries
6 meet and the SAP meeting, my intent is not to infringe
7 on their ability to make a living here, and so I tried
8 to find an area that had a minimum amount of conflict
9 with actual shellfish density, and a minimum area that I
10 thought as a sole proprietor, which is my intent to run
11 this with maybe summertime help from my indentured
12 servant sons, that I could, you know, make a decent
13 amount off of a small area that wouldn't unnecessarily
14 infringe upon the more productive areas that we've
15 spoken about, where these gentlemen are living and
16 working every day, so a half acre is what I thought I
17 come up with, where I thought I could get enough
18 equipment in that area that could be productive enough
19 for me while at the same time not unnecessarily infringe
20 upon the other shellfishermen.

21 CHAIRWOMAN CERVENKA: Thank you.

22 MR. FUGATE: And if the Council were to
23 limit you to that half acre and no further expansion,
24 are you willing to live with that?

1 MR. TROIANO: I am, sir. One question I
2 would have, I am certainly willing to stipulate to the
3 half acre, my one question to the Council and to Dave is
4 with that stipulation, if I would be able to add, I
5 currently have six lines that extend from, they're very
6 long lines, it's narrow, long, 80 feet wide by
7 approximately 250 feet long, so there are six lines
8 currently with approximately 10 to 12 feet in between
9 the lines. If I were to stipulate to the half acre,
10 what I might like to do would be to add an additional
11 row of lines using the same equipment in between those
12 existing six. So that would give me a total of 11. It
13 would not expand the area in any way, it would not
14 change the equipment in any way. I would just able to
15 get additional cages into that one-half acre.

16 CHAIRWOMAN CERVENKA: So then that would
17 be a different application?

18 MR. BEUTEL: That would be a
19 modification of assent.

20 CHAIRWOMAN CERVENKA: And you're talking
21 about in the future, not tonight?

22 MR. TROIANO: The reason why I'm asking,
23 Madam Chair, in a previous meeting I know it was a
24 somewhat unusual procedural modification that was done,

1 but it was a similar circumstance in which one who has
2 another farm in the upper bay had made a request, and I
3 think that the Council allowed for a slight modification
4 to his original request, so that he would not have to
5 come back before the Council and unduly occupy more
6 time. If that was a policy, in my case since I'm being
7 heard now and it is in a substantial modification to the
8 area, I thought I would raise the issue now rather than
9 at some point down the road if I decide I want those
10 additional cages to kind of come through this process
11 again.

12 CHAIRWOMAN CERVENKA: Okay. But you're
13 not seeking to modify your application right now, just
14 clarifying that?

15 MR. TROIANO: Correct, yes.

16 CHAIRWOMAN CERVENKA: Okay.

17 MR. HUDNER: Okay.

18 CHAIRWOMAN CERVENKA: Okay. Good. I
19 heard you on that. Any other questions from Council
20 members for this applicant?

21 MR. LONGO: Can I just have him come up
22 here and identify this for the record. You referred to
23 an exhibit. Would you agree with me that this is a fair
24 and accurate representation of what you just referenced?

1 MR. TROIANO: I would. There is a more
2 accurate representation --

3 MR. LONGO: No, no. When you said Smith
4 Cove, that's identified on this exhibit?

5 MR. TROIANO: Yes, sir.

6 MR. LONGO: My math is right there?

7 MR. TROIANO: Yes.

8 MR. LONGO: And you are proposing the
9 lease there?

10 THE WITNESS: Yes.

11 MR. LONGO: And you are moving this as
12 an exhibit?

13 MR. TROIANO: I am.

14 CHAIRWOMAN CERVENKA: So if you're
15 complete for now you can come back up afterwards. Would
16 you mind leaving the map so the objectors can use that.
17 Thank you. All right. We're open to hear from the
18 objectors, if the first one would like to approach,
19 we'll hear you now.

20 MR. LONGO: Why don't the first three of
21 you come up and we'll take turns speaking. So each of
22 you raise your right hand. Just the first three that
23 are going to testify.

24 Do each of you individually swear or affirm that

1 the testimony you give tonight will be the truth, the
2 whole truth and nothing but the truth?

3 MR. MCGIVENEY: I do.

4 MR. GHIGLIOTTY: I do.

5 MR. HARVEY: I do.

6 MR. LONGO: Could each of you state your
7 name in the order you're going to testify.

8 MR. MCGIVENEY: Michael Allen McGiveney,
9 M-C-G-I-V-E-N-E-Y. I'm president of the Rhode Island
10 Shellfishermen's Association.

11 MR. LONGO: Second person.

12 MR. GHIGLIOTTY: David Ghigliotty,
13 G-H-I-G-L-I-O-T-T-Y. I'm the current vice president of
14 the Rhode Island Shellfishermen's Association.

15 MR. HARVEY: John Harvey, H-A-R-V-E-Y,
16 member of the board of the Shellfishermen's Association.

17 MR. MCGIVENEY: Michael McGiveney. I
18 have been the president of RISA for some 20 something
19 years now, but my group has been involved from the very
20 beginning with the aquaculture debate in the mid-'90's
21 when the legislation was put forward in the State House,
22 we worked with the State, I worked with Grover way back
23 then to help to integrate the aquaculture industry into
24 the State, and over the years we've done a lot of

1 working together to help grow the industry where now
2 there's over 70 leases that are in the bay, and of those
3 70 plus leases my organization has evaluated and not
4 objected to a vast majority of these leases. Some we
5 objected to and then we worked with the lease applicant
6 to modify and move it, and we've had a very good track
7 record. I think this is only the second time I've been
8 here in all these years in opposition to an aquaculture
9 lease. We also worked with CRMC back, as Dave
10 mentioned, in the year 2000, almost 20 years ago, and we
11 identified areas of the bay that were suitable for
12 aquaculture. The gentleman Watson that was here is in
13 the Rome Point area. That was an area that we
14 identified as an area for aquaculture growth, and it has
15 been a very productive and successful area.

16 Unfortunately, this lease is located in area A, as
17 Dave mentioned, which is really critical to the
18 shellfish industry. This in the area that the majority
19 of the shellfish come from, and when it's open, because
20 it is a closed area, it's where most of the shellfish
21 can go to work. Historically, this area has been
22 productive. I started going there in the early '80's
23 when it opened up and literally there are hundreds of
24 shellfishermen that were there, literally, boat-to-boat,

1 and it's been productive throughout the entire 10 -- in
2 the 40 years I've been digging this area, I always go
3 to, in the winter or when it is open, and most of the
4 fishermen, if it's a northerly wind you want to go up to
5 that area. So, this area historically has reset. We're
6 digging clams that have just been produced. Thirty
7 years ago, it was productive then and we're concerned
8 that the area that's being evaluated now, even though it
9 might have a low density, it is in the critical mass of
10 the area that we need. You might not understand how we
11 work, but most of us drift through the bottom. So low
12 density, although it doesn't sound that good really,
13 I'll move 100 feet to catch a rake full of 80 or 90,
14 which is like worth \$25 now. So low density in a
15 productive area is okay because you drift through these
16 areas. So we really need to protect these areas for the
17 fishermen. The idea that this area is a magnet for the
18 shellfishing has been proven throughout the development
19 of aquaculture, you get one, you get two, you get three,
20 and really that's our concern on top of the concern, is
21 that if this lease is approved there will be more leases
22 and there will be more little spots and we'll lose more
23 critical grounds to our industry.

24 My group has over 100 members and the industry

1 supports hundreds and hundreds of shellfishermen in the
2 State, full-time. This is our full-time job. This is
3 not a part-time thing. This is not something to keep
4 the kids busy. This is what we do. So, we believe that
5 this area needs to be protected. We're hard to hear
6 that there is going to be a development of our SAMP
7 plan, strategic area management plan for Narragansett
8 Bay. So, we had a meeting in March starting to looking
9 to set these areas aside and make them so they can't be
10 leased ground because of the importance of the industry.
11 So, we need to protect these areas, these are critical
12 to my industry, and as much as it's only a half acre,
13 we're really concerned, just the whole idea of how you
14 shellfish, how you move, how you need different areas,
15 how the population shifts and changes, that this is
16 important to us. So any questions, I will take them,
17 but thank you.

18 CHAIRWOMAN CERVENKA: So we go per
19 speaker or you want to do all three?

20 MR. LONGO: Up to you.

21 CHAIRWOMAN CERVENKA: Okay. Maybe you
22 can all speak and then we'll ask questions. Thank you.
23 Mr. Ghigliotty.

24 MR. GHIGLIOTTY: I am David Ghigliotty.

1 Yes, okay. So, what Mike said, I am going to elaborate
2 a little bit more on a few points.

3 The folks out on the bay are really concerned
4 about the expansion possibility if this is coming in.
5 This is setting a precedent, it really is. And that
6 area that we're talking about, although Dave went over
7 and he didn't find that many, to Mike's point, we will
8 drift through an area like that because we drift as we
9 go. We anchor up and we cover a lot of ground. As it
10 gets windier through the seasons, we hug the shorelines
11 closer and closer, and that area that he's talking about
12 at high tide is probably around 11-and-a-half to 15 feet
13 deep, which is a very workable bottom for us. We might
14 anchor there and then drift out. But, all of that
15 aside, the expansion is what scares us the most. This
16 area, Barrington Beach, is one of the most productive
17 areas in the entire bay, not just A, the entire bay, and
18 you can go out there at any point in time when A is open
19 and you will see no less than between 50 to 70 fishermen
20 on a bad day. In the summertime it's frequented quite a
21 bit more. So, this area that we're trying to protect,
22 we're also trying to make sure that future generation of
23 fishermen, and we do have young guys coming into this
24 that are not going to be stifled when these aquaculture

1 sites start to pop up inside the bay. There is a large
2 bay that is more than amenable to other sites, that have
3 sites on them that are nonconflicting to us, that there
4 is lots of them, and I have been on the SAP committee
5 now for, I'm going to say better than two years,
6 probably going on three, and I will say that during the
7 SAP meetings what I find is that these leases actually
8 come back because they need to expand their territory,
9 they need to get bigger. A half acre lease is extremely
10 small, and as it's not going to be his livelihood on top
11 of it, my question is, why there? Why there? Why not
12 someplace else that is more amenable to all parties
13 concerned if it's going to be a part-time venture?
14 Because we do this full time, so we really have to think
15 about protecting the grounds, not to mention we look at
16 it, too, from a standpoint of recreational. There are a
17 lot of recreationalists that go out during the summer
18 and they poke along those shorelines, and I think when
19 you take a half acre away from them, that's pretty
20 substantial because a lot of times these folks can't get
21 to these areas easily. Rights-of-way to the water are
22 continually blocked off, so it's harder for them to get.
23 So half an acre is a pretty substantial piece of
24 property for those folks that are going to go out and

1 they are going to grab a few for dinner, which is a
2 Rhode Islander's right, I take it. So those things we
3 all kind of worry about as well. But, it is that
4 precedent that really is big.

5 And one last thing. One last thing. As we're
6 somewhat migratory, what we do, I'm also on the team for
7 sampling for the State, so I go to these different sites
8 and I sample, and we have sampled against the dredge,
9 and the dredge was brought up, and I'll just bring that
10 up for one minute, the dredge's efficiency, especially
11 in past years, is not better than 60 percent, 65 percent
12 on a good day. So those dredge surveys, especially the
13 ones from past years, I wouldn't even credit those with
14 any validity at all, not any at all, because 60 percent
15 is terrible. When a bullrake's efficiency is at
16 98 percent, everyone that's on that team is at
17 98 percent efficiency rating when we have to get dialed
18 in and we have to make sure that, you know, when we send
19 this in, that they can say, okay, David is at
20 98 percent, this is what we have for this amount of area
21 that's covered. So the dredge surveys, but the
22 shorelines are starting to set up again. We're starting
23 to see undersize in the shorelines all around the State.
24 It's incredible. It's wonderful to see, to be honest

1 with you, we are starting to see seed all throughout
2 where the cobble, from where the shoreline comes down
3 there is like a cobble between that and the sediment in
4 the bottom and there's loads of undersize. It's
5 absolutely wonderful to see the bay setting up this way,
6 and that is an area that is in that, right past the
7 cobble, right past there. That's an area that's
8 potentially going to set up, but over the past years
9 there have been steamer sets there, there have been a
10 lot of folks that dove on steamers and things of that
11 nature. So, it's something that we are really very,
12 very, very concerned about, not just the site itself,
13 but it's the precedence, that what happens that we may
14 end up be here again for somebody else, and as it
15 spreads and spreads and spreads. Thank you.

16 CHAIRWOMAN CERVENKA: Thank you. I
17 think Mr. Fugate has a question.

18 MR. FUGATE: Mike, you often work with
19 applicants to find sites that are suitable that you guys
20 can live with essentially, it might be suitable for
21 aquaculture. Was there an attempt made on this site to
22 relocate it somewhere else that might have been, that
23 this is?

24 MR. MCGIVENEY: No, it wasn't, not with

1 my group, and not with the SAMP plan -- I mean the SAP.

2 MR. GHIGLIOTTY: One last thing. We
3 weren't contacted by this gentleman directly, to my
4 knowledge.

5 MR. MCGIVENEY: He sent an email about
6 the meeting he was having and he wasn't going to attend
7 the SAP meeting, which I mentioned there was a SAP
8 meeting and if he wanted to discuss it afterwards.

9 MR. FUGATE: So there is a site nearby
10 here that would be suitable or is it?

11 MR. MCGIVENEY: Well, I think he likes
12 it because it's near his house, but for us down bay, I
13 don't know who he talked to, and I have heard different
14 interpretations of why he was directed the other way,
15 but down bay is where we're asking, like Hog Island,
16 we've had several successful aquaculture sites down that
17 way, farther there down the bay, you know, not up in,
18 that whole area A is really, that's ground zero for us,
19 this is what we make our living at, and currently it's,
20 according to the last thing, it's 150 full-time
21 shellfishermen in the State. That's the beginning.
22 Farther down bay, and I mentioned Hog Island, down
23 Portsmouth there is another one, the point there, and,
24 you know, we, actually, the Hog Island one, we worked

1 with that guy, and the first site he chose was in a
2 sailing area, I believe, so we were amenable to working
3 with these people, as long as it doesn't impact ours. I
4 should have mentioned we worked on the five percent
5 rule, my organization, for the pond and that turned out
6 to be a really a wonderful great regulatory initiative
7 that was agreed on by both the aquaculturists and the
8 shellfishermen, so we've been working on this for a long
9 time, and this particular one just doesn't fit, you
10 know, the mold that we're hoping to get to.

11 CHAIRWOMAN CERVENKA: Can I ask you, the
12 boundaries that have conditional area A, if you look at
13 this Google map in front of you, is it the red dots and
14 then the one-half acre in the middle? I'm just trying
15 to get.

16 MR. BEUTEL: Page five of your packet.

17 MR. GHIGLIOTTY: This would all be the
18 conditional area.

19 CHAIRWOMAN CERVENKA: That has got the
20 lines around it. Is that the thinking?

21 MR. GHIGLIOTTY: This whole area.

22 MR. MCGIVENEY: It is Rocky Point all
23 the way over to the other side.

24 MR. GHIGLIOTTY: This whole area all the

1 way over.

2 MR. FUGATE: Okay.

3 CHAIRWOMAN CERVENKA: While we are
4 asking questions, you stated that your biggest concern
5 is the precedent setting, the expansion, and I
6 understand that, and that's why we were talking about
7 limitation on the one-half acre, whether or not they
8 would be amenable to that, but I also heard you saying
9 that you actually used that one-half acre for your
10 operations, is that?

11 MR. GHIGLIOTTY: Yes. Typically, like I
12 said, when it gets windy, typically, and this time of
13 the year when it gets windy out of the north/northeast
14 and even northwest, that's a nice area to go up inside.
15 So, what we'll do a lot of times, we will set that
16 anchor, especially at high tide because we can get in
17 closer, and then what happens is that bank comes down
18 and then we'll work that bank coming down, and usually
19 when it goes from sandy, there is a transition line
20 there, just a little ways off, that's where the quahogs
21 live, is in the transition line, so we will use that,
22 and we may grab a few up in that harder part of it and
23 then we use a transition line and then go into the
24 softer bottom. There's quite a few guys that work

1 really close up inside on a regular basis.

2 CHAIRWOMAN CERVENKA: When you say
3 really close up inside, up inside?

4 MR. GHIGLIOTTY: Up inside where we're
5 talking about.

6 CHAIRMAN COIA: When it's those
7 conditions. Okay.

8 MR. GHIGLIOTTY: More so for me when
9 it's those conditions. There are some folks that
10 actually work it in all conditions. They might work a
11 little bit to the east or the west, but they'll drift
12 through there.

13 CHAIRWOMAN CERVENKA: Mr. Harvey, did
14 you want to say something?

15 MR. HARVEY: Yes, a couple of points.
16 One of them is on shellfish surveys, which are useful,
17 but they can be misleading in that. Imagine an area
18 that starts with 100 quahogs per square meter. People
19 find out about it and they come and take them all. Now
20 you do a survey. There's nothing there. Zero quahogs
21 per square meter. So, it's misleading, in that you
22 can't predict the future and you can't tell the past
23 from a survey. But the big -- and, you know, on that, I
24 agree that where the lease is is not an area of super

1 high productivity, and that's why I'm slightly puzzled
2 that anyone would want to do a commercial oyster growing
3 operation there, because they're going to grow half as
4 fast as they would anywhere else. The other lease in
5 the upper bay, it's not productive. I know this is
6 probably not a good objection to, but it's puzzling
7 everybody, what's the reason for wanting to grow oysters
8 in a place where it's not as good as it would be down at
9 Rome Point or any other place that has been recommended
10 as a place that doesn't conflict with the fisheries that
11 exist. You know, recreational people who walk the
12 shore, they don't care whether the stuff grows slow
13 there, they don't care whether there's .25 quahogs per
14 square meter. They want to catch one here and one there
15 and make a chowder. This is their area. This is the
16 common ground here. But, here is the big objection, and
17 it's a whopper, you know, I watched one of the first
18 aquaculture farms down in Salt Pond, besides one of your
19 islands, I won't even mention the name of it, but after
20 that place was started, it had, before it was started,
21 the banks surrounding the hole that it was located on
22 were probably the most productive grounds in all of Salt
23 Pond. They always said, every year, everyone that was,
24 you know, recreational, commercial, they all fish around

1 that pond. They put that farm there, it started
2 throwing off debris on all sides of the farm. It
3 smothered the bottom. That ground has been permanently
4 ruined, ruined for the commercial and recreational
5 fishery that used to be there for quahogs.

6 Now, this site that's being proposed here off
7 Barrington Beach, it poses the same problem because it's
8 at the top of a bank, which, as Mike and Dave mentioned,
9 it's one of the most productive in the bay. When you
10 get down in the bank, when you start getting down into
11 10 feet, 15 feet, that's where the debris from this farm
12 would be trapped, because of frack of geometry and
13 hydrodynamics, that's where it would end up, smothering
14 potentially those incredibly historically valuable
15 grounds. So, why not grow your oysters someplace where
16 they grow faster and not threaten the public commons in
17 the upper bay. It's just morally wrong to do that. So
18 when you're thinking about approving this, or, you know,
19 keep that in mind. That's my peace.

20 CHAIRWOMAN CERVENKA: Thank you,
21 Mr. Harvey. Are there other questions for Mr. Harvey or
22 any of the other two gentlemen? Thank you. I think
23 we'll hear from some other objectors.

24 MR. LONGO: The next three people that

1 would like to speak on this application, come on up.

2 Could you raise your right hand, please. Do each
3 of you individually swear or affirm the testimony you
4 are going to give tonight will be the truth, the whole
5 truth and nothing but the truth?

6 MR. MCELROY: Yes.

7 MR. CHRISTENSEN: Yes.

8 MR. BLANK: Yes.

9 MR. LONGO: Could you state your name in
10 the order you're going to speak.

11 MR. MCELROY: Michael J. McElroy,
12 M-C-E-L-R-O-Y.

13 MR. CHRISTENSEN: Bo Christensen, B-O
14 C-H-R-I-S-T-E-N-S-E-N.

15 MR. BLANK: I have got to warn you I am
16 about 75 deaf. I'm sorry, I do have hearing aids. They
17 are coming, but they are not here. Bill Blank. My
18 brother and I have been before this panel at least five
19 different times. I am a professional harvester. Not
20 only do I do the wild fishery, but I am also half owner
21 at Rome Point, LLC, an aquaculture business. We lease
22 18-and-a-half acres in Narragansett Bay. I do know what
23 I'm talking about. I have been commercial fishing since
24 1981. That's 37 years non-stop. Like I said, I'm half

1 owner of an aquaculture business that's still going
2 strong today. So I have a few things that I would like
3 to say, so if you want to want me to go first, okay.

4 Can I come a little closer in case somebody wants
5 to ask me some questions.

6 First of all, I personally have dove, because I am
7 a diver. Just until last year was on the Shellfish
8 Advisory Panel for the state. I just recently resigned
9 for my own reasons, okay. I have been right there for
10 steamers, not for hardshell clams, but for steamers.
11 When the triangle, Conimicut triangle opened up, it was
12 a slugfest, right. Hundreds of people came out of the
13 woodwork. What a few of us did, we went over to Nayat,
14 we found steamers there, and maybe a dozen of us had it
15 all to ourselves and we made a killing. All right.
16 Steamers do set up there. They don't do it every year,
17 and even if they did, mother nature takes care of it.

18 CHAIRWOMAN CERVENKA: When you say
19 there, you're talking about the proposed lease area?

20 MR. BLANK: The Nayat Point, yes. Okay.
21 The issues that I have is not the aquaculture, it's not
22 the wild fishery, it's the site and the way he wants to
23 run it. One-and-a-half inch PVC pipe will not stand up
24 to mother nature. I don't care if you put half-inch

1 steel cable there, all right, it's going to get
2 destroyed. It may take a day, it may take a year, it
3 may take five years. We have a two-acre site just
4 outside of Wickford, okay. This is one of our sites.
5 We've had 600-pound cages on the opposite side of the
6 breakwall because of mother nature. One-half inch PVC
7 pipe floating, oysters, they get heavier as they grow.
8 This is far off the bottom. It's not going to work.
9 They are going to snap into pieces. Trust me on this, I
10 know what I am talking about. All that debris, if it
11 even makes it to the beach, will build sharp stuff
12 sticking out of the sand for all the kids walking on the
13 beach. I just have a bad feeling this is going to be a
14 public nightmare for the aquaculture business.
15 Honestly, I've got nothing against the person, and I
16 don't even know him, never had an issue. I just have an
17 issue with the site. I can honestly think he has to
18 rethink where he wants to put the site in a more
19 sheltered location that is shelter and historically not
20 a commercially viable shellfish area. Okay. I'm done.
21 Thank you.

22 CHAIRWOMAN CERVENKA: Thank you very
23 much for your comments. Next.

24 MR. CHRISTENSEN: I'm with them with the

1 diving, the steamers thing, we row there and there was
2 quite few steamers and like the steamers thing sometimes
3 it's red hot and really fills in. We've had tremendous
4 years. And then it takes 10 years, five years,
5 whatever, sometimes there's long spaces in between, and
6 that's with most productive grounds is like that. You
7 can be in an area that's great for years and all of a
8 sudden it just peters out and then it takes years for it
9 to come back. Sometimes it comes back. The quahogs, it
10 comes back, a lot of times it will come back yearly, but
11 even then some areas take a long time to come back. But
12 the steamers, it seems like it was longer. I don't know
13 what the right cycle is for that, and so that's one of
14 the objections that I would have with that. And the
15 other thing is, for recreational fishing or commercial
16 fishing in that area for finfish, trolling along the
17 beach is going to be a big obstruction. It will make a
18 big obstruction for trolling. And, I know that will be,
19 so I'm a commercial bass fisherman, and so that's one of
20 the areas that I've fished many times for stripers and
21 that's going to be another thing along with all of the
22 docks that seem to be popping up all over the bay, so
23 this is just I think those, the areas where it
24 transitions where you try to fish, fishing shall be

1 fishing along an edge and up on the bank or you work
2 your way up and down the bank, you will see where the
3 fish are, and a lot of times this is done late at night,
4 so it's nice not to have all these obstructions, so I
5 think that's one of the concerns that I would have.

6 CHAIRWOMAN CERVENKA: Thank you.

7 MR. MCELROY: He took all my wind.

8 CHAIRWOMAN CERVENKA: You are Mr.?

9 MR. MCELROY: Mike McElroy. I'm 70
10 years old. I have had my own boat since I was 12 years
11 old, commercially, recreationally, and if there is
12 another way, I did that, too. I wasn't coming on so
13 much, because I knew Mike, Dave, they've researched what
14 they have to do. But, Dave hit a point when he said
15 that there's guys to go up on the bank. I'm one of the
16 very few tongers left in Narragansett Bay, to the point
17 that I cannot get a set of tongs. I can go to the Cape
18 with Rib Company but they don't make a quality set of
19 tongs. The only other place I can find the heads are a
20 place in Philadelphia, 12-foot heads, \$360, not shipped.
21 Nobody in Rhode Island makes the handles anymore. My
22 boat is out of the water right now because I'm waiting
23 to have two sets of handles. I'm losing money. Well,
24 not with all that ice, that's not true, but that's not

1 what -- that bothers me. But I dig, I have a set of
2 10-foot tongs. That means I dig five feet of water,
3 okay, and on a given day, not every day I don't, by no
4 means do I say, my tenants come over and I can dig in
5 five feet of water, but at mean low tide, where that
6 three feet is, I'm inside his nets, and what concerns me
7 aside from, I've always loved nature, and if you get a
8 chance, Council, read the history books that have been
9 written about the battles between the oystermen and the
10 quahoggers and the leased farms, what they've done right
11 across from where he wants to put it, where the
12 quahoggers had to go in at night because there was no
13 other place to dig, but all the leases took the land
14 over. So, if you've got nothing to do and you don't
15 want to hear it at a Council meeting, there is at least
16 three books written by local people which tells you what
17 can happen when an area is taken over and protected by a
18 lease. That's one thing.

19 Number two, as a recreational person that would
20 thoroughly enjoy going out, I got out to Arcadia, I go
21 mostly in the winter, watch the snow, you may think I'm
22 crazy, that's my serenity, that's my church, my temple,
23 whatever you want to call it, it's that and the boat.
24 When I lost my wife, when I lost my partner of 18 years

1 that I fished with, when I lost my mother I went out
2 there and that was my serenity, and to go out at night
3 and to see these stars, you cannot replace that. And, I
4 can tell you right now where that place is there's
5 people that come down the right-of-way onto the golf
6 course and I see them walk from Barrington Beach right
7 by his house or the plate application to the rocks at
8 Rumstick with their dogs. I can't see them at nighttime
9 but they're there, but they're there during the day, and
10 they, when they choose to swim, they don't run back to
11 the beach to swim, they swim right where he is, and they
12 swim all the way out. And as a group of fly fishermen,
13 recreational fly fishermen, that some come around, down
14 the right-of-way and some come right across, all the way
15 to those rocks, fish for fish and then come all the way
16 back. That's during the daytime. They really should
17 wait until it's dark because of the shallow water.

18 The other thing is, I don't know if the applicant
19 knows, but right inside of him and to the east of him
20 are two nurseries or estuaries for the breeding mummies,
21 shrimp. I can take you in May, and I can show you a way
22 in five minutes that you didn't think that much bait was
23 in the bay at a given time. Too many people just walk
24 over it. You have to take the time. And, I'm telling

1 you, I don't know what effect the oysters would have on
2 these mummies and shrimp, but they need protection, and
3 when they go up in there, they've got protection, and as
4 the tide comes out, aha, who's waiting for them, the
5 fish. So now we have a finfish that Bo talked about
6 coming in to get this bait, but that's nature. And,
7 with his being sunken, my concern is, one, people could
8 get caught on it, dogs could get caught on it, because,
9 three, I talked to Steve Medeiros, I called him, and
10 they okayed it because he looked on the chart ad he
11 said, Mike, there's no fish there, because it's
12 three feet mean water level. Well, let's see what the
13 tides bring this Thursday, if the wind blows northwest,
14 you're going to see one foot, and then you might even
15 see them sticking out if they were there. Then what do
16 you do? They also are going to catch everything that
17 gets blown up on the bottom, and it's going to, you
18 know, if he's going to pull him and clean it, but it's
19 going to build up, and I am not going to be here
20 forever. You guys aren't going to be here forever.
21 But, it's going to be a bitch if you kids want to enjoy
22 the water like I have, or, God, if they want to make a
23 living, because we're running out of space everywhere,
24 and I'm telling you, those people that walk up and down,

1 that might be the only piece they get in a week or a
2 year. We don't know what goes on in their lives. But,
3 I know when they are doing that, I watch them, because
4 they are happy. Can you put a price on being happy?
5 Anybody? I'm asking you?

6 CHAIRWOMAN CERVENKA: Well, thank you
7 for your comments. We understand your point.

8 MR. MCELROY: Well, yeah, if there is a
9 thereafter and you look down in 100 years and it's all
10 screwed up, you can thank yourself. Thank you.

11 CHAIRWOMAN CERVENKA: All right. I
12 think we'll take the next three. Thank you.

13 MR. CHRISTENSEN: Thank you.

14 CHAIRWOMAN CERVENKA: Are there any
15 additional objectors or are we at an end?

16 (NO RESPONSE)

17 MR. MCGIVENEY: They could raise their
18 hand and say do you a guys agree with what's been said.
19 If you want to raise your hand. They took the time to
20 be here. It's really difficult to get shellfishermen to
21 a meeting, especially late at night, so.

22 MR. LONGO: Why don't you stand up and
23 state your name and say you agree for the record.

24 MR. BASKET: Gregory Basket. I agree,

1 wholeheartedly.

2 MR. SILVA: Zach Silva, I agree.

3 MR. VIEIRA: Manuel Vieira, I agree.

4 MR. HERMANOWSKI: Greg Hermanowski,
5 H-E-R-M-A-N-O-W-S-K-I. I agree.

6 MR. LONGO: Anybody else? And each of
7 you that just spoke your name, could you raise your
8 right hand. Do you swear or affirm that the testimony
9 you just gave was the whole truth and nothing but the
10 truth so help you God?

11 MR. BASKET: I do.

12 MR. SILVA: I do.

13 MR. VIEIRA: I do.

14 MR. HERMANOWSKI: I do.

15 CHAIRWOMAN CERVENKA: Can I ask you a
16 question of all of them. Are you fishermen in this area
17 just like the other fishermen?

18 MR. BASKET: Yes.

19 MR. SILVA: Yes.

20 MR. VIEIRA: Yes.

21 MR. HERMANOWSKI: Yes.

22 CHAIRWOMAN CERVENKA: And so you agree
23 based on your personal knowledge and experiences?

24 MR. BASKET: Yes.

1 MR. SILVA: Yes.

2 MR. VIEIRA: Yes.

3 MR. HERMANOWSKI: Yes.

4 CHAIRWOMAN CERVENKA: Thank you.

5 If we're done with the objectors, would the
6 applicant like to come back and present anything or
7 respond to what the objectors had to say? It's your
8 choice.

9 MR. TROIANO: If there are supporters,
10 can we hear from them.

11 CHAIRWOMAN CERVENKA: Oh, supporters,
12 yes, yes.

13 MR. LONGO: Would you raise your right
14 hand, please. Do you swear or affirm to tell the truth,
15 the whole truth and nothing but the truth so help you
16 God?

17 MR. GLASS: I do.

18 MR. LONGO: Identify yourself for the
19 record, please.

20 MR. GLASS: Joshua Glass. Good evening.
21 My name is Joshua Glass. I am a Barrington resident. I
22 have three young children. We often do spend our days
23 and evenings on the beach and on the water. This is an
24 area I'm very familiar with.

1 I'll start on a global level, I think because as a
2 Rhode Island resident aquaculture in general and oyster
3 aquaculture in particular is something that I view and
4 support as a long-term benefit to the State. That's why
5 I'm here this evening in part. I believe it's
6 beneficial to the State ecosystem. I believe it is a
7 sustainable source of seafood, both of which are
8 extremely strong and positive and well-known assets in
9 the State of Rhode Island. I think aquaculture in the
10 upper bay is of particular importance as a Barrington
11 resident. I think it will help improve the water
12 quality and all the residents to enjoy the bay, not just
13 those that live in the immediate area. Of course, there
14 are the benefits of small business being further
15 supported and that without expanding the overall benefit
16 of the aquaculture to the Rhode Island industry,
17 obviously this project, as small as they can be, is
18 something that we can point to with a certain amount of
19 pride and a certain amount of knowledge from which we
20 can further learn. I think at the end of the day the
21 size of this and the location of this, while it may be
22 untenable to some, seems quite compatible to other user
23 groups, as a said resident that frequently visits this
24 area.

1 I think that something that hasn't been mentioned
2 this evening but may or may not be in the materials is
3 just as a pure occupant, a resident of the East Bay, I
4 think it's something unique that I look forward to my
5 children to being able to see and learn about. To many
6 kids that might not live on the water and grow up on the
7 water, something that they hear about in theory but
8 something they don't actually see in practice, this is
9 something they will be able to see, and, obviously, the
10 permission of the applicant and learn about, I think
11 that's a really special opportunity that shouldn't be
12 lost. I have nothing else at this late hour. I thank
13 you for your time.

14 CHAIRWOMAN CERVENKA: I have a quick
15 question. You mentioned you are a user?

16 MR. GLASS: Yes.

17 CHAIRWOMAN CERVENKA: And what is the
18 nature of the use, you go down to the water,
19 recreational, are you on the water, just?

20 MR. GLASS: All of the above. I don't
21 kite board, kayak or surf, but boating, walking, walking
22 with the dog before he passed away, walking with the
23 children when they have too much energy. All of the
24 above.

1 CHAIRWOMAN CERVENKA: Thank you.

2 MR. MARRA: My name is Richard Marra.

3 MR. LONGO: Would you raise your right
4 hand, please. Do you swear or affirm to tell the truth,
5 the whole truth and nothing but the truth so help you
6 God?

7 MR. MARRA: I do. I'll be very brief.
8 I understand it's late and you've heard a lot. My wife
9 and I live in Warwick here on Narragansett Bay. We have
10 200 feet of frontage on Narragansett Bay, so this is a
11 subject that is kind of near and dear to both of us.
12 There are a couple of things that I heard that I would
13 like to talk about, take exception to. There is some
14 personal disparagements made about the
15 candidate/applicant's motives for wanting this
16 application, a part-time venture, a lark, a frivolous
17 opportunity to entertain his children. I take exception
18 to that. Every person has a right to make an
19 application before this commission to do what he or she
20 feels is appropriate at whatever stage in their life
21 they wish to. The candidate is a distinguished member
22 of the Federal Law Enforcement Agency and he's retiring
23 after 25 years of dangerous service, and this is a new
24 career for him. It's not a lark. So he deserves the

1 opportunity to apply before this commission and be
2 respected for that.

3 There were points made about precedent setting,
4 and while that is certainly concerning for the gentleman
5 behind who protested, this body should not be concerned
6 because this body makes the precedent. So you are
7 empowered to say whether there is a precedent to be set
8 or not or to be broken or not. So if there is any
9 concern, it is for you to discuss and decide. And just
10 in general, this proposal is kind of like a win-win for
11 Rhode Island. It's sustainable, it's echo friendly,
12 it's miniscule. Narragansett Bay is 147 square miles.
13 This is, like, 20,000 square feet. This has such little
14 impact. The area in question does not have any density
15 requirement -- any density red flags for the quahog
16 industry, and you can't look at data and say it's
17 inaccurate one day and not accurate and accurate another
18 day. The density factor is 2.4 percent, or whatever it
19 is, and the standard is 274 for the bay. I mean, come
20 on, that's a very, very, very minimal, minimal number.
21 So, given all these factors, I fully support this
22 application. Thank you.

23 CHAIRWOMAN CERVENKA: Thank you for your
24 comments. Anyone else, or would you like to come back

1 up?

2 MR. TROIANO: You know, Mr. Marra just,
3 I think a personal part, and I'm not going to get into
4 that, but, you know, throughout this process and the
5 meetings that I have been to, I think I've expressed
6 very clearly to the gentlemen behind me, despite what
7 their opinion of me might be, that I have the utmost
8 respect for what they do. My son, who is here tonight,
9 has a student quahog license and I have taught him how
10 to rake and how to use a bullrake. So you know I think
11 it's okay to disagree, but I also think it's okay to try
12 to come up with some middle ground, and I would
13 certainly never disrespect any of these gentlemen behind
14 me, and I've done my best to try and find what I thought
15 would be an area in which I could make a reasonable --
16 again, I didn't just quit what I'm doing and start a
17 little side hobby. This is what I wanted to do. As the
18 gentleman said before me, I believe, that being out on
19 the water is what I enjoy, and now that my career
20 necessitates coming to an end, because I have to retire,
21 I want to do something again that I enjoy, just like I'm
22 sure these gentlemen enjoy being out on the water and
23 making their living that way, so I don't think the fact
24 that I live in Barrington should be a reason that my

1 application is somehow less than someone else's or less
2 than what they do.

3 My father was a farmer. I know the value of hard
4 work and I appreciate everything that they do every day,
5 but I would like to address some of the more specific
6 points that they brought up because I think they are
7 relevant. If you look -- I know it's late, but if you
8 briefly glance at some of those density surveys, you
9 will see exactly what they are talking about. Some of
10 the areas where they do fish regularly, year after year,
11 you'll see those densities very high, and maybe one year
12 they are down, the next year they come back and you'll
13 see a consistent pattern. Here there's nothing.
14 There's years there's zero, and whether your dredge
15 efficiency is 67 percent or 90 percent, 90 percent of
16 zero is still zero. There is no quahogs, okay. It's
17 very, very minimal and that's why I went there. There's
18 all sorts of reports out on the dredge efficiencies.
19 It's not worth really going into it, but the gentleman
20 is right, there are about 67 percent of fishing, but if
21 you correlate that 67 percent across the area that's
22 sampled where I am and the area that's sampled where
23 they regularly fish, it shows the same pattern, where
24 the majority of those clams are out here and not in this

1 small area that's 600 feet off of the shore in
2 three-foot of water, and one of the gentleman says
3 himself, that includes Mr. Harvey, this is not in an
4 area of super high productivity. His concern was the
5 debris. There's nothing that's going to be debris. I
6 have hanging cages. I'm going to use stainless steel
7 ties. I'm not going to use the plastic zip ties that
8 are routinely cut off and thrown into the water but some
9 irresponsible shellfish farmer. You can reuse a
10 stainless steel tie and mitigate any of the debris that
11 you're concerned about.

12 I think Mr. Blank talked about the equipment and
13 not being able to hold out. I respect his opinion as a
14 fellow aquaculturist, but I've looked at numerous
15 studies, and I think perhaps, instead of going into all
16 of them, the most poignant one is Dr. John Supine who is
17 down at Louisiana State University. He is a professor.
18 He is in charge of their aquaculture program and he
19 talks about what they used, the longline system down
20 there, and how when Hurricane Katrina blew through with
21 100-mile-an-hour plus winds and a 10-foot storm surge,
22 they lost one pot out of thousands. So, I think that
23 says enough about the value of the equipment and whether
24 it can holdup, and, sure, maybe in five years I may need

1 to replace things, it's called maintenance, any
2 aquaculture farmer has to do that, and that's why you're
3 out there, that's why you're looking at your equipment,
4 that's why you're maintaining it. Let me tell you,
5 these are my neighbors and my friends. I am not going
6 to be the one I have to answer to them when my equipment
7 washes up on the shore and their kids can't walk on the
8 beach. I am more concerned about that than I'm sure
9 anybody behind me is.

10 You know, there's precedent. I think Mr. Marra
11 addressed it but I will address it again. This isn't
12 precedent. There is a farm that's been in existence
13 here in the upper bay. There's no precedent established
14 by this. And the magnet effect, I agree with these
15 gentlemen on a lot of what they're saying. I believe, I
16 firmly believe that there does need to be a
17 re-examination of the areas in the upper bay, and I
18 think that there are areas, proven areas supported by
19 density surveys that should be preserved for these
20 gentlemen, but that's not relative to my application.
21 My application is for an area of a half an acre, .05
22 percent of just this polygon here. That's just the area
23 from Rumstick Point to Conimicut Point to Nayat over to
24 the beach 1,056 acres. I am asking for one-half, .05

1 percent. I don't think that's unreasonable, and I don't
2 think it's unreasonable for me to want to pursue that
3 area in some place that is convenient to where I live.
4 That's how you can make money. Getting in a boat and
5 traveling 20 miles down the bay to try to make a living
6 is not going to work. That's why I applied. Not
7 because it's in my backyard and I want convenience. It
8 has to be financially feasible, especially as a sole
9 proprietor, and so that's why I searched these areas. I
10 know that the hour is late, so I'm going to leave it at
11 that and leave it open to answer any of your questions.

12 CHAIRWOMAN CERVENKA: Yes, Mr. Fugate.

13 MR. FUGATE: So, it's been under
14 discussion, you've already agreed, if the Council were
15 to grant this at a half acre with the condition that you
16 never ever expand it, and that's going to bind not only
17 you but any transfer of that, are you still -- you're
18 saying you're going to make a living out of this. You
19 can't come back at a later point and say, now I want to
20 make it an acre. That condition will bind you for the
21 life of that lease, for the next 20 years at least, so.

22 MR. TROIANO: That's understood,
23 Mr. Fugate. And, frankly, you know, my only concern
24 with that, and I think it is a concern to the gentleman

1 behind me as well, if I'm bound to a half acre, then
2 what about the next individual that wants to come up?

3 MR. FUGATE: As they're indicating,
4 we're about to engage in a planning activity where we
5 are looking at consideration of taking areas out of --
6 consideration by the Council at least for aquaculture
7 leasing, so that is one of the things that is under
8 discussion. So I think, you know, proactively that's
9 got to be the best way to deal with a lot of these
10 issues, but we need to get pretty specific in these
11 areas.

12 MR. TROIANO: I understand where you are
13 going, Mr. Fugate, with the half acre, and the idea is
14 for every individual that you hire, you have to account
15 and raise enough oysters to justify paying that person
16 whatever you're going to pay them, especially a
17 full-time employee where you're paying. My intention is
18 to run this as sole proprietor type, and, therefore,
19 whatever I am able to make off of that half acre goes
20 into my pocket.

21 MR. FUGATE: I can't tell you how many
22 people come back asking for more.

23 MR. TROIANO: You won't see me again,
24 other than maybe those five additional lines that I

1 mentioned earlier.

2 CHAIRWOMAN CERVENKA: I have a question
3 for you, just to answer one of the objector concerns
4 about the current use going through your proposed lease
5 area for the drifting, so while it may not be a
6 productive area that they're fishing in or quahogging
7 in, that, you know, they're still using that area to
8 support their fishing operations. Would you like to
9 address that?

10 MR. TROIANO: I don't, Madam Chair, I
11 don't think I can effectively address that. I mean,
12 I'll take the gentlemen at their word. I mean, in my
13 experience, all the time that I've spend out there, I've
14 never seen a boat in that shallow water area. Yes,
15 further out in the little deeper water, which you can
16 see over here, absolutely I have. And, again, that's
17 one of the reasons why I came into the shallow water, to
18 try to avoid and give a sufficient buffer to any area
19 that would conflict with them. Can I guaranty that this
20 won't effect one person, no. But, you know, I think
21 that according to, you know, what I looked at and the
22 substantive objections, I don't think there's any
23 aquaculture site that is guaranteed not to effect
24 anyone. As I read, as I read the staff, it calls for a

1 significant adverse impact by the proposed activities at
2 this, the significant adverse impact on shellfish,
3 finfish or wildlife habitat. The RISA, the Saltwater
4 Fisherman Association, did not object to that
5 application, as the gentleman said earlier. The
6 impacts, if you were to determine that this is a
7 significant shellfish area, there would still have to be
8 a significant adverse impact on it. I don't see that
9 there would be. It might. Sure, could it interrupt
10 someone's drift, I guess, yes.

11 CHAIRWOMAN CERVENKA: Okay. And can I
12 ask you, Mr. Beutel, this would be the first lease in
13 this conditional?

14 MR. BEUTEL: No.

15 CHAIRWOMAN CERVENKA: And there's one
16 other?

17 MR. BEUTEL: There's one on the western
18 side of the conditional area off the -- it's been there
19 since 2000.

20 MR. HUDNER: Where is that again?

21 MR. FUGATE: This is the matter that you
22 we heard the --

23 CHAIR CERVENKA: Is this the applicant?

24 MR. BEUTEL: Yes.

1 VICE CHAIRMAN COIA: Two questions.
2 One, as we sit here today, is this a permissible use of
3 this area?

4 MR. BEUTEL: As we sit here today, yes.

5 VICE CHAIRMAN COIA: Some concern has
6 been raised relative to some damage. I know one of the
7 stipulations was a \$10,000 bond. Has that been
8 discussed with the applicant?

9 MR. FUGATE: No.

10 VICE CHAIRMAN COIA: The \$10,000 bond?

11 MR. FUGATE: It is a standard
12 stipulation.

13 MR. BEUTEL: We do set the bond level,
14 so.

15 VICE CHAIRMAN COIA: May I ask the
16 application if he had an opportunity to review that?

17 MR. TROIANO: I did, sir.

18 VICE CHAIRMAN COIA: Any objection to
19 that?

20 MR. TROIANO: No objection.

21 CHAIRWOMAN CERVENKA: Okay. Any
22 additional questions for the applicant before we close
23 the public comment period?

24 (NO RESPONSE)

1 CHAIRWOMAN CERVENKA: Hearing none,
2 thank you, Mr. Troiano. We're going to deliberate now.
3 I will entertain a motion on this application.

4 Mr. Hudner.

5 MR. HUDNER: I move that the application
6 be approved with a very tight stipulation, no further
7 extension of this lease whatsoever, and then whatever
8 other stipulations in the mind of the staff. I can't
9 recall now, but just to say it, I understand the
10 conflict on the bay in certain areas. I mean, the
11 shellfish are embedded on the floor of the bay and you
12 are going to need moving water for farming, oysters and
13 mussels. I am on the bay myself in a recreational way
14 and I see the conflict in certain places, so this is a
15 serious issue, and we have to be mindful of -- I mean,
16 this is like in the old west, you know, the guys with
17 their cattle and the people with the cows, or sheep, if
18 they needed fences, this is sort of like that, you're
19 fencing off part of the waterfront, which is the source
20 of a livelihood, so we have to be very careful about
21 this. I don't see it as a big problem personally and
22 the actual effect of this size of lease, but I
23 understand all of the issues for the shellfishermen, and
24 I think they have to be respected and defended, but I

1 still think that it's okay for us to approve this, so
2 I'll make the motion.

3 CHAIRWOMAN CERVENKA: Just no further
4 extensions, so you mean area?

5 MR. HUDNER: The area, the footprint.
6 Not what goes on inside that I don't much care about. I
7 wasn't talking about the possibility of extra lines,
8 which we're not deciding on now.

9 CHAIRWOMAN CERVENKA: Okay.

10 MR. HUDNER: Just put on notice that
11 it's considered a desirable feature, and I'm sure Mr.
12 Troy and I would take it if it was offered but it's not
13 part of the application.

14 MR. SAHAGIAN: Madam Chair, Mr. Hudner,
15 I'm willing to second the motion, but I think with all
16 the objectors here, that maybe you should add some
17 language, like pursuant to the staff's report and that
18 the staff recommended approval based on the record, that
19 you will move approval, but it's up to you.

20 MR. HUDNER: I agree with you.

21 MR. LONGO: I will help you with that.

22 CHAIRWOMAN CERVENKA: So you are
23 seconding?

24 MR. SAHAGIAN: I will second it.

1 CHAIRWOMAN CERVENKA: Okay. Discussion?
2 Mr. Gagnon.

3 MR. GAGNON: Can I ask a question. If
4 we approve this, could there be a moratorium or a hold
5 on future consideration of applications in this
6 conditional area A until the shellfish area management
7 plan is finished and it's determined whether it is
8 suitable for future aquaculture or not?

9 MR. FUGATE: Well, I think what the
10 Council is going to have to do as part of the bay plan,
11 and there have been already I guess some discussions on
12 this, is to look at the productive shellfish areas and
13 sort of map those out and take them off for
14 consideration for aquaculture leases as a proactive step
15 of dealing with these applications so we're not having
16 these gentleman have to come out at night and fight
17 these applications, so I think the really productive
18 areas that are consistently productive we need to think
19 about taking out of consideration, so.

20 MR. GAGNON: Does that happen?

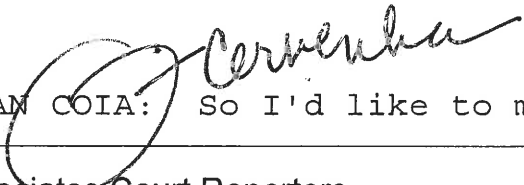
21 MR. FUGATE: The plan is starting up in
22 March, so we'll be starting a planning activity, so
23 within the next two to three years, yes, we will be
24 doing that. In the meantime, had this been in a

1 productive shellfish area, it wouldn't have gotten a
2 staff recommendation for approval. So, we don't allow
3 shellfishing -- I mean, aquaculture in productive areas,
4 but the easiest way to deal with it is to map these
5 areas and take them off, so we're not having to fight
6 this on a case-by-case basis.

7 CHAIRWOMAN CERVENKA: Other comments on
8 the pending motion of the application?

9 VICE CHAIRMAN COIA: Yes, I do, Madam
10 Chair. Under discussion, to relieve some of the
11 concerns of the objectors, I think it's important, and
12 as Mr. Marra said, but I was going to say it otherwise
13 myself, when we look at an application we're bound to
14 look at that application on its four corners and not
15 consider whether or not our decision will create
16 precedent in the future, to a quote a gentleman, would
17 be a magnet, who knows, maybe it will be, people will
18 want to start coming before us, but you can't prohibit
19 this gentleman prospectively thinking if he puts it
20 there it's going to give rise to other applications. We
21 are, as I said, duty bound to look at the evidence
22 that's before us, not considering what we did last week,
23 what we did an hour ago at a different application, or
24 whatever, but on the application, what is all the

1 scientific evidence, what's the expert testimony, the
2 lay testimony, afford it all its due weight and based on
3 that come up with that decision. So, with that said,
4 applying all of the requisite standards and criteria, I
5 would support the application. Obviously, I give due
6 weight to the concerns of the gentleman, but I think
7 Mr. Troiano has done his homework, and what I mean by
8 that is when he said he looked at the other area, spoke
9 with some of the commercial fishermen there, took into
10 the consideration some of the concerns and said, all
11 right, I respect that, and many times during his
12 testimony tonight he said, I respect their right to earn
13 a living, I respect this gentleman. So, he went and
14 looked, well, where else can I put it, and when the
15 question of the Council, well, why did you go from a
16 full acre to a half acre, I think was a concession that
17 the gentleman made, saying that I can live with that
18 because it's less intrusive to all the people around
19 that are making their living on that site. So, you
20 know, the question was posed, why there. Well, I think
21 he answered why there, because he doesn't want to hurt
22 them in the bigger areas. So, with that said, I would
23 support it.

24 
CHAIRMAN COIA: So I'd like to make a

1 comment. I don't think I can support the motion,
2 because I think the testimony of the objectors
3 demonstrates that there's a potential for a significant
4 adverse impact on this sensitive productive conditional
5 area A, and I found the testimony to be compelling based
6 on their personal knowledge and their experience, and
7 it's not because this particular one half acre is so
8 productive but it's almost inextricably linked to
9 something that is so historically significant and
10 productive for these commercial fishermen, so I won't be
11 able to support the motion.

12 MR. GAGNON: I have to say I agree with
13 that, also.

14 CHAIRWOMAN CERVENKA: Any further
15 discussion?

16 (NO RESPONSE)

17 MR. LONGO: I'm going to restate the
18 motion and then I will call a roll call. So the motion
19 is to, having considered the staff reports and
20 testimony, including the testimony, the disputed and
21 conflicting testimony regarding the density and the
22 shellfish in the area and the potential lease, the
23 potential impact on conflicting uses of the area,
24 Mr. Hudner is satisfied that the applicant has

1 demonstrated the lease will not have an adverse impact
2 on the continued variety of indigenous fisheries in the
3 area, you're satisfied that the applicant has
4 demonstrated that the lease will not result in
5 significant impacts on the abundance and diversity of
6 plant and animal life in the area and you're satisfied
7 that the applicant has demonstrated that the lease will
8 not result in significant other water-dependent uses,
9 and for those reasons you move approval?

10 MR. HUDNER: Yes.

11 MR. LONGO: With the staff stipulations
12 and the requirement that there will be no expansion of
13 the physical footprint of the lease area?

14 MR. HUDNER: Yes, that's correct.

15 VICE CHAIRMAN COIA: But I think earlier
16 he said he's relying on the expert testimony of staff
17 and their findings to support that?

18 MR. LONGO: Yes.

19 VICE CHAIRMAN COIA: When questioned by
20 Mr. Sahagian.

21 MR. LONGO: Yes. The record will
22 reflect that there was the expert testimony of
23 Mr. Beutel on that issue. Okay. So I'll call the role.
24 Mr. Sahagian?

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MR. SAHAGIAN: Yes.

MR. LONGO: Ms. Gomes?

MS. GOMES: Yes.

MR. LONGO: Mr. Hudner?

MR. HUDNER: Yes.

MR. LONGO: Mr. Coia?

VICE CHAIRMAN COIA: Yes.

MR. LONGO: Mr. Gagnon?

MR. GAGNON: No.

MR. LONGO: Ms. Reynolds?

MS. REYNOLDS: No.

MR. GAGNON: Ms. Collie?

MS. COLLIE: No.

MR. LONGO: Madam Chair?

CHAIRWOMAN CERVENKA: No.

MR. LONGO: Four to four.

MR. FUGATE: The motion fails.

MR. LONGO: The application fails. Four
to four tie. The application fails.

MR. SAHAGIAN: Motion to adjourn.

MR. HUDNER: Second.

(VOICE VOTE TAKEN)

(UNANIMOUS)

(HEARING ADJOURNED AT 9:45 P.M.)

C E R T I F I C A T E

I, Rebecca J. Forte, a Notary Public in and for the State of Rhode Island, hereby certify that the foregoing pages are a true and accurate record of my stenographic notes that were reduced to print through computer-aided transcription.

In witness whereof, I hereunto set my hand this 16th day of February, 2018.



REBECCA J. FORTE, NOTARY PUBLIC

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