

CRMC DECISION WORKSHEET

2023-04-094

Department of Transportation

Hearing Date:	
Approved as Recommended	
Approved w/additional Stipulations	
Approved but Modified	
Denied	Vote

APPLICATION INFORMATION						
File Number	Town	Project Location		Category	Special Exception	Variance
2023-04-094	Barrington & Warren	East Bay Bike Path Bridges		B	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
		Plat	Lot			
		Owner Name and Address				
Date Accepted	5/08/2023	Department of Transportation Attn: Alisa Richardson 360 Lincoln Avenue Warwick, RI 02888		Work at or Below MHW	<input checked="" type="checkbox"/>	
Date Completed	10/13/2023			Lease Required	<input type="checkbox"/>	

PROJECT DESCRIPTION

Reconstruct "East Bay Bike Path Bridges" over the Barrington and Warren (Palmer) Rivers

KEY PROGRAMMATIC ISSUES

Coastal Feature: Coastal Wetland, Coastal Bluff with Rip Rap

Water Type: Type 1, 2 & 3

Red Book: 1.1.7, 1.1.8, 1.1.9, 1.1.10, 1.2.1(B), (C) & (D), 1.2.2(C), 1.3.1(A), (B), (C), (F), (G), (L) & (M)

SAMP: NA

Variations and/or Special Exception Details: **Variations** to 1.1.9: Setbacks & 1.3.1(B)(3) Filling of Shoreline Features.

Special Exception 1.3.1(M)(2)(a) – the construction of new public transportation facilities in tidal waters; 1.3.1(G)(3)(c) – the filling on a coastal feature or tidal waters; 1.3.1(L)(3)(c) – alterations to coastal wetlands not designated for preservation adjacent to Type3 Waters

Additional Comments and/or Council Requirements:

Specific Staff Stipulations (beyond Standard stipulations):

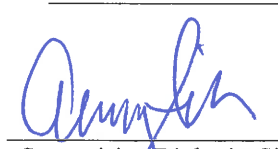
STAFF RECOMMENDATION(S)

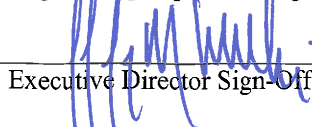
Engineer RAS Recommendation: Defer

Biologist ALS Recommendation: Defer

Other Staff _____ Recommendation: _____

 10/18/23
Engineering Supervisor Sign-Off _____ date

 10/18/23
Supervising Biologist Sign-off _____ date

 10/18/23
Executive Director Sign-Off _____ date

 10/19/23
Staff Sign off on Hearing Packet (Eng/Bio) _____ date



STATE OF RHODE ISLAND
COASTAL RESOURCES MANAGEMENT COUNCIL
STAFF REPORT TO THE COUNCIL

DATE: October 13, 2023
TO: Jeffrey M. Willis, Executive Director
FROM: Amy Silva, Ross Singer

Applicant's Name:	Department of Transportation (State of RI)Department of Transportation
CRMC File Number:	2023-04-094
Project:	Reconstruct "East Bay Bike Path Bridges" over the Barrington and Warren (Palmer) Rivers
Location:	Barrington/Warren East Bay Bike Path Bridges
Water Type/Name:	Type 1, 2, & 3; Barrington & Warren Rivers
Coastal Feature:	Coastal Wetland, Coastal Bluff with Rip Rap
Plans Reviewed:	"East Bay Bike Path Bridge Replacements...Reconstruction Plans Environmental Permitting Set Volume 1"; 28 sheets total; cover dated April 2023 by RIDOT

INTRODUCTION:

This application requests Assent to construct new bridges for the "East Bay Bike Path" over the Barrington and Warren (Palmer) Rivers. The demolition of the previous structures was approved under CRMC Assent 2023-05-055, which included Assent to construct Temporary bulkheads in coastal waters for access purposes. Those bulkheads will be utilized as part of the construction as well.

The application went to public notice and no comments were received. A Water Quality Certification from DEM has been issued, and a PCN request with the Army Corps of Engineers has been submitted.

During the course of review, CRMC staff contacted the applicant for additional information regarding the fishing access, which was provided by the applicant along with a revised application narrative.

The two new bike path bridges will be limited to one pier in the center of each river channel, such that each bridge will comprise two spans. The use of fewer in-water pilings, combined with its height increase, is expected to result in an increase in both vessel traffic and aquatic flushing with tidal changes, particularly in the Warren/Palmer River.

Signed: _____ Staff Biologist

Signed: _____ Staff Engineer

As part of the construction, all four of the bridge abutments will be rebuilt, utilizing coffer-dams. A small area of coastal wetland will be disturbed on the west side of the Warren/Palmer River, necessitating Variances for Setback and Filling of Coastal Feature, as well as Special Exceptions for the construction of new public transportation facilities in tidal waters, filling on a coastal feature or tidal waters and alterations to coastal wetlands

COMMENTS ON APPLICATION/APPLICABLE POLICIES, STANDARDS & ETC:

“Red Book” 650-RICR-20-00-

1.1.7	Variances	The work on the abutments does not meet CRMP §1.1.9 50’ Setback. Additionally, variances are required for (CRMP §1.3.1(B)(3)(a)(6)), filling rather than cutting on causeway slopes and §1.3.1(B)(3)(e)(1)(AA))filling on slopes steeper than 15 percent. CRMC staff supports a Variance for this work.
1.1.8	Special Exceptions	See discussion below
1.1.9	Setbacks	The work on the abutments does not meet the 50’ Setback. CRMC staff supports a Variance for this work.
1.1.10	Climate Change and Sea Level Rise (SLR)	The structures have been elevated 3’. At 5’ of SLR, the bike path south of the Warren bridge is inundated.
1.2.1(B)	Type 1 Water (see image below)	A small area of Type 1 Coastal Wetland will be altered and mitigated. See discussion below.
1.2.1(C)	Type 2 Water (see image below)	The bridges themselves fall within Type 2 water
1.2.1(D)	Type 3 Water (see image below)	The areas to the south of the bridges are Type 3
1.2.2(C)	Coastal Wetlands	A small area of Type 1 Coastal Wetland will be altered and mitigated. See discussion below.
1.3.1(A)	Category B Requirements	The applicant has submitted an appropriate Category B application and narrative.
1.3.1(B)	Filling Removing and Grading of Shoreline Features	The work on the bridge abutments requires alteration of the shoreline features. Variances are required for (CRMP § 1.3.1(B)(3)(a)(6)), filling rather than cutting on causeway slopes and §1.3.1(B)(3)(e)(1)(AA)) filling on slopes steeper than 15 percent. Due to existing site conditions steep slopes, limited fill, and a retaining wall are required. A soil erosion and sediment control plan has been provided.
1.3.1(C)	Residential, Commercial, Industrial and Recreational Structures	The applicant has provided documentation that the structures will meet building code and flood hazard requirements.
1.3.1(F)	Treatment of Sewage and Stormwater	Stormwater management has been designed in accordance with RI Stormwater Management, Design, and Installation Rules 250-RICR-150-10-8 using infiltration trenches and Qualified Pervious Area (QPA). A Stormwater Management Plan and Long-Term Operation and Maintenance Plan have been provided
1.3.1(G)	Shoreline Protection	Existing rip rap protection is present on the coastal bluff. Additional shoreline protection is necessary for adequate scour protection. A special exception is required for § 1.3.1(G)(3)(c) – the filling on a coastal feature or tidal waters

Signed: _____ Staff Biologist

Signed: _____ Staff Engineer

1.3.1(L)	Coastal Wetland Mitigation	A Special Exception is required for CRMP § 1.3.1(L)(3)(c) alterations to coastal wetlands not designated for preservation adjacent to Type 3 Water. The applicant has provided appropriate wetland mitigation for the Coastal Wetland that will be impacted by construction.
1.3.1(M)	Public Roadways, Bridges, Parking lots, Railroad Lines and Airports	The proposed project consists of replacing an existing portion of the bike path and bridges. A special exception may be required for §1.3.1(M)(2)(a) – the construction of new public transportation facilities in tidal waters. The applicant has demonstrated that policies and standards have been satisfied

Water Type Imagery:

Barrington:



Warren:



Blue: Type 2; Green: Type 3; Yellow: Type 1 (DEM Aerial Imagery)

COMMENTS ON VARIANCE REQUEST:

There are two Variances associated with this application. Setback and Filling of Shoreline Feature. Staff offers the following comments for each Variance-

1.1.9: Setbacks:

1.1.7 Variance Criteria	Staff Analysis of Applicant's Response
<p>1.1.7(A)(1) <i>The proposed alteration conforms with applicable goals and policies of the Coastal Resources Management Program.</i></p>	<p>All applicable policies and standards for the CRMP have been addressed by the applicant and are balanced with engineering feasibility and site constraints.</p>
<p>1.1.7(A)(2) <i>The proposed alteration will not result in significant adverse environmental impacts or use conflicts, including but not limited to, taking into account cumulative impacts.</i></p>	<p>Impacts have been minimized by situating the bridge within the general existing footprint of the bike path corridor. The proposed fill is situated over existing structural shoreline protection. Additional stone remains consistent in function. The proposed alterations do not create conflicts with navigation or other existing use.</p>
<p>1.1.7(A)(3) <i>Due to conditions at the site in question,</i></p>	<p>Due to existing site constraints, the proposed infrastructure cannot be situated outside the 50 foot setback.</p>

Signed: _____

Staff Biologist

Signed: _____

Staff Engineer

<i>the applicable standard(s) cannot be met.</i>	
1.1.7(A)(4) <i>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.</i>	The proposed project minimized to the greatest extent feasible.
1.1.7(A)(5) <i>The requested variance to the applicable standard(s) is not due to any prior action of the applicant or the applicant's predecessors in title...</i>	The requested variance is not due to prior action of the applicant.
1.1.7(A)(6) <i>Due to the conditions of the site in question, the standard(s) will cause the applicant an undue hardship.</i>	The project would be unfeasible without the requested variances due to site constraints and engineering requirements.

1.3.1(B)(3) Filling of Shoreline Features

1.1.7 Variance Criteria	Staff Analysis of Applicant's Response
1.1.7(A)(1) <i>The proposed alteration conforms with applicable goals and policies of the Coastal Resources Management Program.</i>	All applicable policies and standards for the CRMP have been addressed by the applicant and are balanced with engineering feasibility and site constraints.
1.1.7(A)(2) <i>The proposed alteration will not result in significant adverse environmental impacts or use conflicts, including but not limited to, taking into account cumulative impacts.</i>	The proposed fill is situated over existing structural shoreline protection. Additional stone remains consistent in function. The proposed alterations do not create conflicts with navigation or other existing use.
1.1.7(A)(3) <i>Due to conditions at the site in question, the applicable standard(s) cannot be met.</i>	Existing conditions of the causeway have steep embankments exceeding 15% slope. The proposed fill, steep slopes and retaining wall are necessary due to site constraints and required realignment of the path.
1.1.7(A)(4) <i>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.</i>	The proposed project minimized to the greatest extent feasible.
1.1.7(A)(5) <i>The requested variance to the applicable standard(s) is not due to any prior action of the applicant or the applicant's predecessors in title...</i>	The requested variance is not due to prior action of the applicant.
1.1.7(A)(6) <i>Due to the conditions of the site in question, the standard(s) will cause the applicant an undue hardship.</i>	The project would be unfeasible without the requested variances due to site constraints and engineering requirements.

Signed: _____

Staff Biologist

Signed: _____

Staff Engineer

COMMENTS ON SPECIAL EXCEPTION:

Special exceptions are required for:

§ 1.3.1(M)(2)(a) – the construction of new public transportation facilities in tidal waters

§ 1.3.1(G)(3)(c) – the filling on a coastal feature or tidal waters.

§ 1.3.1(L)(3)(c) – alterations to coastal wetlands not designated for preservation adjacent to Type3 Waters

As the three Special Exceptions are all part of one Red Book Section, the Criteria are reviewed as one, with additional comments/discussion below.

1.1.8 Special Exception Requirements

<p>1.1.8(A)(1) The proposed activity serves a compelling public purpose which provides benefits to the public as a whole as opposed to individual or private interests.</p>	<p>The proposed project replaces existing bike path bridges. Per Section 1.3.1(M)(2)(a), the bike path is public transportation facility in tidal waters. However, the facility is not “new” – it is a replacement of a historic structure.</p> <p>The bike path serves as vital public infrastructure and provides access to the shore for broad segments of the public. However, staff has concerns regarding the public use of the structure (Section 1.1.8(A)(1)(c)). See additional comments below.</p>
<p>1.1.8(A)(2) All reasonable steps shall be taken to minimize environmental impacts and/or use conflict.</p>	<p>The project is confined within the limits of the existing bike path causeway and bridges to the greatest extent practicable. The impacts created from the proposed abutment, retaining wall, and riprap scour protection are necessary due to site conditions and the location of existing utilities. Please see the below for further discussion of environmental and use impacts.</p>
<p>1.1.8(A)(3) There is no reasonable alternative means of, or location for, serving the compelling public purpose cited.</p>	<p>The applicant has demonstrated that the proposed design presents the most practicable alternative while limiting environmental impacts. There are no alternative locations, as the bridges are being located in the same location as the recently demolished, long-standing bike path bridges.</p>

Impact to Coastal Wetland (Section 1.3.1(L)(3)(c))-

As part of the construction, all four of the bridge abutments will be rebuilt, utilizing coffer-dams. A small area of coastal wetland will be disturbed on the west side of the Warren/Palmer River, necessitating a Special Exception.

Signed: _____ Staff Biologist

Signed: _____ Staff Engineer

Proposed unavoidable permanent salt marsh fill (± 489 sf) will comprise the area to be occupied by the proposed retaining wall and its associated backfill, plus an area of proposed riprap. Temporary salt marsh impacts (± 362 sf) will be the area occupied by the footprint of excavation required to install footings for both the permanent retaining wall and temporary modular block wall. An additional area of temporary salt marsh disturbance (± 126 sf) will be required for foot access within the Project limits depicted on the Project site plans. All temporary disturbance areas in salt marsh will be fully restored.

The proposed mitigation will take the form of salt marsh replication and restoration, totaling $\pm 2,610$ sf on the east side of the Palmer River, in the location of the temporary access crossing approved by the CRMC as part of the bridge closure and detour route creation.

Similar to the “Broken Bridge” bike path in Warren, the area of open water for access and recreation will be increased by this project. While the “trading” of one coastal feature type for another is typically not accepted, due to the small size of the wetland lost, it has been considered as part of mitigation in this case.

Impact to Public Resources (1.1.8(A)(1)(a)-

Section (1.1.8(A)(1)(a) reads: “*An activity that provides access to the shore for broad segments of the public.*”

A continuing concern regarding the Special Exception request was the matter of fishing from the two bridges. Fishing off both of the bike path bridges is a long standing and well-known recreational use of these two bridges (see photo below). During all the pre-application discussions, concerns were raised because the stated intention was to disallow fishing from the bridges after construction. There was discussion of keeping the two temporary bulkheads as alternatives for fishing access. CRMC Staff repeatedly stated concerns of the loss of fishing along the bridge spans.

The application was submitted with a narrative that stated that: “*RIDOT has made the decision not to provide fishing access from the bridges for safety reasons – to avoid the potential for conflicts with Bike Path users. The previous bridges did provide opportunities for fishing, but the proposed replacement bridges will be elevated higher than the previous bridges and incorporate a design that is not conducive to fishing access. It is assumed that fishing opportunities will be available from the manmade shoreline at the bridge abutments.*”

CRMC questioned the applicant about this in an information request on September 6, 2023, stating the concern that the application requests a Special Exception, for which a “compelling public purpose” is required to be demonstrated, while at the same time restricting a well-known and popular public use of the structures: “*Please be reminded that this application is requesting a Special Exception from the Coastal Resources Management Program, and an integral part of meeting the criteria to obtain a Special Exception is demonstrating that the project serves a “compelling public purpose”. As currently described within the application, this project reduces the public purpose/use of the structures.*”

COMMENTS ON APPLICANT’S SPECIAL EXCEPTION RESPONSE:

In response to CRMC’s written concerns regarding the fishing access, the applicant supplied a response letter and an entirely new application narrative. The cover letter of this response states: “*The Department’s intention is not to prohibit, preclude, or otherwise restrict public, recreational fishing access in and around the proposed Bike Path bridges*” and goes on to state: “*Please note that the narrative does not state that fishing would be prohibited, and the Department intends no active role in prohibiting fishing that may in fact occur on the proposed bridges.*”

Signed: _____ Staff Biologist

Signed: _____ Staff Engineer

This response is a direct contradiction of the original application, as noted above which stated that the DOT “*has made the decision not to provide fishing access from the bridges for safety reasons*”. The design of the bridges has not changed. It is unclear how the reversal in this decision is reflected in the design choice of the bridge spans.

The cover letter proceeds to note that the new bridges will not provide “dedicated fishing access”, but fishing will not be prohibited. It should be noted that the previous bridges did not provide dedicated access either. They had “sidewalks” on either side of the dedicated bike path that was utilized. It appears that sidewalks are part of the newly proposed bridges as well, although they appear narrower than previous. CRMC staff further questioned the applicant and DOT officials for clarity about sidewalks on the bridge structures themselves and was told that there is a two-foot wide area on either side of the bike path.

CRMC followed up requesting additional information, as the two-foot area appears to be narrower than what was provided on the previous structures, and it is unclear how that two-foot area will be utilized with the truss/overhead structures. To date, no response has been submitted.



Fishing off the Warren/Palmer River span, clearly showing “sidewalks” (Photo: www.trailink.com)

The cover letter summarizes thusly: “*The proposed bridges are first and foremost transportation infrastructure. The ability to re-open the Bike Path mainline to the public after years of closure due to unsafe, deteriorating conditions of the existing trestle-style bridges is the primary project objective. The Department considers the Bike Path to be a vastly important recreational amenity, for multiple modes of recreation, and the project is believed to comfortably meet the litmus test of a compelling public*

Signed: _____

Staff Biologist

Signed: _____

Staff Engineer

purpose.” To cite a similar example, the Department did not provide devoted fishing accommodations on the recently constructed County Road (Route 114) bridge, immediately downstream of the Barrington River Bike Path bridge, yet fishing does occur.”

It should be noted that the County Road bridge provides proper sidewalks, which appear to be 7-9 feet in width, clearly separated from the roadway. It remains unclear if the newly constructed bike path bridges will maintain similar area on the sides of the bike path passages as the previous bridges.



County Road, over the Warren/Palmer River, referenced in DOT letter. Note wide sidewalks on either side (Image DEM Aerial Imagery)

CRMC staff remains concerned that a longstanding recreational use – recreational fishing – will be curtailed with the construction of the new bridge spans. Without full detailed bridge plans, including the chosen truss system, CRMC cannot ascertain the impact to recreational fishing. CRMC contacted DOT staff multiple times. The most recent request for clarity went unresponded to. To date, answers regarding fishing have been unclear.

CONCLUSIONS & RECOMMENDATIONS:

CRMC poses no objections to the re-construction of the two bike path bridges, but remains concerned about the lack of clarity regarding access for recreational fishing along the two bridge spans. This has been a concern beginning in the pre-application process, and remains a concern to date. The original submission stated fishing would be prohibited, but DOT changed the statement after CRMC raised concerns and now states that fishing will not be prohibited. However the design plans allow for only a narrow 2 foot wide area on either side of the path proper, and questions regarding the width as well as its use relative to truss systems have gone unanswered.

Signed: _____ Staff Biologist

Signed: _____ Staff Engineer

While staff is of the opinion that the application meets the Variance Criteria for the two Variances required, Staff defers to the Council for decision on the Special Exception, particularly 1.1.8(A)(1) *“The proposed activity serves a compelling public purpose which provides benefits to the public as a whole as opposed to individual or private interests”*.

Signed: _____

Staff Biologist

Signed: _____

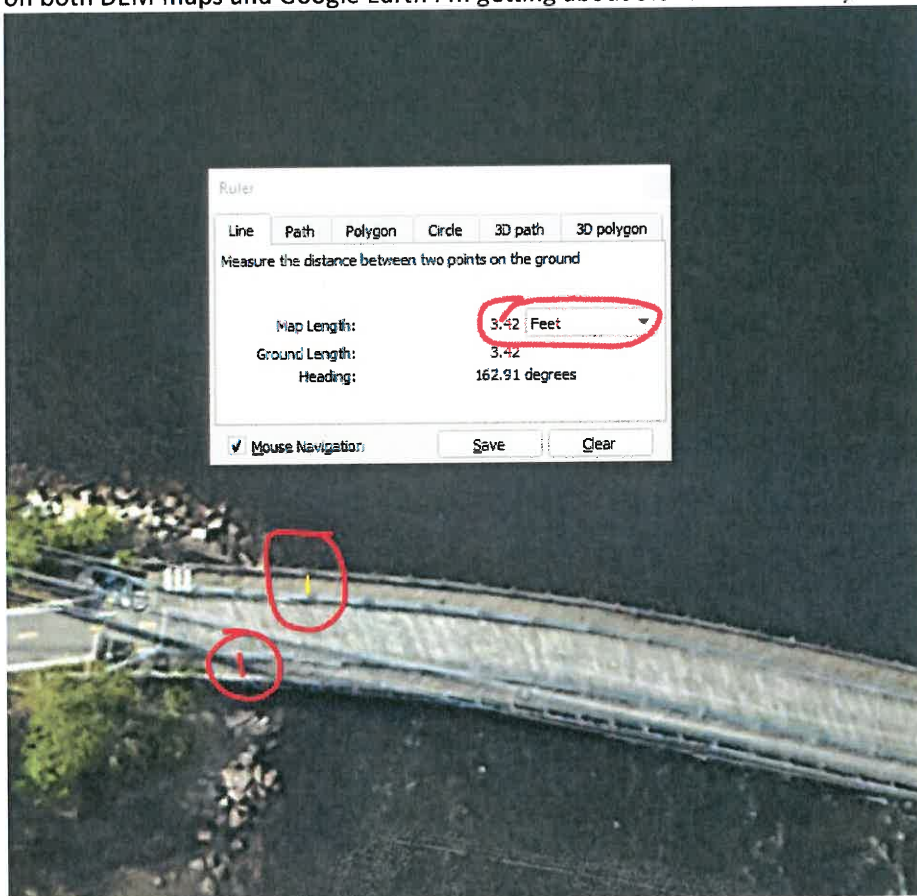
Staff Engineer

asilva@crmc.ri.gov

From: asilva@crmc.ri.gov
Sent: Monday, October 2, 2023 8:45 AM
To: 'Scott Hobson'; 'Maccarone, Louis (DOT)'; 'Richardson, Alisa (DOT)'; 'Johnstone, Erik (DOT)'; 'Akinfolarin, Hamid (DOT)'; 'Andrew Prezioso'
Cc: Jeff Willis; Laura Miguel
Subject: RE: [External] EBBP Question

Scott-
Been thinking on this – the bridge wont have grass or split rail fences.
I'm trying to parse if that 2' area will be passable/usable for fishermen.

CRMC is still concerned that once the bridge is constructed, that narrow area will not be passable/usable. The previous bridges had a sidewalk area that I think was wider than 2' that was utilized heavily by fishermen (using the measure tool on both DEM maps and Google Earth I'm getting about 3.5' on either side).



-Amy

Amy Silva
Supervising Environmental Scientist, CRMC
(401)-783-3370p / (401)-783-2069f
<http://www.crmc.ri.gov>

From: Scott Hobson <shobson@vhb.com>
Sent: Tuesday, September 26, 2023 1:28 PM
To: asilva@crmc.ri.gov
Subject: RE: [External] EBBP Question

Hi Amy,

The proposed bridges will not have sidewalks *per se*, but the bridges are 14 feet wide such that their approaches transition into the 10-foot-wide pavement of the Bike Path mainline. The areas you highlight are two-foot-wide grassed shoulders, between the pavement edges and split-rail fences. The new bridges hold the same 14-foot inside width as between the split-rail fences.

'Hope that helps!
Scott

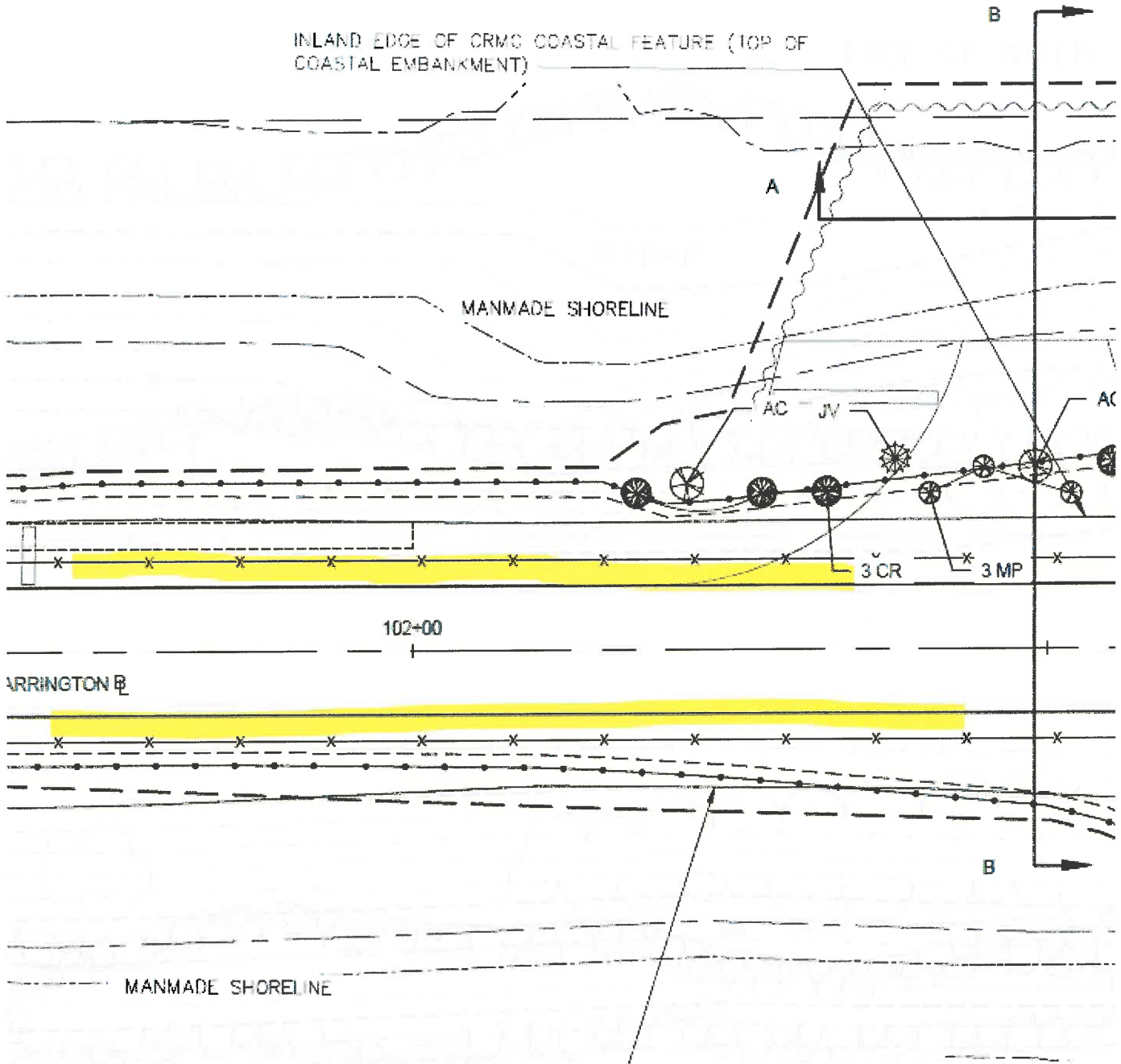
Scott Hobson
Senior Ecologist

P 401.457.7824
www.vhb.com

From: asilva@crmc.ri.gov <asilva@crmc.ri.gov>
Sent: Tuesday, September 26, 2023 11:36 AM
To: Scott Hobson <shobson@vhb.com>
Subject: [External] EBBP Question

Scott-

Im working on the report. Can you tell me if the new bridges will have "sidewalks" on either side like the previous bridges did? It looks like maybe they do? I'm seeing a space between the edge of the path and the fencing.



Amy Silva
 Supervising Environmental Scientist, CRMC
 (401)-783-3370p / (401)-783-2069f
<http://www.crmc.ri.gov>