

CRMC DECISION WORKSHEET

2020-04-037

JOHN BOWEN & PATRICK BOWEN

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
2020-04-037	Tiverton	Sakonnet River		B	<input type="checkbox"/>	<input type="checkbox"/>
		Plat	Lot			
		Owner Name and Address				
Date Accepted	04-13-2020	John Bowen & Patrick Bowen 79 Shaw Road Little Compton, RI 02831		Work at or Below MHW	<input checked="" type="checkbox"/>	
Date Completed	05-04-2021			Lease Required	<input checked="" type="checkbox"/>	

PROJECT DESCRIPTION

0.95 acre oyster farm using submerged cages

KEY PROGRAMMATIC ISSUES

Coastal Feature: Submerged land

Water Type: Type 1, Conservation Areas

CRMP: CRMP Sections: §§ 1.2.1(B); 1.3.1(A); and 1.3.1(K)


Variances and/or Special Exception Details:

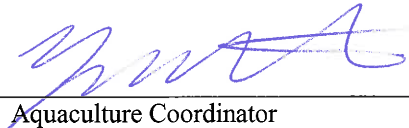
Additional Comments and/or Council Requirements:

Specific Staff Stipulations (beyond Standard stipulations):

STAFF RECOMMENDATION(S)

Aquaculture Coordinator BJG Recommendation: Approval


Executive Director Sign-Off 5/5/2021
date


Aquaculture Coordinator _____
date

Name: John Bowen & Patrick Bowen
CRMC File No.: 2020-04-037
Staff Report



STATE OF RHODE ISLAND
COASTAL RESOURCES MANAGEMENT COUNCIL
INTER-OFFICE MEMORANDUM

DATE: May 4, 2021
TO: Jeffrey M. Willis, Executive Director
FROM: Benjamin Goetsch, Aquaculture Coordinator
SUBJECT: CRMC File No. 2020-04-037

A handwritten signature in blue ink, appearing to be "Benjamin Goetsch".

Applicant's Name:	John Bowen & Patrick Bowen
Project:	0.95 acre oyster farm using submerged cages
Location:	Seapowet Cove, Sakonnet River, Tiverton
Water Type/Name:	Type 1; Conservation Areas
Coastal Feature:	Submerged Land

STAFF REPORT

This application is for a 0.95 acre oyster farm in the Sakonnet River, southwest of the Seapowet Bridge in the area known as Seapowet Cove (see Attachment A and B). The Seapowet Creek empties under the bridge and into the cove along a deeper channel which is flanked by rocky sandy shallows to the south and a beach with a sandbar to the north. Also along the shore north of the channel is the DEM Seapowet Creek Management Area which offers public parking and shore access. This application proposes a small farm near the end of the creek channel on its southern side, opposite the DEM Seapowet Creek Management Area.

The applicants are brothers that desire to start a small family farm growing only oysters. They have proposed 200 bottom cages (2' x 4', 14" tall, with 2" runners to keep them elevated from the bottom (total cage height is 16" tall) in water depths of 2' - 4' Mean Low Water. There will be 20 "trawls" of ten cages secured with 5/8"x36" helical anchors installed at each end (25 total), with a line attached to the helical-anchors on each side. Each cage will be secured to the line on both ends to avoid any movement during adverse weather conditions.

Due to public comments received, the applicants have proposed a modification to the original location in order to reduce any conflict with recreational fishing from the shores of the management area (see Attachment C). Staff supports the modification and will explain its development in the section below.

History:

The preliminary determination (PD) meeting for this application was conducted during a meeting of the Tiverton Harbor and Coastal Waters Management Commission on February 17, 2020. The commission had many questions and comments. One issue for the commission, DEM, and an objector was the shallow nature of the area and its recreational shellfish harvesting value. The PD site was farther north and east of the proposal, in shallower water (see attachment D), and overlapped significantly with the Recreational Shellfishing Layer on the DEM Marine Fisheries Map. The applicants asserted that there were plentiful quahogs on the north side of the creek channel but very few in the area that they proposed to the south. CRMC had a discussion with a local recreational harvester that confirmed the assertion. A subsequent shellfish survey found no quahogs in the proposed area.

A related issue was that the applicants proposed accessing the site by walking from the DEM Sapowet Marsh Management Area public parking lot. The applicants proposed crossing the intertidal area adjacent to the parking lot and crossing the creek channel while transporting the proposed gear (up to 200 cages) and servicing the farm. While there are other aquaculture sites in RI that access the site by walking, none of that access is from a public parking area. This method of access was not recommended by DEM and CRMC. The commission, DEM, and the objector all stated that they would not have an issue with this farm if it was moved to deeper water adjacent to the proposed site. Based on staff recommendations, the applicants in their full application moved the site southwest toward the deeper water creek channel, outside of the Recreational Shellfishing Layer, and made clear that access to the site would be over private land or by boat. Issues related to recreational shore fishing were not identified during the PD meeting.

Application Review:

This application has undergone the standard review process and has received the following letters and authorizations:

- RI Department of Environmental Management (DEM) Office of the Deputy Director for Natural Resources: minimal impact to fisheries and habitat, support of revision 6/25/2020
- RI Marine Fisheries Council: no recommendation 11/16/2020
- RI DEM Office of Water Resources: neither a RIPDES permit nor a Water Quality Certificate is required for the proposed facility. 12/17/2019
- RI Historical Preservation and Heritage Commission: no impact 4/29/2020
- U.S. Army Corps of Engineers 1/5/2021

During the thirty day public notice period, CRMC received five letters of support from various member of the community. However, CRMC also received two letters of objection citing potential interference with recreational shore fishing that occurs on the banks of the DEM Sapowet Marsh Management Area during certain times of year. The primary concern was that the site as proposed had encroached toward the sand bar and into the deeper water of the creek channel which is an area that fishermen wade out to and cast into in order to target striped bass. The Tiverton Harbor Commission also submitted a letter of objection based on possible impacts to moorings in the area despite indicating at the PD meeting that they would not have an issue with the proposal if it was moved to deeper water.

Name: John Bowen & Patrick Bowen
CRMC File No.: 2020-04-037
Staff Report

Working with CRMC and DEM staff, the applicants revised the site location again and moved the location east, away from the sandbar, and further south in order to reduce any conflict with recreational fishing while maintaining the appropriate water depth for the gear. Staff also sent this revision to the aquaculture public notice email list for any additional comments. When this application proceeded to the Shellfish Advisory Panel (SAP) for review, the panel members were confused by the revised site and the original. The meeting was conducted via Zoom and not all panel members had access to video or the slides presented (see Attachment E and F). The revision reduces the conflict with recreational fishing but moves the site slightly into the Recreational Shellfishing Layer. DEM stated at the meeting that they had no objection to the revision as the shellfish survey found no quahogs in the area. The SAP voted to object to the application because they were not sure which site they were commenting on and they thought it would be best if the full Marine Fisheries Council (MFC) review the application. The applicants subsequently appealed the decision to the MFC which also had issues in determining how to treat the revision and formulate a recommendation to CRMC. Three motions were made regarding the application, one to send the application back to the SAP for further review and two to not object to the revised site. After lengthy discussions, all motions failed after resulting in no opinion being rendered to the CRMC (see Attachment G and G1).

CRMC staff was frustrated with the result of the MFC review as the objection seemed to be more about the process rather than the application itself. However, through further research and communication with MFC Chair, Robert Ballou, staff learned that the review of revised or modified applications before the SAP/MFC is addressed in the DEM policy document titled, "Shellfish Aquaculture Lease Proposals: Policies and Procedures Governing RIMFC and DEM Reviews" (see Attachment H):

"Upon completion of the 30-day notice period, the AC coordinates with the applicant regarding public comments and any potential modifications to lease application based thereupon...The SAP meeting takes place. At the meeting, the AC, in coordination with the applicant, addresses any preliminary modifications to the application...The SAP seeks consensus on a recommendation regarding the application, including any potential additional modifications thereto."

It is Staff opinion that the SAP/MFC failed to render a recommendation on this application because they did not follow the policies and procedures that govern their review of aquaculture proposals. While it is true that a proposed modification to an application can only be approved by the CRMC council at a public hearing, the SAP/MFC clearly should consider such modifications in their review and recommendation to the CRMC.

Staff has since meet with the SAP to discuss these procedures in order to avoid any confusion in the future with an application that has been revised or modified to address concerns raised during the thirty day public notice period.

Additionally, the Tiverton Harbor Commission withdrew their objection when presented with the new revision at their regularly scheduled meeting on March 1, 2020. Staff presented an analysis of the area using satellite imagery at the meeting which confirmed for the commission that the revised site would not impact any moorings. The commission voted unanimously in favor of the application and to withdraw their objection (see Attachment I).

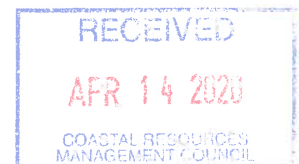
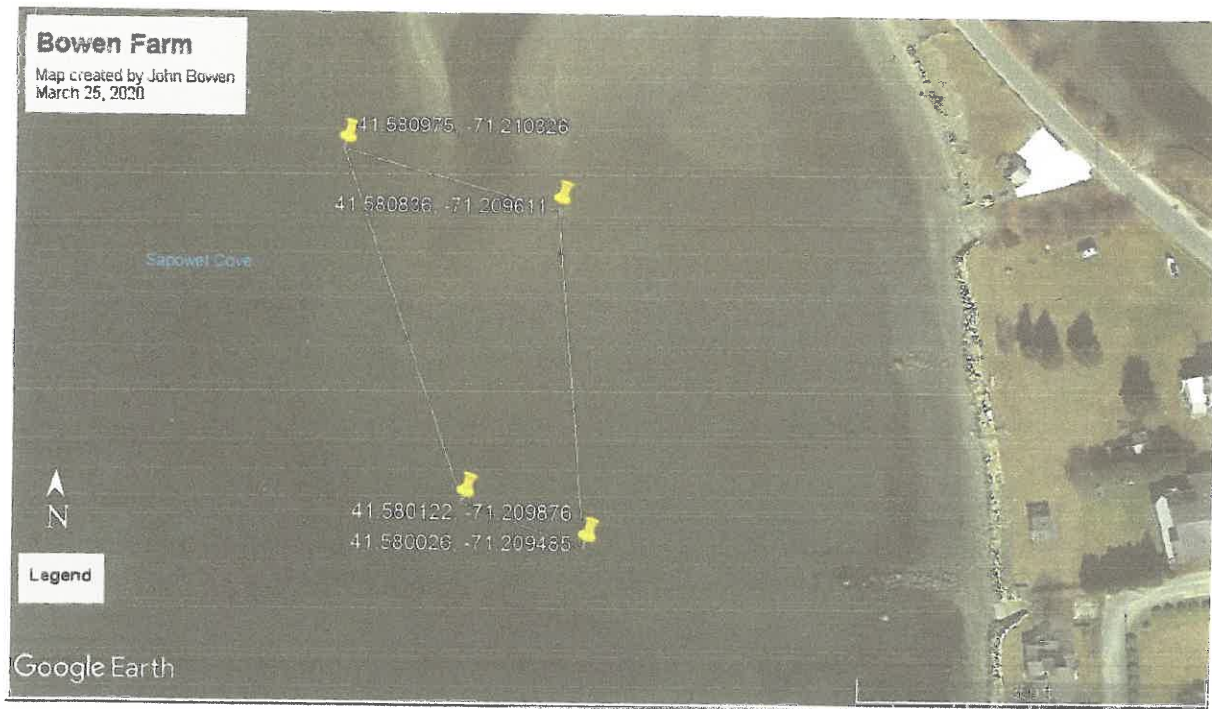
Summary:

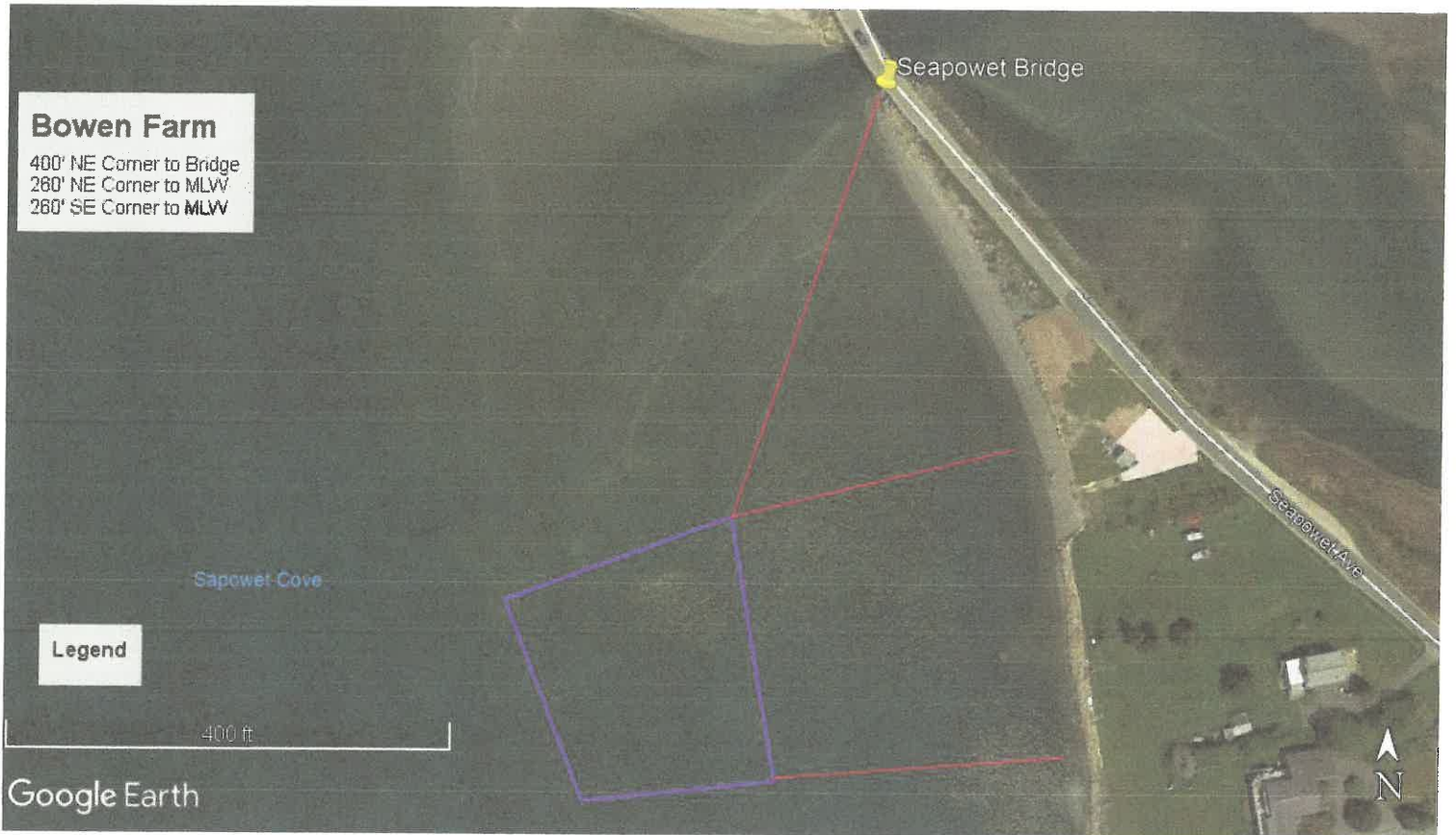
Name: John Bowen & Patrick Bowen
CRMC File No.: 2020-04-037
Staff Report

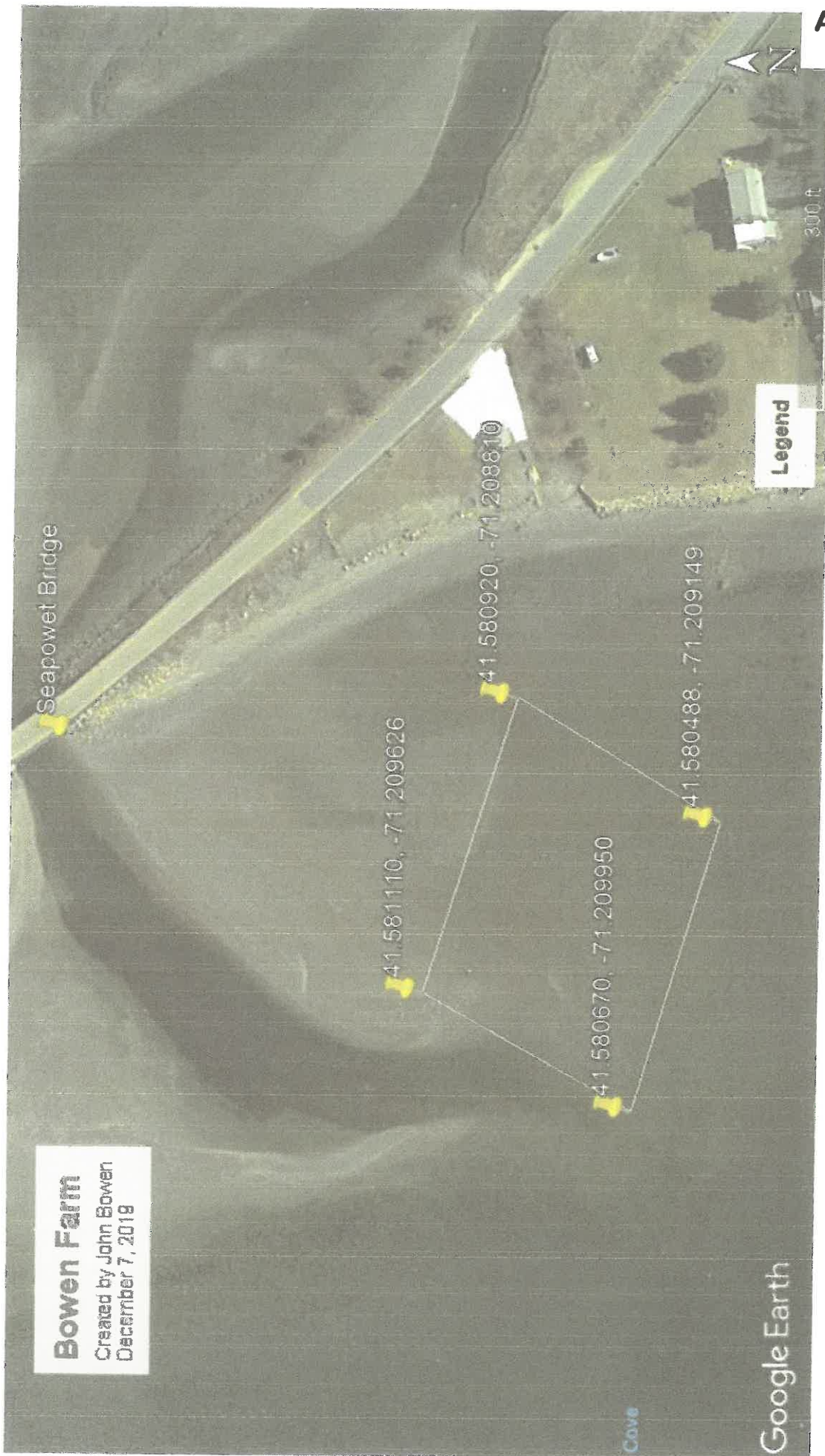
As stated above, this application for a 0.95 acre oyster farm as originally proposed presents a potential conflict with recreational shore fishing at the DEM Seapowet Marsh Management Area. Staff does not recommend this application as originally proposed for approval. It is Staff opinion that the revised site configuration significantly reduces the potential conflict between the farm and the recreational uses of the area. Staff has identified this configuration as a preferred alternative to the original application and the applicants have submitted a full set of revised site, gear and operational plans to CRMC via email on November 9, 2020 in support of that configuration (see Attachment J). It is Staff opinion that this revised application package dated November 9, 2020, is complete and has met the requirements of 650-RICR-20-001.3.1(K). Staff recommends the revised application dated November 9, 2020 for approval.



RECEIVED
APR 14 2020
COASTAL RESOURCES
MANAGEMENT COUNCIL







Bowen Farm
Created by John Bowen
December 7, 2018

Google Earth

Cove

Legend

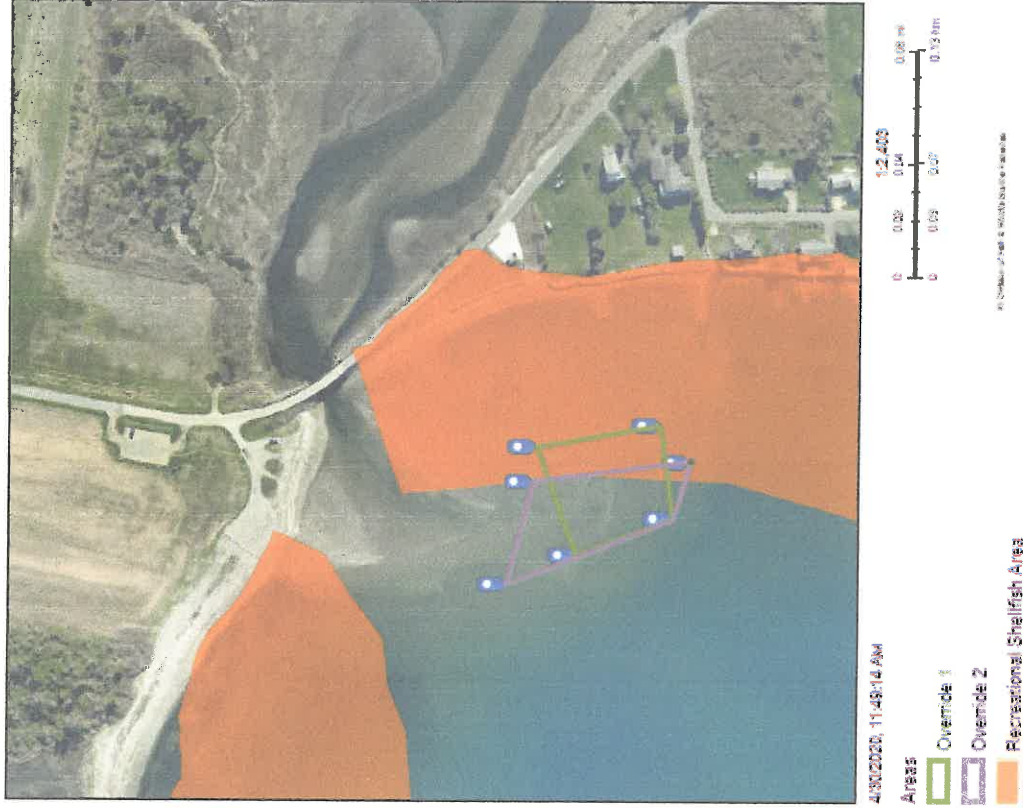
300 ft



3. 2020-04-037 Bowen, Sakonnet River

- Proposed 1.1 acre site in hard sand and rocky bottom in 1' -4' of water.
- Cultivating oysters using submerged bottom cages.
- Site overlaps with DEM recreational shellfishing layer.
- CRMC site assessment 0 quahogs/m²
- Site access via boat or private property.

Aquaculture Location Sketch



Shellfish Advisory Panel

September 2, 2020; 4:00PM

Virtual public meeting

Zoom webinar

MEETING SUMMARY

RIMFC members: K. Eagan (Chair)

DEM: A. Gerber-Williams, C. McManus, D. Erkan, J. McNamee, P. Duhamel, K. Rodrigue, S. Olszewski, J. Lake, D. Borkman, C. Hannus;

CRMC: B. Goetsch;

SAP members: Brennan Bica, J. Gardner, D. Ghigliotty, M. McGiveney, G. Schey, M Sousa, R. Tellier, R. Pastore, J. McDonald;

Public: N. Papa, V. Hemelrijck, J. Bown, S. Bowen;

1. Aquaculture application 2019-10-047 (East Beach Oyster Co. LLC, Papa):

2019-10-047, East Beach Oyster Co. LLC (Papa), Ninigret Pond: *B. Goetsch* provided a brief overview of the proposal, which consists of a 4.91-acre site reconfiguration and expansion of current 11.8-acre lease (total of 15.6-acres) for cultivating oysters (*Crassostrea virginica*) and hard shell clams (*Mercenaria mercenaria*) using bottom plant in Ninigret Pond. The reconfiguration is to avoid boat traffic trying to access the shoreline. CRMC performed a site assessment in and determined densities of quahogs at 1.4/m² and mostly soft mud bottom in 8-10 ft of water. *M. McGiveney* asked whether the work schedule was part of the application and *B. Goetsch* said that it is required of the applicant to provide this information. Additionally, *M. McGiveney* asked for the Ninigret Pond aquaculture percent acreage with this lease expansion and *B. Goetsch* calculated the percentage to be 4.39% with the 4.91-acre lease expansion. *D. Ghigliotty* asked for harvest method clarification. *B. Goetsch* replied that it is bullrake, dredge, and scuba.

- **Motion made by *M. McGiveney* to recommend to CRMC that the aquaculture activities proposed in the application is consistent with competing uses engaged in the exploitation of marine fisheries; 2nd by *R. Pastore*. The motion passed with a unanimous vote of 8-0.**

2. Aquaculture application 2020-05-083 (Van Hemelrijck):

2020-05-083, Van Hemelrijck, Point Judith Pond: *B. Goetsch* provided a brief overview of the proposal, which consists of a 0.55 - acre primary lease site on hard sand bottom in 1.5 – 4 feet of water and a second nearby 0.05-acre winter storage site to cultivate oysters (*Crassostrea virginica*) and hard shell clams (*Mercenaria mercenaria*) using submerged cages and bottom plant in Point Judith Pond. The applicant had a 1000 m² Commercial Viability site in Point Judith Pond, which expired in 2020. CRMC performed a site

assessment, which found 0.16 quahogs/m². *B. Goetsch* noted this lease would complete the Point Judith Pond 5% limit. CRMC received a letter of objection to the application from local homeowner, whom had circulated a petition, which stated that it was too close to their docks and would impact recreational use. *R. Tellier* asked whether eelgrass was found at the site and *B. Goetsch* stated that there is none located at the site but that it was found to the north of the location. *K. Eagan* asked for clarification on the months designated for the winter storage. *B. Goetsch* said that the winter storage would be used between December and March.

- **Motion made by *R. Pastore* to recommend to CRMC that the aquaculture activities proposed in the application is consistent with competing uses engaged in the exploitation of marine fisheries; 2nd by *D. Ghigliotty*. The motion passed with a vote of 6-1 (*R. Tellier* opposed).**

3. Aquaculture application 2020-04-037 (Bowen):

2020-04-037, Bowen, Sakonnet River: *B. Goetsch* provided a brief overview of the proposal, which consists of a proposed 1.1 - acre lease in the Sakonnet River within the town of Tiverton. The site is located over rocky bottom in 1 – 4 feet of water and would be used for cultivating oysters using submerged bottom cages. The site partially overlaps with the DEM recreational shellfishing layer. CRMC performed a site assessment, which found 0.0 quahogs/m². The site would be accessed using a boat or private property. *B. Goetsch* stated that CRMC received a letter of objection from the Harbor Commission stating that the site location was in too shallow of water. An additional two letters of objection were received regarding conflicting use of the channel for recreational fishing. Due to the recreational fishing objection, CRMC proposed an amended site, which moves the location further south out of the channel and in closer to shore. *R. Pastore* asked whether there is a lot of boating traffic in the area and whether hi fliers were required for these applications. *B. Goetsch* stated that there is some boating traffic to the town boat ramp and that all applications require buoys with assent numbers. *J. Gardner* stated that the sites northwest point could be hard to navigate around and that he proposes moving it further south. *J. Gardner* would not object to the application if the currently proposed northwest corner was shifted down to the northwest corner on the proposed amended site. The applicant, *J. Bowen* clarified that the current proposed lease location on the application out for public notice is the footprint that is located closer to the channel and further outside of the DEM recreational shellfishing layer (purple outline on the map) and that the alternate location (green outline on the map) is what CRMC has proposed as an amendment to address the recreational fishing conflict. *M. McGiveney* stated that due to the confusion regarding the proposed site and site alternate that it would be best for the RIMFC to review the application.

- **Motion made by *M. McGiveney* to recommend to RIMFC that the aquaculture activities proposed in the application is not consistent with competing uses engaged in the exploitation of marine fisheries, Also, due to the confusion regarding the alternative site description; 2nd by *G. Schey*. The motion passed with a vote of 6-0 (*J. Gardner* abstained).**

4. **Shellfish harvest schedules for winter management areas (Greenwich Bay, Bissel Cove, and Bristol Harbor Shellfish Management Areas):**

- **Greenwich Bay sub-areas 1 and 2:** *A. Gerber-Williams* provided a brief explanation of the default winter harvest schedule for the Greenwich Bay Shellfish Management Areas. *G. Schey* voiced that the sub areas should be made into one area. *C. McManus* replied that it hasn't been addressed in regulation but that it would be assessed by DEM DMF staff. *B. Bika* asked whether more harvest hours could be added in December because as a dealer they need more product before the holidays. **Motion made by *M. McGiveney* to recommend to the council proposed schedule change. Greenwich Bay Sub Areas 1 and 2 opens December 9, 11, 14, 16, 18, 21, 22, 23, 24, 28, 29, 30. The 31st would only be permissible if weather closures do not permit harvest during one of the scheduled days; 2nd by *D. Ghigliotty*. The motion passed with a unanimous vote of 8-0.**
- **Bissel Cove 3F:** *A. Gerber-Williams* provided a brief explanation of the default winter harvest schedule for the Bissel Cove Shellfish Management Area. **Motion made by *M. McGiveney* to recommend to the council proposed schedule change. Bissel Cove opens December 9, 11, 14, 16, 18, 21, 22, 23, 24, 28, 29, 30. The 31st would only be permissible if weather closures do not permit harvest during one of the scheduled days; 2nd by *G. Schey*. The motion passed with a unanimous vote of 6-0.**
- **Bristol Harbor 4B:** *A. Gerber-Williams* provided a brief explanation of the default winter harvest schedule for the Bristol Harbor Shellfish Management Area. **Motion made by *J. McDonald* to recommend to the council to keep the schedule as is; 2nd by *M. McGiveney*. The motion passed with a unanimous vote of 6-0.**

A. Gerber-Williams presented quahog landing data of direct counts collected in each of the shellfish winter harvest management areas going back to 2011.

5. **Providence River Transplant:**

A. Gerber-williams presented an update on the Providence River transplant scheduled for September 15th (weather day on Wednesday the 16th). The transplant is to begin at 8:00 AM and continue until 12:00 PM with the base of operations at the R/V John Chafee, which will be anchored centrally in the lower Providence River. Shellfisherman will be paid \$15 per 50 pound bag if assisting with the dumping, otherwise participants will be paid 10\$ per 50 pound bag. W-9 forms should be submitted in advance by September 7th to Kim Kirwan via email or mail, this also serves as a RSVP for the transplant. *C. Hannus* from the Office of Water Resources stated that the eastern shoreline has pollution sources, which should not be included in the transplant area and that the eastern boundary line should extend from Bullock Point to Nayatt Point. Additionally, *C. Hannus* voiced that the transplant could be delayed if the Upper Bay receives a rainfall amount of greater than an inch. Finally, she said that the Winnapaug transplant information needs to be added to the Office of Water Resources paperwork. It was decided that a final draft

needed to be agreed upon for the Providence River procedures and additional clarification on the Winnapaug transplant be added to the transplant plan between the OWR and DMF.

Prepared by: A. Gerber-Williams



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835
(401) 423-1920 Fax: (401) 423-1925

RIMFC: Robert Ballou, *Chairman*; Travis Barao; Andy Dangelo; Katie Eagan; Jason Jarvis; David Monti, *Vice Chair*; Christopher Rein; Michael Rice, Ph.D.; Mike Roderick

MEETING SUMMARY

November 2, 2020

Zoom webinar virtual meeting

Chairperson: B. Ballou

RIMFC members in attendance: T. Barao, A. Dangelo, K. Eagan, J. Jarvis, D. Monti, C. Rein, M. Rice, D. Monti, M. Roderick

Director's office: J. McNamee

Division: C. McManus, S. Olszewski, J. Lake, N. Costa, N. Ares, C. Parkins, M. Bucko, P. Duhamel, N. Ameral

DEM Legal: J. LoBianco

Public: Approximately 10 persons in attendance.

1. Approval of the agenda: The Chair inquired to any objections to approving the agenda or if there were any requests for modifications; hearing no objections or requests or modifications the agenda was approved by consent.
2. Approval of minutes from meeting on June 1, 2020: The Chair inquired to any objections to approving the minutes or if there were any requests for modifications; hearing no objections or requests or modifications the minutes were approved by consent.
3. Public comments regarding any other matters not on agenda: No comments were offered.
4. Horseshoe crab assessment update: N. Ameral provided an update on the status of the horseshoe crab stock assessment being conducted by the Division.
5. Noticed regulation amendments (Part 2 - Commercial and Recreational Saltwater Fishing Licenses):
 - The following items were handled by the Council in a single motion:
 - Correction to activity standard criteria for the issuance of a new license in instances of Incapacity (section 2.7.5(D)(1)(b)(2))
 - Amend the activity standard criteria for the date that landings must have occurred, from 2006 to 2010, for the issuance of new licenses in instances of incapacity (section 2.7.5(D)(1)(b)(2))

- Clarify eligibility requirements regarding the issuance of a new license in instances of incapacity (section 2.7.5(E)(5)(a))
- Add prioritization criteria for the issuance of new licenses and endorsements for veterans to account for fishing activity lost during active duty (section 2.7.5(G)(1)(f))

Motion made by D. Monti to recommend adoption of the proposed rule with a change of the word “conscription” as noticed to “enlistment”, and change the 10-year time frame from a hard date to a rolling 10-year timeframe; 2nd by M. Rice. The motion passed 8-0.

- Direct Sale Dealer License (section 2.7.9(F)): The following motions were made:
 - Motion made by C. Rein to recommend to the Director adoption of the regulatory language as proposed for addition of the Direct Sale Dealer License to Part 2 – Commercial Licensing as amended; 2nd by K. Eagan. The motion passed 8-0.
 - Motion to amend made by M. Rice that the final rule provide for allowance that the product to be sold within 24 hours from time of landing, instead of on the same day as noticed; 2nd by C. Rein. The motion passed 8-0.
 - Motion to amend made by D. Monti to set the license fee to \$50; 2nd by C. Rein. The motion passed 8-0.
 - Motion to amend made by D. Monti to add sea and bay scallop meats to the list of species authorized for sale under the license; 2nd by C. Rein. The motion passed 8-0.
 - Motion to amend made by K. Eagan to add live whelk to species eligible for transport; 2nd by M. Rice. The motion passed 8-0.

6. Aquaculture lease application review (John & Patrick Bowen):

- Motion made by C. Rein to recommend to the CRMC that override area 1 of this aquaculture lease application is consistent with competing uses engaged in the exploitation of the marine fisheries and minimizes impacts compared to override area 2; 2nd by M. Rice. The motion was withdrawn after discussion.
- Motion made by C. Rein to recommend to the CRMC that this aquaculture lease application be remanded to the RIMFC Shellfish Advisory Panel for additional review as the lease application has been modified since being noticed; 2nd by M. Rice. The motion failed 5-3 (J. Jarvis, M. Rice, T. Barao, M. Roderick, A. Dangelo dissenting).
- Motion made by M. Rice to recommend to the CRMC that override area 1 of this aquaculture lease application is consistent with competing uses engaged in the exploitation of the marine fisheries and minimizes impacts compared to override area 2; 2nd by T. Barao. The motion failed 6-2 (C. Rein, M. Roderick, J. Jarvis, D. Monti, K. Eagan, A. Dangelo dissenting).

7. Shellfish harvest schedules in Greenwich Bay and Bissel Cove/Fox Is. Shellfish Management areas: Motion by K. Eagan to recommend to the Director adoption of the proposed amendments to the December 2020 harvest schedules as recommended by the Shellfish Advisory Panel as follows:

Open from 8:00 AM to 12:00 PM on December ~~11, 13, 16, 18, 20, 23, 24, 26, 27, 30, and 31~~ 9, 11, 14, 16, 18, 21, 22, 23, 24, 28, 29, 30. If one of the dates are closed due to water quality impairment, December 31 will open for harvest.

8. Shellfish Advisory Panel meeting minutes (9/2/20): The Chair inquired to any objections to approving the minutes or if there were any requests for modifications; hearing no objections or requests or modifications the minutes were approved by consent.
9. Shellfish Advisory Panel Scientific Advisor position: M. Rice offered to fill the position which was unanimously supported by the other Council members.
10. Any Other Matters: No other matters were discussed.
11. Adjournment: The meeting was adjourned by the Chair at @ 8:15pm.

Note: This document represents a meeting summary. The full video recording of the meeting is available at the Division of Marine Fisheries YouTube channel [here](#). Individual agenda items and their times can be viewed by expanding the “SHOW MORE” tab.



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835
(401) 423-1920 Fax: (401) 423-1925

Robert Ballou
Chairman

David Monti
Vice Chair

Travis Barao

Andrew Dangelo

Katie Eagan

Jason Jarvis

Christopher Rein

Michael Rice,
Ph.D.

Michael Roderick

November 16, 2020

Ben Goetsch, Aquaculture Coordinator
Coastal Resources Management Council
4808 Tower Hill Road
Wakefield, RI 02879

Re: CRMC Aquaculture Lease Application # 2020-04-037, John and Patrick Bowen, Sakonnet River, Little Compton

Dear Mr. Goetsch:

Pursuant to R.I. Gen. Laws §20-10-5, the above-referenced aquaculture lease application was brought before the RI Marine Fisheries Council's (hereafter "Council" or "RIMFC) Shellfish Advisory Panel (SAP) on September 2, 2020. The SAP was presented with two locations for the proposed lease site – one being the site set forth in the public notice dated April 17, 2020; the other being an overlapping alternative location offered by the CRMC, during the public comment period, as a proposed modification in response to initial concerns raised during the public notice period. The SAP found the matter involving two proposed sites confusing and, based on that confusion, voted to recommend that the aquaculture activities proposed in the application are not consistent with competing uses engaged in the exploitation of marine fisheries. The recommendation was rendered with the expectation that the matter would be brought before the full Council for further consideration.

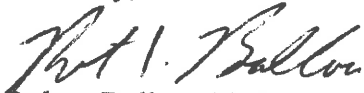
At the request of the applicants, the application was brought before the full Council at the Council's meeting on November 2, 2020. The Council deliberated upon the recommendation of the SAP, as well as additional input provided by you on behalf of the applicants, and additional input from the applicants themselves. The Council considered two motions:

- Motion #1: To remand the application back to the SAP for additional review due to the location being modified since being publicly noticed. Motion failed 5-3.
- Motion #2: To recommend to the CRMC that override area 1 is consistent with competing uses engaged in the exploitation of the marine fisheries and minimizes impacts compared to override area 2. Motion failed 6-2.

There being no further motions, the RIMFC's review concluded. Thus, the application is hereby conveyed to the CRMC with no recommendation from the RIMFC.

The key challenge faced by the Council and the SAP regarding this application is that the members felt uncomfortable rendering a recommendation pertaining to two proposed lease site locations, only one of which was noticed for public comment. The members value the insights and perspectives offered by fishermen via the public comment process, and consider them carefully when formulating recommendations to the CRMC. The shifting nature of this proposal during the public comment period made it difficult for the Council and the SAP to apprehend public opinion and render informed recommendations.

Sincerely,


Robert Ballou, Chair
RIMFC

cc: RIMFC Members
Michael Wierbonics, ACOE
Alicia Wilson, ACOE

Shellfish Aquaculture Lease Proposals

Policies and Procedures Governing RIMFC and DEM Reviews

Adopted by the RI Marine Fisheries Council – August 3, 2009
As Amended September 2009

Policy #1:

The RI Marine Fisheries Council (RIMFC) authorizes the Council's Shellfish Advisory Panel (SAP) Chair to schedule SAP meetings, on an as-needed basis, for the purpose of reviewing applications for issuance of aquaculture leases that have been submitted to CRMC and that CRMC has referred to the RIMFC for review for the consideration of recommendations pursuant to R.I. Gen. Laws §20-10-5(b). The RIMFC hereby determines that it is procedurally unnecessary for the full RIMFC to conduct preliminary reviews of each of the individual aquaculture lease applications prior to designating them for consideration as SAP agenda items. The SAP Chair will provide updates to the full Council at every regularly scheduled Council meeting regarding any/all meetings or activities involving the SAP or the SAP Chair.

Policy #2:

In accordance with the procedures set forth below, the RIMFC will be provided with full and timely notification regarding all SAP recommendations pertaining to aquaculture lease applications. The RIMFC hereby delegates the SAP with the authority to prepare recommendations concerning individual aquaculture lease applications and to forward said SAP recommendations to the CRMC, with said SAP recommendations being deemed approved by the RIMFC, and reflective of the RIMFC's final recommendation pertaining to the application, unless, within ten (10) days of the receipt of said SAP recommendation, any member of the RIMFC notifies DEM of his/her desire to bring the SAP recommendation before the full RIMFC for further review and consideration, in which case the matter will be placed on the agenda for the next RIMFC meeting.

Policy #3:

Upon receipt of SAP recommendations pertaining to aquaculture lease applications, the CRMC will immediately forward said recommendations to the applicants. If any applicant wishes to bring the SAP recommendation(s) before the full RIMFC for further review and consideration, the applicant will so notify the CRMC who in turn will notify DEM, and the matter will be placed on the agenda for the next RIMFC meeting.

Procedures:

1. The CRMC receives an initial, draft proposal for a new or expanded aquaculture facility. In response, the CRMC Aquaculture Coordinator (AC) distributes the proposal to all interested parties and conducts a Preliminary Determination (PD) meeting, inviting: ACOE, NMFS, USCG, DEM, DOH, adjacent municipality(s), the RIMFC Shellfish Advisory Panel (SAP) Chair, commercial and recreational fishing industry representatives, and other interested parties.
 - DEM and the SAP Chair make every effort to respond to the draft proposal, via the PD process.
 - As part of the PD process, DEM and the SAP Chair identify information needs and key issues to be addressed by the applicant, in coordination with the AC.
2. The AC provides recommendations back to the applicant, drawing upon the comments provided through the PD process.
3. DEM and the SAP Chair remain available for consultation with the AC, as the applicant addresses preliminary suggested modifications to his/her lease application.
4. The applicant submits a lease application to the AC, which the AC, as an action in the 30 day public notice process, distributes to all interested parties, including DEM, the RIMFC, and all members of the SAP. (*In advance, DEM shall provide the AC with names and addresses of all SAP and Council members.) During the 30-day period:
 - The SAP Chair, in coordination with DEM, schedules a SAP meeting, with a target date within 15-20 days following the close of the 30-day period.
 - DEM conducts an internal preliminary review of the application, with a target date for completion of no more than 15-20 days following the close of the 30-day period (i.e., corresponding to the date of the SAP meeting).
 - The AC remains available for consultation with DEM and SAP Chair during the review process.
 - The AC helps ensure that key interests, including the applicant, as well as all other interested parties, are invited to attend and participate in the SAP meeting.
5. Upon completion of the 30-day notice period, the AC coordinates with the applicant regarding public comments and any potential modifications to lease application based thereupon.
6. The SAP meeting takes place. At the meeting, the AC, in coordination with the applicant, addresses any preliminary modifications to the application; DEM presents its preliminary comments on the application; and industry interests (among others) are given the opportunity to comment. Those unable to attend the meeting are encouraged to submit written comments. The SAP seeks consensus on a recommendation regarding the application, including any potential additional modifications thereto.

7. Within ten (10) days following the SAP meeting, the SAP Chair develops minutes of the meeting, with particular reference to the panel's recommendation(s). Upon completion of the minutes, they are submitted to the RIMFC, with a copy to DEM and the AC; the AC then forwards the recommendation(s) to the applicant. Simultaneously, DEM's preliminary comments on the application are submitted to the RIMFC, with a copy to the AC, who then forwards said comments to the applicant. Relevant application materials, provided by the AC, are included in the RIMFC submittal.
8. Within ten (10) days following receipt of the SAP meeting minutes, and all associated documents, and DEM's preliminary comments on the application, any RIMFC member may request that the matter be brought before the full RIMFC at the next regularly scheduled RIMFC meeting.
9. If no RIMFC member makes such a request, DEM notifies the AC, on behalf of the RIMFC, that the SAP recommendation(s) constitute(s) the RIMFC recommendation. That recommendation stands unless and until an applicant seeks further review and consideration by the full RIMFC, pursuant to #11 below.
10. If any RIMFC member does request that the matter be brought before the full RIMFC, the matter is scheduled for consideration at the next regularly scheduled RIMFC meeting. At that meeting, the RIMFC develops a recommendation to the AC, drawing upon the recommendations of the SAP, and in consideration of any other relevant issues, including DEM comments and any additional public comment offered at the RIMFC meeting. The RIMFC may continue any matter that requires additional review. The RIMFC recommendation is forwarded to the AC immediately following final adoption.
11. Notwithstanding the process outlined above, any applicant wishing to bring the SAP recommendation(s) pertaining to his/her lease application before the full RIMFC for further review and consideration may do so, at any time, by making that request to the AC, who in turn forwards the request to DEM. Upon receipt of such request, the matter is scheduled for consideration at the next regularly scheduled RIMFC meeting. At that meeting, the RIMFC develops a recommendation to the AC, drawing upon the recommendations of the SAP, and in consideration of any other relevant issues, including DEM comments and any additional public comment offered at the RIMFC meeting. The RIMFC may continue any matter that requires additional review. The RIMFC recommendation is forwarded to the AC immediately following final adoption.
12. Immediately following the SAP meeting, or, if the matter is brought before the RIMFC, immediately following adoption of their final recommendation, DEM submits its final written comments on the application to the AC.
13. The AC completes the regulatory review process pursuant to CRMC's programmatic requirements.

Town of Tiverton, Rhode Island
HARBOR AND COASTAL WATERS MANAGEMENT COMMISSION
343 HIGHLAND ROAD
TIVERTON
Mar 1, 2021 at 7PM

(Meeting conducted using the Zoom platform – see notes at end of minutes for Zoom call details provided with meeting announcement)

Meeting Called to Order: 7:04 PM Meeting adjourned: 8:50 PM
Members Present: Bruce Cox (Chair), David Stewart (Vice Chair), Gregory Banner, Andy Sumberg, Charles Lawrence, Jason Clermont, Tyler Loomis (Harbormaster)
Members Absent: Roger Winiarski, Phyllis Ibbotson, Paul Duarte
Members of the Public in attendance: Andrew Rys (Managing the Zoom Call), Benjamin Goetsch (CRMC), Patrick and John Bowen, Donna Cook (Town Council Member), Brad Boehringer, Travis Lundgren, Bill Viera (Town Council Member)

AGENDA:

A) MINUTES OF February 1, 2021. Move to accept. Stewart Second. Lawrence. All in favor. Accepted.

Motion to take business out of order to consider items G.2. and G.1. Moved. Banner Second. Sumberg. All in favor. Accepted.

Item. G) 2 .Bowen Brothers application 2020-04037 For reconsideration. requested by Ben Goetsch-CRMC

Bowen Brothers. Read statement. April 2020 formal proposal made. Proposal for oyster farm next to Sakonnet Creek. Modified original proposal to move proposed site into deeper water. Plan to use boat and will not use the DEM parking area. Highlighted the proposed use of the farm for educational purposes.

Q: (Loomis). Buoys currently on site represent new site?

A: Yes.

Q: (Clermont). Any moorings in area?

A: (Loomis). One very old one which hasn't been used in a few years.

Mr Goetsch (CRMC) shared his screen to show a map of the location.

Q: (Cox) - Discussions with immediate neighbors?

A: Yes, with three neighbors and no issues raised.

Q: (Loomis). Talked to Metcalf, owner of mooring closest to site?

A: No.

Q: (Banner). After site established how close could a new mooring be established?

A: (Goetsch) No set regulation as long as a mooring is not on the site.

Q: (Cox). Where will the boat be operated out of?

A: Has an 18' skiff to use. Will use a public site to put the boat in. No specific plan at this point but will attempt to use a local commercial site to off load.

Q: (Cook). What specific equipment will be used. (above or below water)?

A: Intent is to have submerged equipment with corner markers.

Loomis - water is shallow where boats typically would not be going.

Q: (Lawrence). Mean water level?

A: 3-4 feet. Owners would encourage interest from kayakers. Equipment is 16" above the sea floor.

Motion to recommend approval. Stewart. Second Clermont. All in favor. Approved.

Item G) 1. Boehringer & Lundgren 2021-02-054 Aqua Culture application

Boehringer outlined proposal. Applying for a 2.96 acre floating farm. Also includes bottom cages. Solar powered corner markers to identify the farm perimeter.

Goetsch shared map showing location. Farm approximately 200 feet from the channel and 400 feet from the shore.

Showed diagrams of proposed gear. Showed photographs of applicant current farm using the same gear.

Q: (Banner). Access to site?

A: Skiff will be docked and used from a local commercial dock.

Q: (Loomis). What are the corner markers?

A: (Goetsch) Solar powered buoys with reflectors. Will be registered with Coast Guard.

Motion to propose acceptance of application. Sumberg. Second Lawrence. All in favor. Approved.

Q: (Loomis) What is the requirement for upkeep of sites? One in particular the harbor master has seen broken equipment and equipment on the beach.

A: (Goetsch). CRMC responsibility to track issues and address with owners to correct issues.

For any site with no activity in two years CRMC can revoke their permit. Mr. Goetsch said he is the contact for any observed issues.

Return to agenda. (7:58 PM)

B) PUBLIC COMMENT SECTION. (action cannot be taken by motion on topics raised).

None.

C) CONSTRUCTION REPORTS. None.

D) SEA LEVEL RISE - Charles Lawrence. Commended on presentation at the last meeting.

Q: (Cox) to Donna Cook - Has the Town Council considered yet seeing the presentation.

A: (Cook) Was not aware of the request. She will discuss with the Council Chair to try to get it on the agenda.

E) CORRESPONDENCE

1. Tiverton DPW re: Boehringer & Lundgren 2021-02-054 Aqua Culture application.

Discussed above.

2. CRMC rule making on cable corridors. New Business.

3. Bowen Brother revised application. Discussed above.

F) OLD BUSINESS

1. Seapowet and Fogland boat ramp. Chair Cox has attempted to talk with the DPW but believes they have been occupied with winter issues in the town. Will continue trying to reach them.

2. Investigate coordination with US Geological Survey regarding the current velocities in the basin.-legislation for permits. Report from Sumberg. Has been dealing with the originators of the data and is getting to use the data for better overall products. Still working with the information and will advise of final results. Showed pictures of the current products.

3. Dingy landing at Stonebridge Abutment. Chair Cox met with the town budget committee. Town capital funds were not used for many projects because of COVID and so the \$10K for the dingy landing is still a viable project.

4. Flood Hazzard Mitigation Grant-pole elevation straps -Jacques Afonso National Grid. Continued.

5. Aquaculture ordinances. Should be included with any Harbor Management Plan updates.

6. Harbor Management Plan incorporations and added dates VIA zoom or other means? Intent is to try to use a zoom format for 1-2 hour sessions to begin working on the plan. Mr Sumberg will poll the members to help establish a schedule for work. Discussion on methodology to update the document. That will be the goal of the first meeting tentatively planned for 9 March.

Donna Cook. (Q). How will be plan be processed?

A: (Cox). Group will develop plan, present to Town Council, get permission and move to CRMC for final approval.

Bill Viera. Did talk to the Town Council about the Sea Level Rise presentation and they agreed to see it at some point.

G) NEW BUSINESS (8:31 P.M.)

1. Boehringer & Lundgren 2021-02-054 Aqua Culture application. Moved Forward.

2 .Bowen Brothers application 2020-04037 For reconsideration requested by Ben `Goetsch-CRMC . Moved Forward.

3. CRMC rule making on cable corridors. Solicitation on input. Chair Cox suggested adding that survey companies as possible make data available to local communities.

4. Recommendation regarding reappointment of the Harbormaster. Proposed Stewart. Second Lawrence. All in favor. Approved.

5. Stonebridge docks. Discussed above. Budget likely available.

H) HARBOR MASTER REPORT

1. Mooring renewal status 2021. Office changes happening. Renewal notices should be going out in a few weeks.

2. Boat status. Out for the winter. Boat getting serviced. Selected parts getting replaced. Has a new trailer identified. Donna Cook advised that money is likely available for the trailer. Harbor Master will confirm before ordering trailer.

Jason Clermont briefed on a new state DEM regulation to regulate wetland buffer zones at state level. He had previously sent written information to the Commission.

Adjournment: 8:50 PM Motion by Lawrence. Second by Stewart. All in favor. Approved.

ADJOURNMENT Pursuant to RIGL §42-46-6(b), Notice – “Nothing contained herein shall prevent a public body, other than a school committee, from adding additional items to the agenda by majority vote of the members. Such additional items shall be for informational purposes only and may not be voted on except where necessary to address an unexpected occurrence that requires immediate action to protect the public or to refer the matter to an appropriate committee or to another body or official.” Items on the Agenda are subject to being re-sequenced at the discretion of the commission.

Respectfully Submitted,
Greg Banner

Notice: In accordance with the Open Meetings Act, Section 42-46-6 of the Rhode Island General Laws, notice is hereby given that the HARBOR & COASTAL WATERS MANAGEMENT COMMISSION will hold a Regular Meeting on March 1, 2021 at 7:00 PM at the Tiverton Town Hall at 343 Highland Road. The Town will be conducting its meeting in compliance with Executive Order 20-05 dated March 16, 2020 by the Honorable Gina Raimondo. ***AS A RESULT OF THE COVID-19 PANDEMIC, AND THE CLOSURE OF TOWN HALL, THIS MEETING WILL BE CONDUCTED VIRTUALLY, THROUGH AN APPLICATION CALLED, “ZOOM” *** IN ORDER TO PARTICIPATE, USE THE FOLLOWING OPTIONS:

You are invited to a Zoom webinar.

When: Mar 1, 2021 07:00 PM Eastern Time (US and Canada)

Topic: Tiverton Harbor Commission

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/86320299544?pwd=ODdqQ3paTlk1OU9kbUpQNEZaeDFnZz09>

Passcode: 838834

Telephone: 833 548 0276/833 548 0282/877 853 5247/888 788 0099

Webinar ID: 863 2029 9544 Passcode: 838834

From: Sean Bowen <seanbow@yahoo.com>
Sent: Monday, November 9, 2020 10:54 PM
To: Benjamin Goetsch
Cc: Pat and Claire Bowen
Subject: Modified Bowen Application
Attachments: Bowen Farm Modified 11-9-20.pdf

Attachment J

Hello, Ben. Attached, please find a modification to our application for CRMC Assent, as requested. Please let me know if you have any questions, or if there is further information required.

Thank you,

John and Patrick Bowen
401-635-0294
seanbow@yahoo.com

CRMC AQUACULTURE APPLICATION FOR STATE ASSENT

Applicant Name and Mailing Address:

Applicant Name(s): John Bowen, Patrick Bowen
Street: 79 Shaw Road
City/Town: Little Compton State: RI Zip Code: 02837
E-Mail: Seanbow@yahoo.com

CRMC File Number: 2020-04-037

DEM License Number: Application Pending

Type of Facility: Commercial lease site

Location of Proposed Aquaculture Site (Waterway): Sakonnet River, Southwest of Seapowet Creek



Size of Proposed Aquaculture Site: 0.95 acres

Latitude /Longitude of Proposed Aquaculture Site:

Northwest: 41.580613, -71.210130
Northeast: 41.580819, -71.209384
Southwest: 41.580130, -71.209870
Southeast: 41.580180, -71.209238

Signature of Requestor: _____ Date: _____

This application for State Assent is submitted at the request of the CRMC Aquaculture Coordinator, to provide clarification and detail regarding a modification of coordinates, which the Council may consider as an alternate to those originally submitted for State Assent.

John Bowen and Patrick Bowen are seeking State Assent from Coastal Resources Management Council for a shellfish aquaculture farm in Tiverton, RI. The site is located in the Sakonnet River, Southwest of Seapowet Creek. The site was chosen for a variety of reasons, including proximity to the nutrient rich Seapowet Creek tidal flow, depth, and lack of wild shellfish resource within the site.

Farming practices will focus on environmental sustainability, and utilize a low-profile approach. The growout gear utilized will not be visible from shore, even at low tide. Culture methods will suit the site and accommodate multiple stages of growth, consisting of top loading cages, with mesh bags affixed to the cages.

John Bowen and his brother Patrick Bowen will be primarily responsible for daily management of the farm, with their sons Samuel and Malcolm actively assisting in farm operation. John and Patrick have both completed the course, "Fundamentals of Shellfish Farming: Practical Tools, Tips, and Techniques", presented by Roger Williams University and Cape Cod Cooperative Extension, and both have experience working on an oyster farm, dating back to the early 1980s. Additionally, John has a Bachelor's Degree in Environmental Science, with Emphasis in Aquaculture from Unity College in Maine. It is their intention to be model stewards of the area, and they understand the responsibility and privilege of a shellfish aquaculture lease.

Changes to application as a result of recommendations from the Preliminary Determination Hearing, held February 17, 2020:

- 1. *Tiverton Harbor and Coastal Waters Management Commission, DEM, and an objector had concerns regarding the shallow depth of the proposed site.***

In response to this, the location of the site was moved into deeper water (average MLW depth of two to four feet).

- 2. *Tiverton Harbor and Coastal Waters Management Commission and DEM had concern regarding the location of the site in relation to the DEM Recreational Shellfish Area.***

In response to this, the site was moved to the west, and largely outside the bounds of the DEM Recreational Shellfish Area.

- 3. *Concern was raised by DEM and CRMC regarding transporting oyster cages across and through the Sapowet Management Area public parking area.***

In response to this, the applicants will not transport oyster cages across the Sapowet Management Area public parking area. Installation (placement) and removal of the cages will be conducted by boat and/or private access to the shore.

As stated in the CRMC Preliminary Determination Report of Findings,

"The Commission, DEM, and the objector all stated that they would not have an issue with this farm if it was moved to deeper water adjacent to this site."

John and Patrick Bowen (applicants) believe that the above changes to their initial application address the concerns resulting from the Preliminary Determination Hearing, and as expressed in the CRMC Preliminary Determination Report of Findings.

OPERATIONAL PLAN:

1. Name and Address:

John Bowen, Patrick Bowen
79 Shaw Road
Little Compton, RI 02837

2. CRMC File Number: 2020-04-037

3. DEM Aquaculture License Number: To be determined

4. Type of Facility: Commercial Aquaculture Lease Site

5. Location of Facility: Tiverton, RI, Sakonnet River, Southwest of Seapowet Creek. The dimensions of the site are: West Side: 190', North Side: 215', East Side: 240', South Side: 175'. The site extends in a Southwest direction in a trapezoid shape. The proposed site is 41,402 square feet, or .95 acres.

Setbacks:

260' from Northeasterly corner to Mean Low Water (MLW) (nearest point of the site)

260' from the Southeast Corner to Mean Low Water (MLW)

400' from a point on the SW corner of the Seapowet Bridge to the NE corner of the site

560' from a point on the SW corner of the Seapowet Bridge to the NW corner of the site.

Longitude/Latitude of Proposed Aquaculture Site:

Northwest: 41.580613, -71.210130

Northeast: 41.580819, -71.209384

Southwest: 41.580130, -71.209870

Southeast: 41.580180, -71.209238



6. **Species Grown:** Crassostrea virginica. Eastern Oyster shellfish seed is to be purchased from a New England shellfish hatchery approved by DEM (Aquacultural Research Corporation, Dennis, MA; Fishers Island Hatchery, New York; Mook Sea Farms, Damariscotta, ME, or other approved shellfish hatchery), in accordance with regulation. It is the hope of the applicants that any oyster spawning which results from the farm will supplement the natural oyster recruitment in the area. Applicants are very much aware of the importance of agricultural biosecurity as applied to shellfish aquaculture, and will be fully compliant with Biosecurity Board protocols.

7. **Gear Description:** Predominant culture method will be top loaded wire cages, dimensions of 24" wide, 48" long, and 14" tall, with 2" runners to keep them elevated from the bottom (total cage height is 16" tall). The cages will be placed directly on the bottom. Cages are accessed through the top, will contain stacked trays (plastic or wire), and will be covered with a rigid wire cover, affixed with shock cord. The cages will be deployed in a series of ten (each ten cages referred to as a "trawl"), oriented such that the 48" sides of the cages are approximately 6" apart, each trawl spanning approximately thirty feet. The trawls will be secured with 5/8"x36" helical anchors installed at each end, with a line (half inch diameter, three strand, twisted nylon rope, minimum breaking load (MBL) of 5,670 lbs) attached to the helical-anchors on each side, creating a lateral line around the trawl. Each cage will be secured to the lateral line on both ends. Additionally, standard 18"x36" ADPI bags (rigid mesh plastic bags) will be secured directly to the cages using heavy-duty clips.

The first year, at least 25,000 oyster seed will be purchased, and grown utilizing the culture methods described above. An annual increase in oyster cultivation will likely result in a maximum of 200 cages in use on the farm. We anticipate harvest time to be approximately 18-24 months.

8. Identifying Markers

Each of the four corners of the farm will be marked with standard 11" pot buoys, each of which will be marked in 3" letters "CRMC", and the File Number provided at the time of Assent. This will be done within ten days of CRMC Assent.

9. DEM Shellfish Harvesting Classification:

The location for this site is in waters approved for shellfish harvesting located in the Sakonnet River shellfish classification area GA4 harvest area 5B in the town of Tiverton. NSSP Growing Area Classification: Approved.

10. Description of Practices and Procedures:

As described above, Crassostrea virginica, Eastern Oyster shellfish seed is to be purchased from a regional shellfish hatchery approved by DEM (Aquacultural Research Corporation, Dennis, MA; Fishers Island Hatchery, New York, Mook Sea Farms, Damariscotta, ME, or other hatchery approved by DEM and CRMC), in accordance with regulation. The first year (and likely thereafter) larger seed size will be purchased, anticipating 5-7 mm size). The CRMC Aquaculture Coordinator will be notified of seed source and provided with a pathology report as required, at least five days prior to delivery of the seed.

11. Harvest, Storage, and Transportation:

It is anticipated that harvest time will be 18-24 months. Initially, oysters are expected to be sold to licensed Rhode Island Wholesale Dealers, rather than direct marketed, however the goal of the applicants is to attain proper licensure to sell shellfish locally. Harvesting and transporting oysters will be conducted with a focus on public health requirements, including icing, tagging, sanitation, and record keeping as required.

12. Time Table of Work

Farm work will take place predominantly at low tide (an hour before to an hour after), accessing the site using waders (or shorts during the summer months), and will consist of replacing bio-fouled plastic and wire trays inside the cages with clean trays, to reduce fouling and allow for better water flow over the oysters; splitting volumes of oysters into additional gear to maintain low densities; and culling/sorting oysters by size and quality. As oysters reach harvest size, they will be pre sorted for quantity, and pre bagged to reduce harvest time and allow for more rapid cooling during the summer months.

13. Record Keeping:

Records of all seed purchases (including origin, quantity, pathology reports, etc.), harvesting records, and operating records will be submitted to CRMC as required, and maintained by John Bowen, available for review as needed upon request. Annual reporting to CRMC with all required information will be conducted as required.

14. Procedures for maintaining records regarding upwellers in prohibited waters:

An upweller will not be used.

15. Procedure for maintaining records for operations using seed from prohibited waters:

Seed will not be obtained from prohibited waters.

Coastal Resources Management Program – Section 1.3.1(A) – Category B Requirements

1. Demonstrate the need for the proposed activity or alteration:

John Bowen and Patrick Bowen are proposing an oyster farm in Tiverton, RI. The site is located in the Sakonnet River, Southwest of Seapowet Creek. This site was chosen based upon proximity to the nutrient rich Seapowet Creek tidal flow, water depth, and lack of wild shellfish resource within the site. Shellfish aquaculture, especially oyster culture, is increasing in Rhode Island, however, the East Bay is largely under-represented. This proposal utilizes a low profile approach to this nutrient extractive agricultural process in an environmentally sensitive area, and helps to maintain local, historical marine tradition.

2. Demonstrate that all applicable local zoning ordinances, building codes, flood hazard standards, and all safety codes, fire codes, and environmental requirements have or will be met:

Permits required for the proposed lease will be obtained through RI CRMC pending approval of subsequent applications.

3. Describe the boundaries of the coastal waters and the land area that is anticipated to be affected:

The proposed lease site is located in Tiverton, in the Sakonnet River, Southwest of Seapowet Creek.

Latitude/Longitude of Proposed Aquaculture Site:

Northwest: 41.580613, -71.210130

Northeast: 41.580819, -71.209384

Southwest: 41.580130, -71.209870

Southeast: 41.580180, -71.209238

The dimensions of the site are: West Side: 190', North Side: 215', East Side: 240', South Side: 175'. The site extends in a Southwest direction in a trapezoid shape. The proposed site is 41,402 square feet, or .95 acres.

Setbacks:

260' from Northeasterly corner to Mean Low Water (MLW) (nearest point of the site)

260' from the Southeast Corner to Mean Low Water (MLW)

400' from a point on the SW corner of the Seapowet Bridge to the NE corner of the site

560' from a point on the SW corner of the Seapowet Bridge to the NW corner of the site.

4. Demonstrate that the alteration or activity will not result in significant impacts on erosion and/or deposition processes along the shore and in tidal waters:

All gear on the site will be temporary (not permanent), and designed to allow water to flow through, having minimal impact on erosion or deposition.

5. **Demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life:**

Culture methods proposed are intended to be low-impact. The site should have no negative impact on the abundance or diversity of plant and animal life. To the contrary, aquaculture gear provides habitat structure and supports a diverse assemblage of juvenile fish, crabs, lobsters. Oyster grow-out cages provide valuable habitat for finfish and have been compared with artificial reefs as part of habitat restoration programs.*

**Tallman, Forrester; Transactions of the American Fisheries Society, May, 2007*

6. **Demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore:**

As a result of the Preliminary Determination Hearing and subsequent CRMC Report of findings, the coordinates of the proposed site have been moved into deeper water, and largely outside of DEM's Recreational Shellfish Area.

The site is located in the Sakonnet River, on the southwest side of Seapowet Creek. The water depth and coarse sand/gravelly bottom are not conducive to boating*, swimming**, or fishing, and there is no significant wild shellfish resource on the site. **The area SW of Seapowet Point is extremely shallow and cannot be safely navigated during low tides*. The area west of Seapowet and Fogland Points presents dangerous swimming conditions.**** Fishermen, shellfishermen and bathers typically use the area to the north of the Seapowet Creek. The lease site would still be possible for people to walk or wade through, or kayak through.

*TIVERTON HARBOR AND COASTAL WATERS MANAGEMENT PLAN: II(A)(3)(e)

** *CODE OF ORDINANCES, TOWN OF TIVERTON, Chapter 14, Article II, Section 14-193*

7. **Demonstrate that the alterations will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation:**

The proposed gear is designed to be low-impact, not extending greater than 18" from the bottom. All gear is intended to allow water to flow freely, as it increases oyster growth. Oyster filtration has been found to reduce turbidity and increase water clarity. Turbidity or sedimentation caused by work on the farm should be minimal and temporary.

8. **Demonstrate that there will be no significant deterioration in the quality of water in the immediate vicinity as defined by DEM:**

The proposed oyster farm will have no negative effect on water quality as defined by DEM (based on fecal coliform levels). Additionally, as estuarine nutrient loading is increasingly an ongoing global issue of concern, oysters are able to integrate nitrogen from algae in the water column within shell and tissue, which through harvesting, is removed from the system*, asserting an ecological benefit.

* Pollack, Yoskowitz, Kim, Montagna; *Plos One*, Volume 8, Issue 6, June 2013

9. **Demonstrate that the alteration or activity will not result in significant impacts to areas of historic and archaeological significance:**

There are no known historic or archaeological resources in the proposed site.

10. **Demonstrate that the alteration or activity will not result in significant conflicts with water dependent uses and activities such as recreational boating, swimming, navigation, and commerce:**

As a result of the Preliminary Determination Hearing and subsequent CRMC Report of findings, the coordinates of the proposed site have been moved into deeper water, and largely outside of DEM's Recreational Shellfish Area.

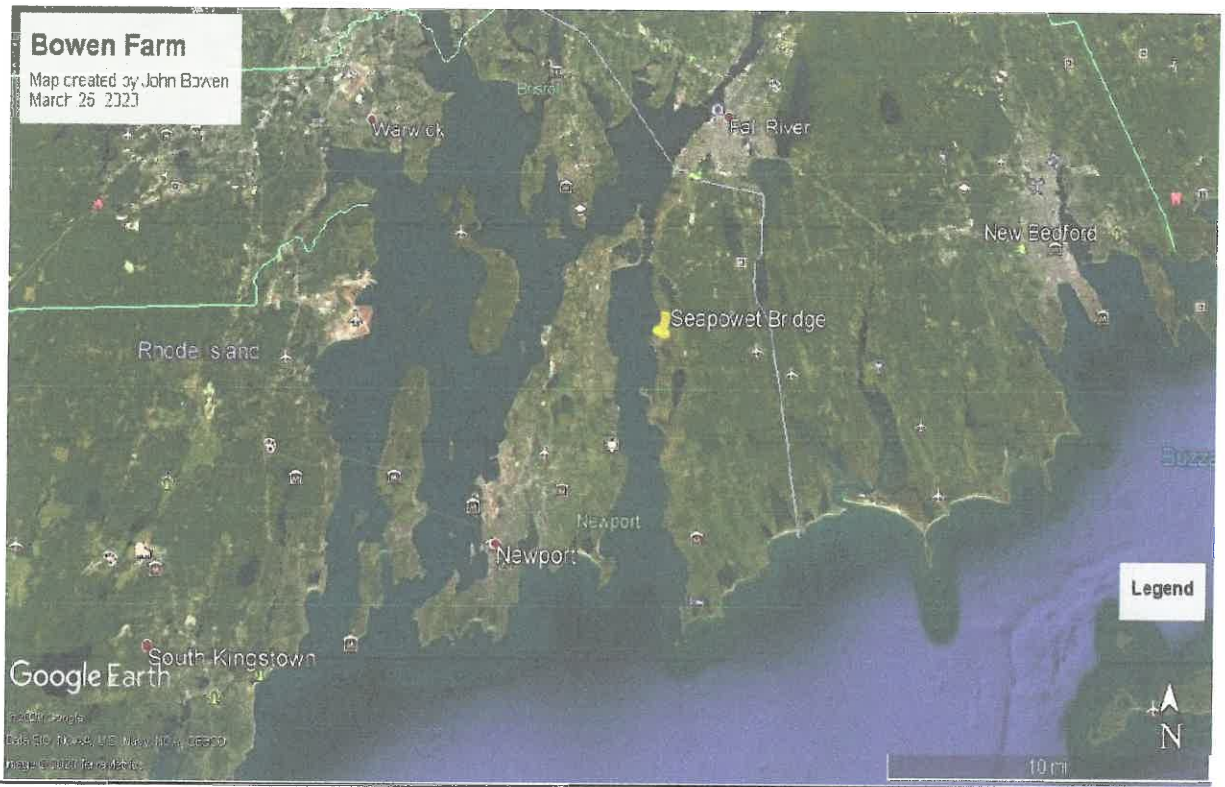
The site is located in the Sakonnet River, on the southwest side of Seapowet Creek. The water depth and coarse sand/gravelly bottom are not conducive to boating*, swimming** or fishing, and there is no significant hardshell clam resource on the site. **The area SW of Seapowet Point is extremely shallow and cannot be safely navigated during low tides*. The area west of Seapowet and Fogland Points presents dangerous swimming conditions.**** Fishermen, shellfishermen and bathers typically use the area to the north of the Seapowet Creek. The lease site would still be possible for people to walk or wade through, or kayak through.

*TIVERTON HARBOR AND COASTAL WATERS MANAGEMENT PLAN: II(A)(3)(e)

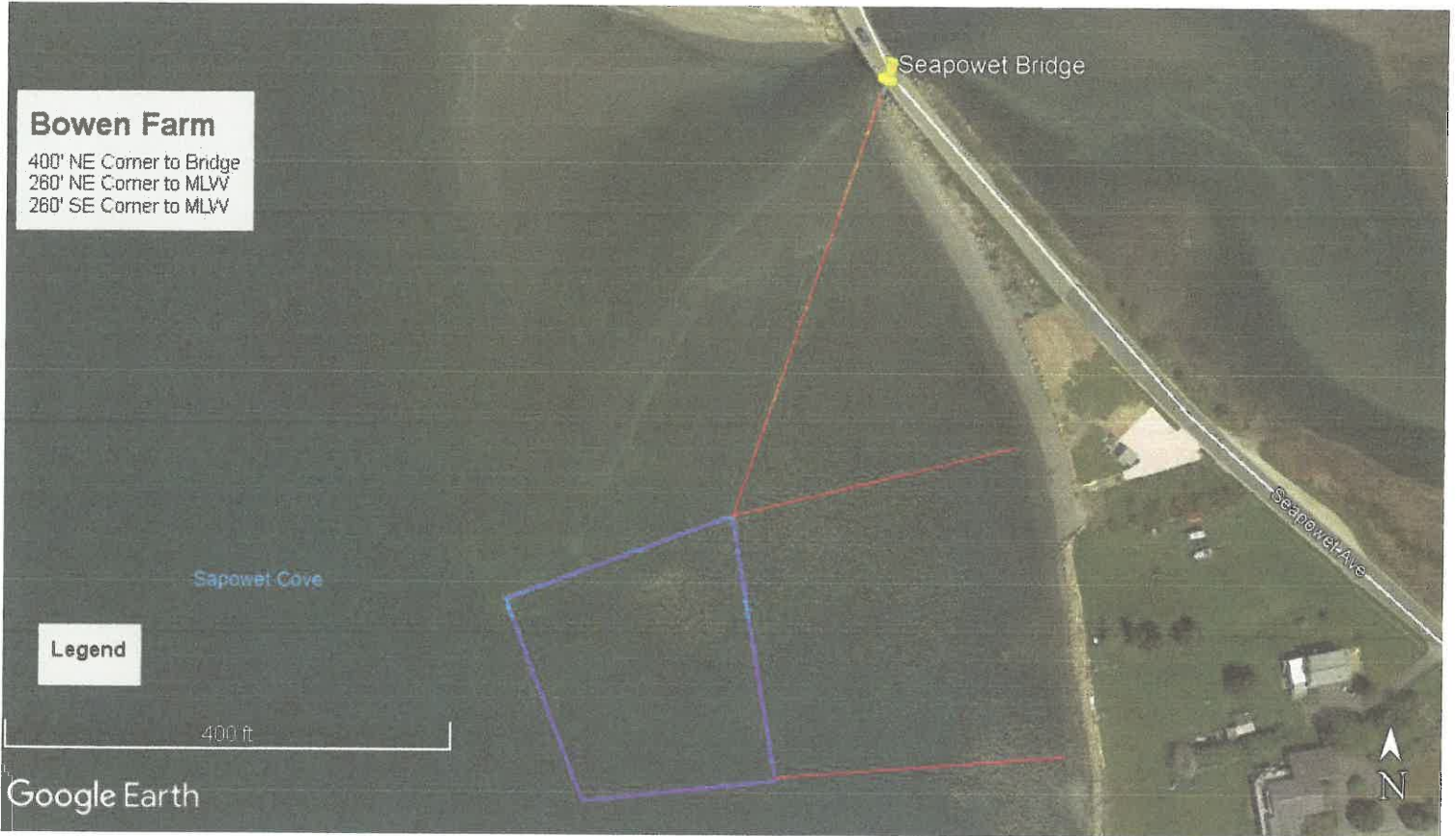
** *CODE OF ORDINANCES, TOWN OF TIVERTON, Chapter 14, Article II, Section 14-193*

11. **Demonstrate that measures have been taken to minimize any scenic impact:**

The gear design is such that it will not be visible, even at low tide, with the exception of buoys at each of the corners, as required.



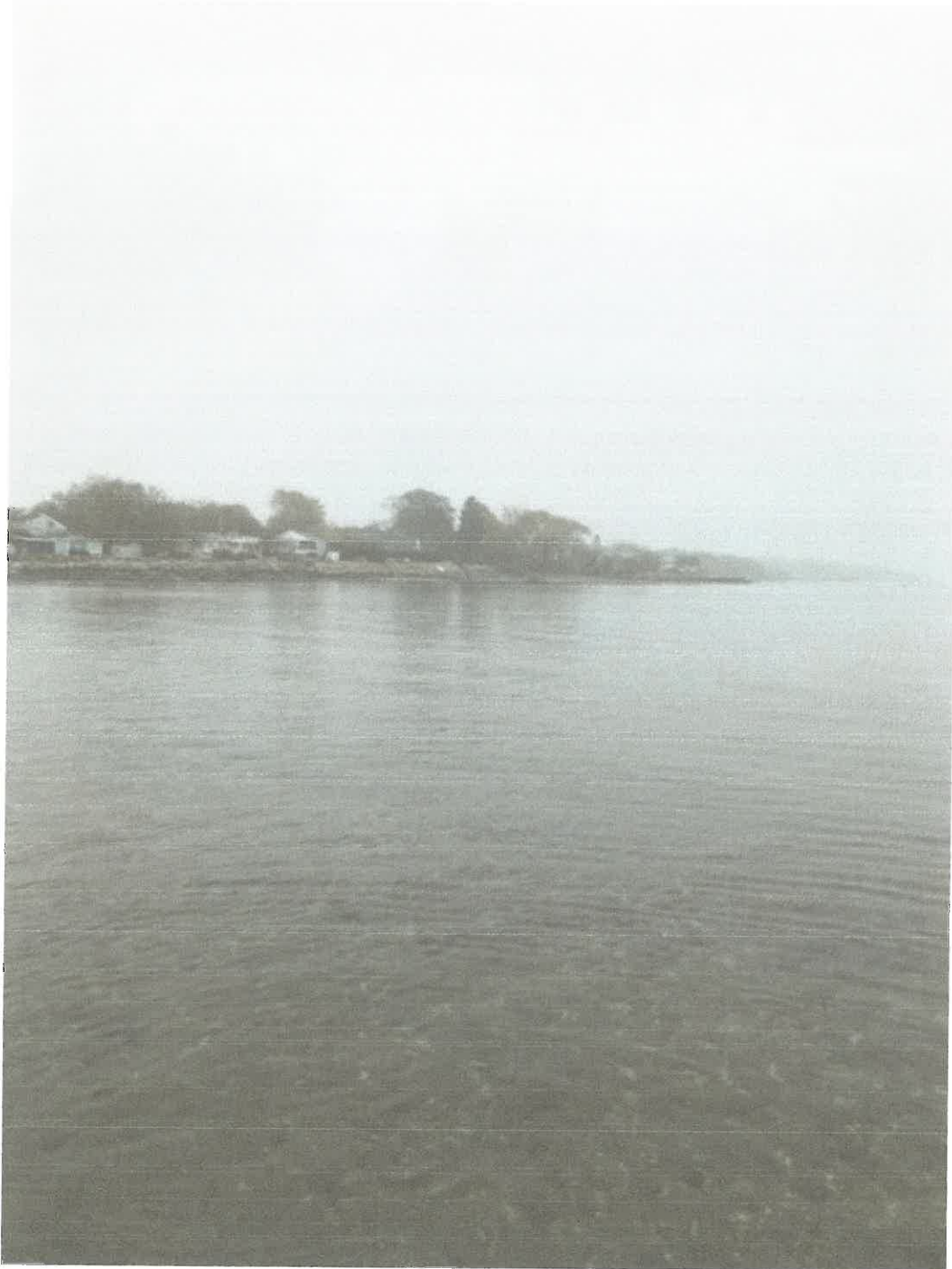




North



South



East

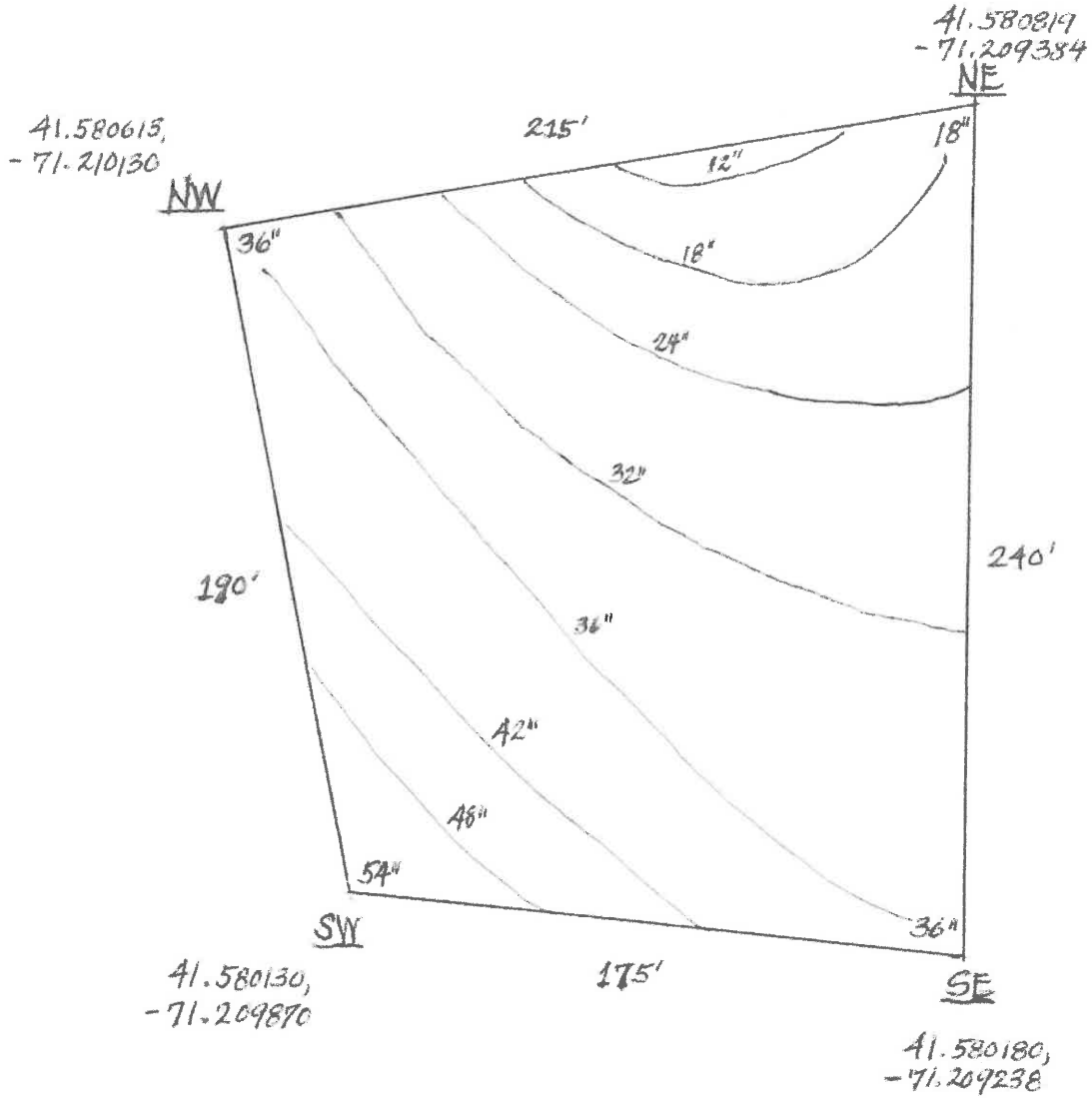


West



BOWEN OYSTER FARM
NOV. 2020
F. BOWEN

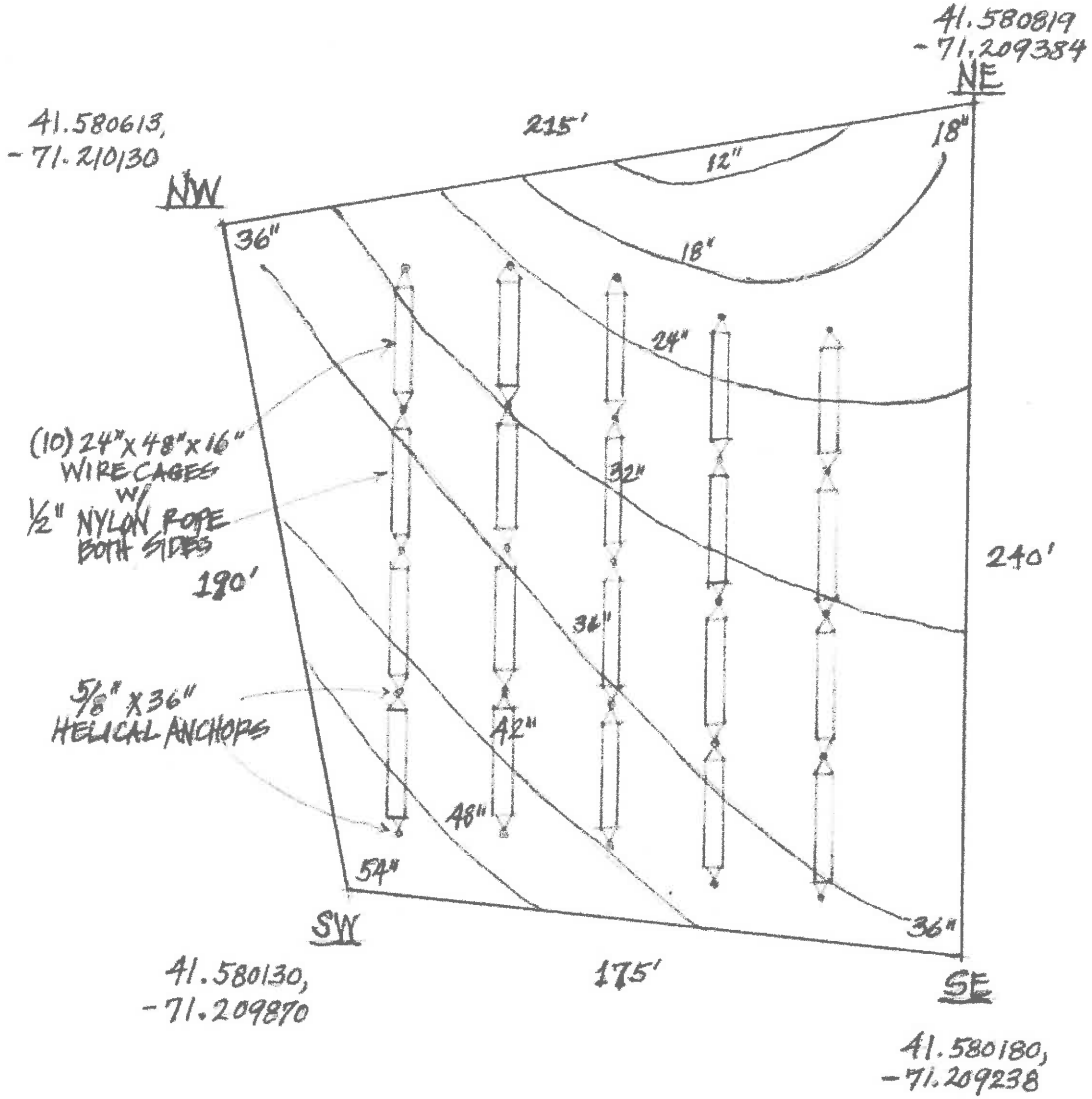
SITE PLAN
MODIFIED
SCALE: $\frac{1}{4}" = 10'-0"$
DEPTH CONTOURS @ MLW



BOWEN OYSTER FARM
NOV. 2020
P. BOWEN



SITE PLAN
MODIFIED
SCALE: 3/4" = 10'-0"
DEPTH CONTOURS @ MLW
W/ PROPOSED GEAR LAYOUT



BOWEN OYSTER FARM
MARCH 2020
P. BOWEN

SCALE 1/8" = 1"

SECTION VIEW (SIDE)
TYPICAL OYSTER CAGE GEAR LAYOUT

AVE. MEAN LOW TIDE
@ CAGE LOCATIONS
20" - 42"

24" X 48" X 16" WIFE CAGE W/ 3 LEVELS OF TRAYS
18" X 36" ADPI OYSTER BAGS CLIPPED TO TOP

STANDARD ADPI BAG
CLIPPED TO CAGE

1/2" NYLON ROPE
LATERAL LINE
BOTH SIDES

CAGE
TRAY OR
CLIPPED
TO
LINE

2" RUNNERS
BOTTOM OF CAGE

42"

20"

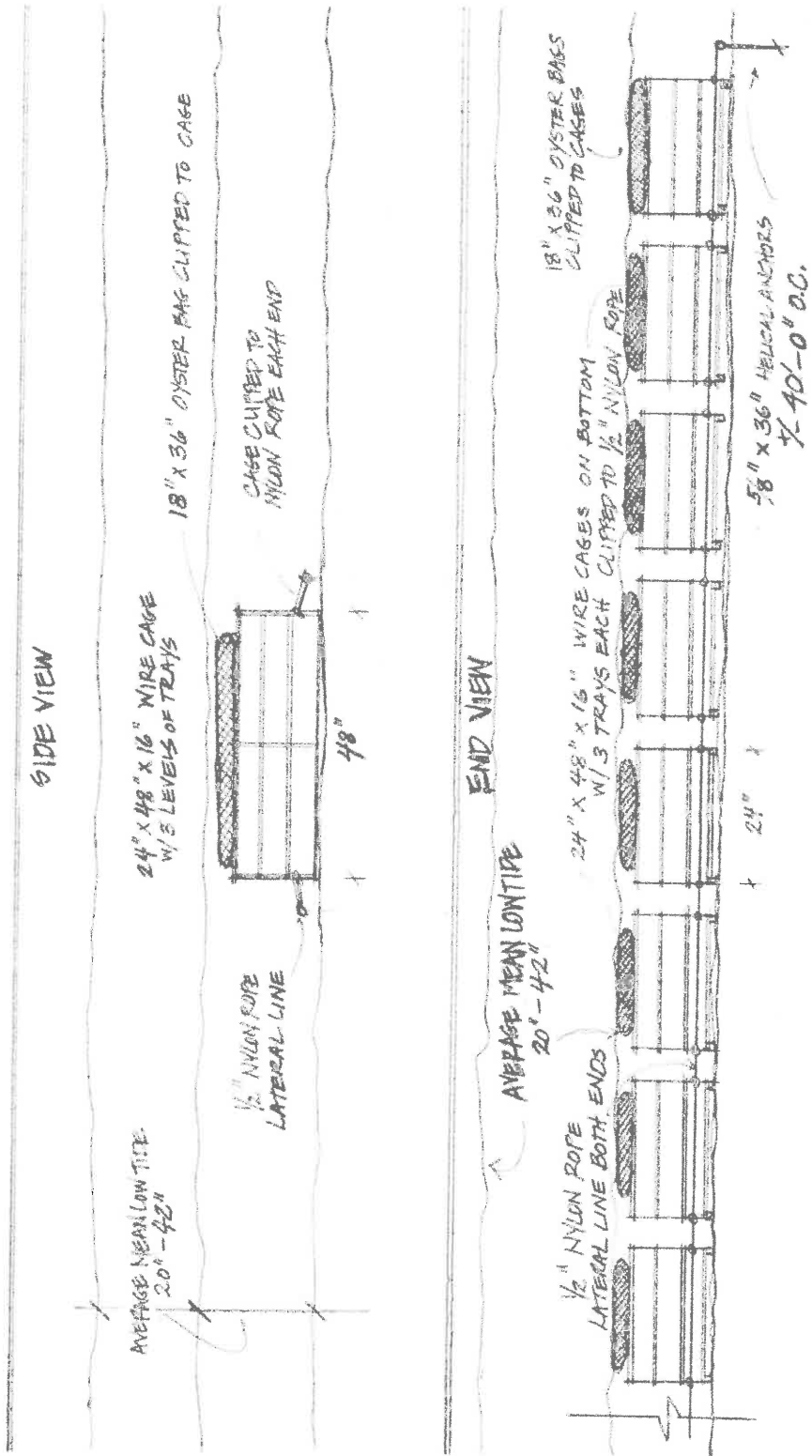
16"

48"

BOWEN OYSTER FARM
 MARCH 2020
 P. BOWEN

SCALE
 $\frac{1}{2}'' = 1'-0''$

SECTION VIEW
 TYPICAL OYSTER CAGE
 GEAR LAYOUT

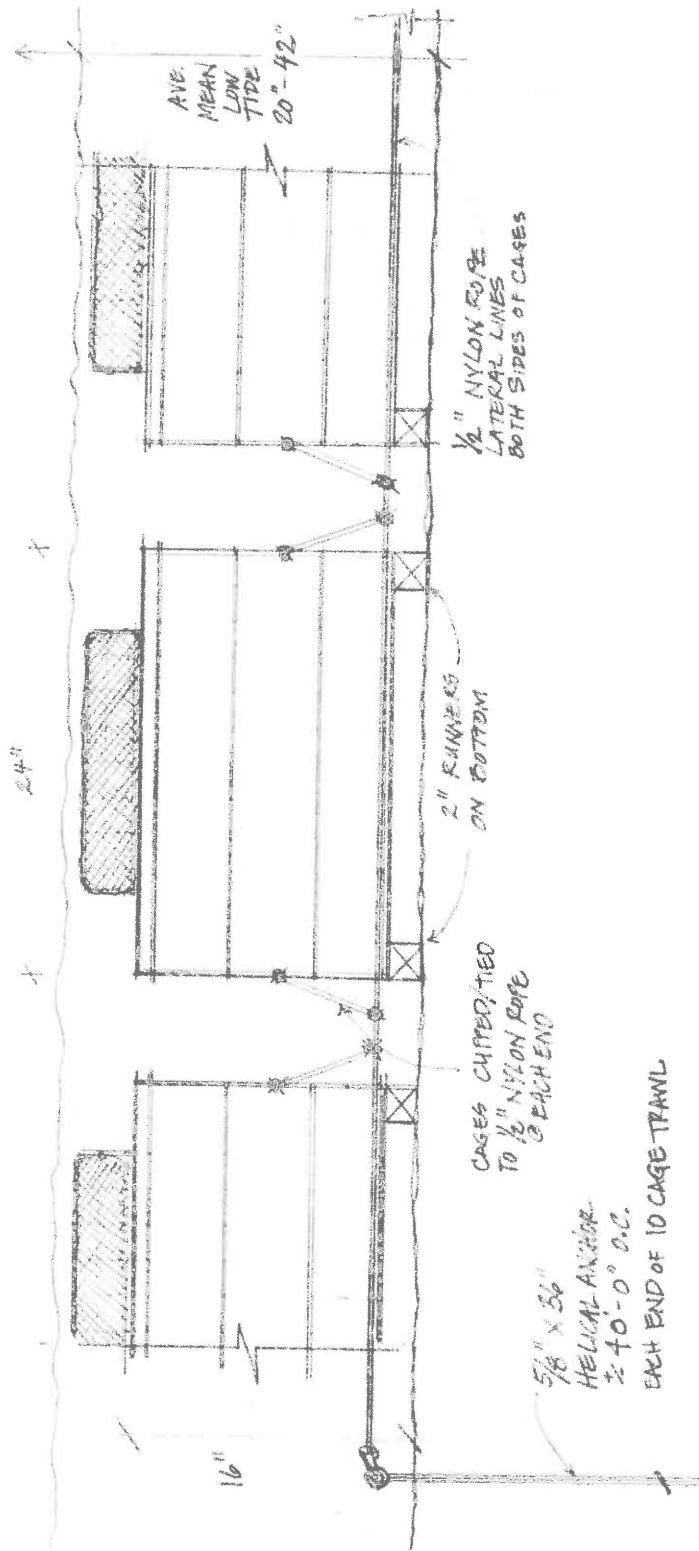


BOWEN OYSTER FARM
 MARCH 2020
 P. BOWEN

SCALE: 1/8" = 1"

SECTION VIEW (END)
 TYPICAL OYSTER CAGE GEAR LAYOUT

- 24" x 48" x 16" WIRE CAGE W/ 3 LEVELS TRAYS
- 18" x 36" OYSTER BAG CLIPPED TO CAGE

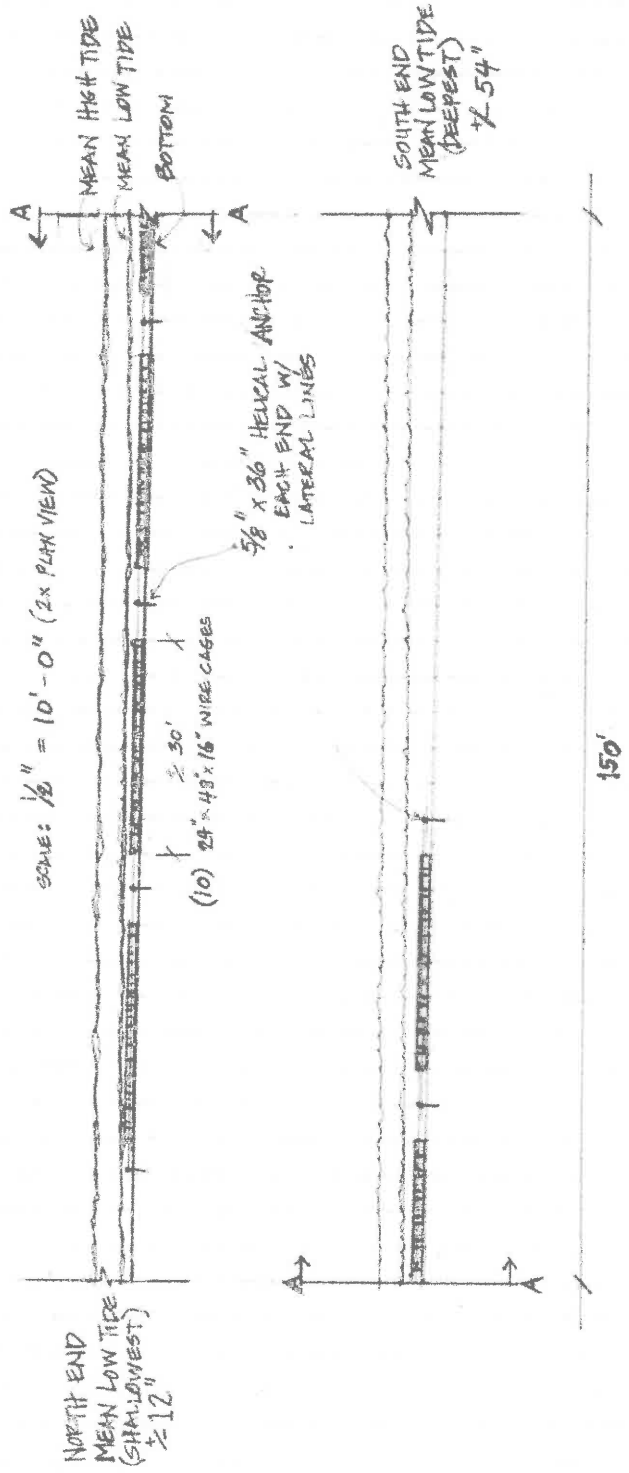
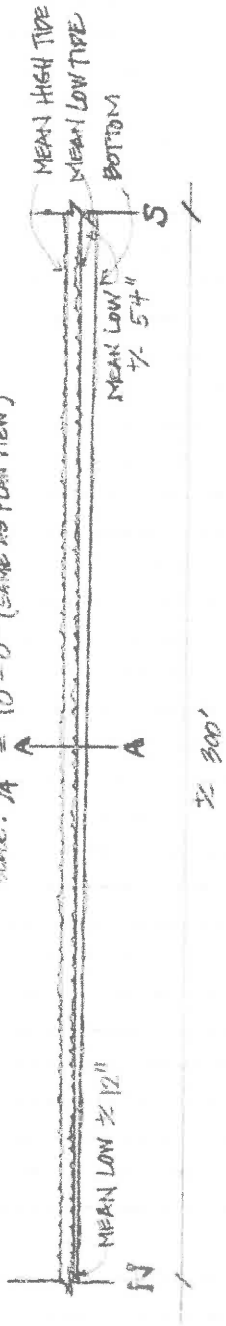


5/8" x 36"
 HELICAL ANCHOR
 ± 40-0° O.C.
 EACH END OF 10 CAGE TRAWL

POWELL OYSTER FARM
 MARCH 2020
 P. POWELL

SITE CROSS SECTION

SCALE: $\frac{1}{8}'' = 10'-0''$ (SAME AS PLAN VIEW)





DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

2020-04-037

January 5, 2021

Regulatory Division
File No. NAE-2020-00360
CRMC File No. 2020-04-037

John & Patrick Bowen
79 Shaw Road
Little Compton, RI 02837
seanbow@yahoo.com; bowen_co@cox.net

Dear John & Patrick Bowen:

We have reviewed your application to install 200 top loading wire bottom cages (2' x 4', 14" tall, with 2" runners to keep them elevated from the bottom (total cage height is 16" tall) to grow eastern oysters and will occupy an area of 1,600 SF of estuarine bottom habitat in water depths of 2' - 4' Mean Low Water over a 0.95 acre lease site in the Sakonnet River. There will be 20 "trawls", or sets of ten cages arranged horizontally. The trawls will be secured with 5/8"x36" helical anchors installed at each end (25 total), with a line (half inch diameter, three strand, twisted nylon rope, minimum breaking load (MBL) of 5,670 lbs) attached to the helical-anchors on each side, creating a lateral line around the trawl. Each cage will be secured to the lateral line on both ends. Additionally, standard 18"x36" ADPI bags (rigid mesh plastic bags) will be secured directly to the cages using heavy-duty clips. Each of the four corners of the farm will be marked with standard 11" pot buoys. This project is located in the Sakonnet River, South of Seapowet Creek in Tiverton, Rhode Island. This work is shown on the enclosed plans titled "BOWEN OYSTER FARM" on nine sheets, and dated "November 2020."

Based on the information that you have provided, we verify that the activity is authorized under General Permit # 16 of the enclosed March 3, 2017 Federal permits known as the Rhode Island General Permits (GPs).

Please review the enclosed GPs carefully, including the general conditions beginning on Page 25, to be sure that you and whoever does the work understand its requirements. A copy of the GPs and this verification letter shall be available at the project site throughout the time the work is underway. The GPs are also available at <https://www.nae.usace.army.mil/Portals/74/docs/regulatory/StateGeneralPermits/RI/RIGP-w-erratasheet.pdf> Performing work within our jurisdiction that is not specifically authorized by this determination or failing to comply with any special condition provided above or all of the terms and conditions of the GPs may subject you to the enforcement provisions of our regulations. You must perform this work in compliance with the terms and conditions of the GPs also in compliance with the following special conditions:

1. You must complete and return the enclosed Work Start Notification Form to this office at least two weeks before the anticipated starting date.
2. The permittee shall ensure that a copy of the project authorization (including its drawings, plans, appendices and other attachments) is present on the vessel that

- attends the work site (and the project office), and that all appropriate personnel performing work at the site are fully aware of its terms and conditions.
3. Gear installed shall not possess loose floating lines and the number of minimal vertical (buoy) lines shall be minimized to the greatest extent practicable.
 4. If any listed species is observed, the permittee (or onboard staff) shall immediately contact the NOAA Stranding Hotline at 866-755-NOAA. Permittee should then contact NOAA Protected Resources Division, Gloucester, MA at (978) 281-9328 and send sighting information to incidental.take@noaa.gov. This condition is included to ensure that the proper authorities will be informed.

This authorization expires on March 3, 2022. You must commence or be under contract to commence the work authorized herein by March 3, 2022 and complete the work by March 3, 2023. If not, you must contact this office to determine the need for further authorization before beginning or continuing the activity. We recommend that you contact us *before* this authorization expires to discuss permit reissuance. Please contact us immediately if you change the plans or construction methods for work within our jurisdiction. We must approve any changes before you undertake them.

This authorization does not obviate the need to obtain other Federal, state, or local authorizations required by law.

This determination becomes valid only after the Rhode Island Coastal Resources Management Counsel issues their required authorization. The CRMC contact information is provided on Page 34 of the RI RGP.

We continually strive to improve our customer service. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey

Please contact Alicia Wilson, of my staff, at (978) 318-8494 if you have any questions.

Sincerely,

WIERBONICS.MICH Digitally signed by
WIERBONICS.MICHAEL.S.151542
AELS.1515422796 2796
Date: 2021.01.05 16:13:51 -05'00'

Michael Wierbonics
Acting Chief, Permits & Enforcement Branch
Regulatory Division

Enclosures

cc:

Thomas Ramotowski, Conservation Commission, Tiverton, RI; thoram2@verizon.net

Dave Reis, CRMC, Wakefield, RI; dreis@crmc.ri.gov

Ben Goetsch, CRMC, Wakefield, RI; bgoetsch@crmc.ri.gov

Erica Sachs, U.S. EPA, Region 1, Boston, Massachusetts, sachs.eric@epa.gov



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF MARINE FISHERIES/DIVISION OF FISH AND WILDLIFE
3 Fort Wetherill Road
Jamestown, Rhode Island 02835

June 25, 2020

Benjamin Goetsch
Aquaculture Coordinator
Coastal Resources Management Council
4808 Tower Hill Road
Wakefield, RI 02879

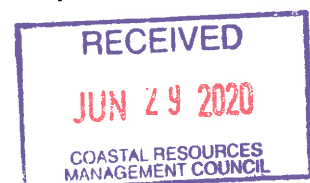
Re: Bowen and Bowen public notice #2020-04-037

Dear Mr. Goetsch:

The Rhode Island Department of Environmental Management (Department), through the Division of Marine Fisheries (DMF) and the Division of Fish and Wildlife (DFW), has received and reviewed the application submitted by John and Patrick Bowen for a proposed 1.1-acre aquaculture lease in Narragansett Bay for cultivating eastern oysters (*Crassostrea virginica*) using bottom cages.

The site was revised substantially between the Preliminary Determination (PD) and the Public Notice to mitigate a variety of concerns addressed at the PD meeting held on February 17, 2020. The revised lease has an area of 1.1 acres. The DEM commends the applicants for their revisions to the application, which address most of the concerns DMF staff presented at the PD meeting.

- The site was moved into deeper water to prevent exposure of cages and to avoid an area of known recreational shellfishing activity.
- The increase in depth reduces the likelihood of cages to be exposed at the surface, which may also reduce the risk of waterfowl depredation that aquaculture production is frequently affected by (Price & Nickum 1995, Varennes et al. 2013). If depredation does become an issue, please be aware that the DFW will not support moving deterrents, scarecrows, etc., as they will also displace non-target species from the lease and surrounding area. Lethal removal of depredating birds requires authorization from DFW and may not be supported. Additionally, installation of exclusion devices or deterrents will be considered lease modifications and will need to be approved, as some versions are known to have lethal implications for diving ducks (Varennes et al. 2013).
- While the prospective site still intersects with the recreational shellfishing area, the amount of overlap has been dramatically reduced and is less likely to cause use conflicts.




- Furthermore, the applicants have also committed to not transport oyster cages across the Sapowet Management Area public parking lot as initially proposed. They will install and remove cages by boat or from private access to the shore.

Consequently, the DMF and DFW believe that the adverse impacts to marine fisheries and their habitat from this prospective site would be minimal. As such, the Divisions do not have objections to this application.

The DMF and DFW's acceptance of the current proposal is specific to the location (provided by the coordinates) and specifications outlined in the application.

Sincerely,

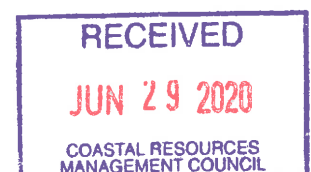


Jason E. McNamee,
Deputy Director, Bureau of Natural Resources

References:

Price IM, Nickum JG (1995) Aquaculture and Birds: The Context for Controversy. *Colon Waterbirds* 18:33–45.

Varenes É, Hanssen S, Bonardelli J, Guillemette M (2013) Sea duck predation in mussel farms: the best nets for excluding common eiders safely and efficiently. *Aquac Environ Interact* 4:31–39.



2020-04-037

Town of Tiverton, Rhode Island
HARBOR AND COASTAL WATERS MANAGEMENT COMMISSION
343 HIGHLAND ROAD
TIVERTON, RI
02878

June 2, 2020

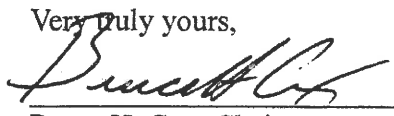
Jeff Willis
CRMC
Oliver Steadman Government Center
4808 Tower Hill Road: Suite 3
Wakefield, R.I. 02879

RE: File Number 2019-13-023
John Bowen and Patrick Bowen

Dear Mr. Willis:

The above application was reviewed by the Commission on June 1, 2020 via a Zoom meeting with seven of the Commission's nine members participating. The applicants, John Bowen and Patrick Bowen did not participate while David Beutel of CRMC participated in the review. Mr. Beutel confirmed that the applicants had been told of the meeting. After a thorough review and discussion members of the public were allowed to voice their opinions; but none were offered affirmatively or negatively. After the review the Commission by roll call vote, voted 6 to 1 to recommend denial of the application. Should this application proceed any further it is requested that it be before the CRMC Council and that we receive notice.

Kindest regards.

Very truly yours,


Bruce H. Cox, Chair

CC: Administrator



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
HISTORICAL PRESERVATION & HERITAGE COMMISSION
Old State House • 150 Benefit Street • Providence, R.I. 02903-1209
TEL (401) 222-2678 FAX (401) 222-2968
TTY / Relay 711 Website www.preservation.ri.gov

Jennifer R. Cervenka, Chair
Coastal Resources Management Council
Stedman Government Center, 4808 Tower Hill Road
Wakefield, RI 02879

CRMC File Number: 2020-04-037
Applicant: G. Bower and P. Bower
Town: Tiverton
Response Date: 4/29/20

Dear Ms. Cervenka,

The Rhode Island Historical Preservation & Heritage Commission has reviewed the above- referenced project. It is our conclusion that this project will have no effect on any significant cultural resources (those listed on or eligible for listing on the National Register of Historic Places).

These comments are provided in accordance with 650-RICR-20-00-1.2.3 Areas of Historic and Archaeological Significance of the Coastal Resources Management Council. If you have any questions, please contact James Toner, Project Review Coordinator, or Charlotte Taylor, Senior Archaeologist, at this office.

Very truly yours,

J. Paul Loether
Executive Director, RIHPHC
State Historic Preservation Officer



Benjamin Goetsch

From: Sean Bowen <seanbow@yahoo.com>
Sent: Wednesday, August 26, 2020 10:03 AM
To: Benjamin Goetsch
Cc: Pat and Claire Bowen
Subject: Fw: Bowen Farm Proposed Change
Attachments: Bowen Farm 4-30.pdf; Bowen Farm GE 4-30-2020.jpg

Hi Ben - I am forwarding the email (below) I sent to Dave Beutel on April 30, including the map(s), and the coordinates for the alternate site. Please let me know if you have any questions.

Thanks,

John and Patrick Bowen

----- Forwarded Message -----

From: Sean Bowen <seanbow@yahoo.com>
To: Dave Beutel <dbeutel@crmc.ri.gov>
Cc: Pat and Claire Bowen <bowen_co@cox.net>
Sent: Thursday, April 30, 2020, 12:48:41 PM EDT
Subject: Bowen Farm Proposed Change

Hi Dave - thank you for the advice in locating the oyster farm. Attached are two maps (Google Earth and CRMC Interactive Map) of a proposed new location. The views show both the site on the application, and the new location overlapped. You will note that the new location is approximately 40% within the DEM Recreational Shellfish Area, substantially less than our initial location (Preliminary Determination Application), which was 63% within the Recreational Area. It is our belief that there are VERY few shellfish in this area.

The coordinates for the proposed changes are as follows:

NW: 41.580613, -71.210130
NE: 41.580819, -71.209384
SW: 41.580130, -71.209870
SE: 41.580180, -71.209238

We are happy to revise the application if required.

Thank you,

John and Patrick Bowen

Lisa Turner

From: Dave Beutel <dbeutel@crmc.ri.gov>
Sent: Friday, May 1, 2020 11:26 AM
To: kurt.blanchard@dem.ri.gov; 'Dennis Erkan'; 'Robert Ballou'; 'Azure Cygler'; 'Catherine White'; 'Leavitt, Dale'; 'John F. O'brien'; 'John Torgan'; 'Robert Rheault'; 'Steve Medeiros'; 'Katie Eagan'; 'Dave Reis'; 'Dick Pastore'; 'Michael A. Rice'; 'Rich Hittinger'; 'Jerry Carvalho'; 'Lisa Turner'; michaelaonosoko@gmail.com; 'Matthew J. Behan'; 'Cameron Ennis'; 'jules opton-himmel'; Jeff Willis; 'GerberWilliams, Anna (DEM)'; bob.4most@gmail.com; 'Marilyn Quinn'; 'Mike Jarbeau'; rogtel@cox.net; 'Dave Monti'; davidclatham@gmail.com; 'Frooks, Arthur E LT'; 'Bruce Cox'; 'Carl Berg'; 'Dan Torre'; 'Matthew Griffin'; Ethier, Frances (DEM); Frooks, Arthur E LT; 'Ed Troiano'; manuel.b.sousa.86@gmail.com; Kenneth Murgo; quahogs5403@gmail.com; 'Gerald Shey'; Dlghig@aol.com; Jeff Gardner
Cc: mclamdigger@aol.com; 'Mcmanus, Conor (DEM)'; 'Osenkowski, Jay (DEM)'; 'Janet Coit'; 'Jason McNamee'; cindy.hannus@dem.ri.gov; 'Livermore, Julia (DEM)'; 'Phil Capaldi'; marcapcar@me.com; marcapcar@icloud.com; traceydistefano2013@gmail.com; john_crosson@watkinson.org; dacapaldi@aol.com; mmcapaldi@aol.com; jschickler@cox.net; suemarinaro@me.com; 'Kilburn, Jennifer (DEM)'; Seanbow@yahoo.com; Pat and Claire Bowen; Felton, Shilo (DEM)
Subject: 30 day public notice
Attachments: Bowen Farm 4-30 overhead.pdf; Bowen Farm GE 4-30-2020.jpg

The Bowen application received some initial negative and positive response. Based upon the negative response the Bowens have proposed a modification to the site. At a public hearing the CRMC may choose to modify the original proposal. Attached is an option that the applicants request for consideration.

David Beutel
Coastal Resources Management Council
Aquaculture Coordinator
Oliver Stedman Government Center
4808 Tower Hill Road
Wakefield, RI 02879
401-783-3370

From: Dave Beutel [mailto:dbeutel@crmc.ri.gov]
Sent: Friday, April 17, 2020 8:16 AM
To: 'kurt.blanchard@dem.ri.gov'; 'Dennis Erkan'; 'Robert Ballou'; 'Azure Cygler'; 'Catherine White'; 'Leavitt, Dale'; 'John F. O'brien'; 'John Torgan'; 'Robert Rheault'; 'Steve Medeiros'; 'Katie Eagan'; 'Dave Reis'; 'Dick Pastore'; 'Michael A. Rice'; 'Rich Hittinger'; 'Jerry Carvalho'; 'Lisa Turner'; 'michaelaonosoko@gmail.com'; 'Matthew J. Behan'; 'Cameron Ennis'; 'jules opton-himmel'; Jeff Willis; 'GerberWilliams, Anna (DEM)'; 'bob.4most@gmail.com'; 'Marilyn Quinn'; 'Mike Jarbeau'; 'rogtel@cox.net'; 'Dave Monti'; 'davidclatham@gmail.com'; 'Frooks, Arthur E LT'; 'Bruce Cox'; 'Carl Berg'; 'Dan Torre'; 'Matthew Griffin'; Ethier, Frances (DEM) (frances.ethier@dem.ri.gov); Frooks, Arthur E LT (Arthur.E.Frooks@uscg.mil); 'Ed Troiano'; manuel.b.sousa.86@gmail.com; Kenneth Murgo; quahogs5403@gmail.com; 'Gerald Shey' (gtschey@cox.net); Dlghig@aol.com; Jeff Gardner
Cc: 'mclamdigger@aol.com'; 'Mcmanus, Conor (DEM)'; 'Osenkowski, Jay (DEM)'; 'Janet Coit'; 'Jason McNamee'; 'cindy.hannus@dem.ri.gov'; 'Livermore, Julia (DEM)'; 'Phil Capaldi'; 'marcapcar@me.com'; 'marcapcar@icloud.com'; 'traceydistefano2013@gmail.com'; 'john_crosson@watkinson.org'; 'dacapaldi@aol.com'; 'mmcapaldi@aol.com'; 'jschickler@cox.net'; 'suemarinaro@me.com'; 'Kilburn, Jennifer (DEM)'; 'Seanbow@yahoo.com'; Pat and Claire Bowen (bowen_co@cox.net); Felton, Shilo (DEM)
Subject: 30 day public notice

This application for oyster aquaculture in the Sakonnet River begins thirty day public notice today. Please send comments to CRMC by May 17, 2020.




David Beutel
Coastal Resources Management Council
Aquaculture Coordinator
Oliver Stedman Government Center
4808 Tower Hill Road
Wakefield, RI 02879
401-783-3370

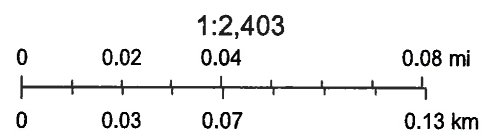
Aquaculture Location Sketch



4/30/2020, 11:49:14 AM

Areas

-  Override 1
-  Override 2
-  Recreational Shellfish Area



RI Division of Fish & Wildlife Marine Fisheries



State of Rhode Island and Providence Plantations
Coastal Resources Management Council
 Oliver H. Stedman Government Center
 4808 Tower Hill Road, Suite 3
 Wakefield, RI 02879-1900

(401) 783-3370
 Fax (401) 783-2069

PUBLIC NOTICE

File Number: 2020-04-037 Date: April 17, 2020

This office has under consideration the application of:

John Bowen & Patrick Bowen
 79 Shaw Road
 Little Compton, RI 02831

for a State of Rhode Island Assent to create and maintain: a one acre oyster farm using bottom cages

Project Location:	Sakonnet River
City/Town:	Tiverton
Plat/Lot:	/
Waterway:	Sakonnet river

Plans of the proposed work may be seen at the CRMC office in Wakefield.

In accordance with the Administrative Procedures Act (Chapter 42-35 of the Rhode Island General Laws) you may request a hearing on this matter.

You are advised that if you have good reason to enter protests against the proposed work it is your privilege to do so. It is expected that objectors will review the application and plans thoroughly, visit site of proposed work if necessary, to familiarize themselves with the conditions and cite what law or laws, if any, would in their opinion be violated by the work proposed.

If you desire to protest, you must attend the scheduled hearing and give sworn testimony. A notice of the time and place of such hearing will be furnished you as soon as possible after receipt of your request for hearing. If you desire to request a hearing, to receive consideration, it should be in writing (**with your correct mailing address, e-mail address and valid contact number**) and be received at this office on or before May 17, 2020.

2



State of Rhode Island and Providence Plantations
Coastal Resources Management Council
 Oliver H. Stedman Government Center
 4808 Tower Hill Road, Suite 3
 Wakefield, RI 02879-1900

(401) 783-3370
 Fax (401) 783-2069

APPLICATION FOR STATE ASSENT

To perform work regulated by the provisions of Chapter 279 of the Public Laws of 1971 Amended.

Project Location <u>Sakonnet River, Tiverton</u> <small style="display: block; margin-left: 20px;">No. Street City/Town</small>	File No. (CRMC USE ONLY) <div style="font-size: 1.2em; color: purple; text-align: center;">2020-04-037</div>
Owner's Name <u>John Bowen, Patrick Bowen</u>	Plat: Lot(s):
Mailing Address <u>79 Shaw Road</u> City/Town <u>Little Compton</u> State <u>RI</u> Zip Code <u>02837</u>	Contact No.: <u>617-719-7842</u> Email Address: <u>seanbow@yahoo.com</u>
Contractor RI Reg. # _____ Address _____	Email address: Tel. No. _____
Designer <u>N/A</u> Address _____	Tel. No. _____
Name of Waterway <u>Sakonnet River</u>	Estimated Project Cost (EPC): Application Fee:
Describe accurately the work proposed. (Use additional sheets of paper if necessary and attach this form.) Oyster aquaculture farm in Sakonnet River, Latitude/Longitude coordinates: Northeast Corner: 41.580836; -71.209611 Northwest Corner: 41.580975; -71.210326 Southwest Corner: 41.580122; -71.209876 Southeast Corner: 41.580026; -71.209485	

Have you or any previous owner filed an application for and/or received an assent for any activity on this property?
 (If so please provide the file and/or assent numbers): NO

Is this site within a designated historic district? YES NO
 Is this application being submitted in response to a coastal violation? YES NO

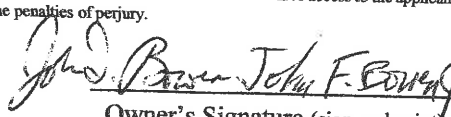
If YES, you must indicate NOV or C&D Number: _____

Name/ mailing addresses of adjacent property owners whose property adjoins the project site. Accurate mailing addresses will insure proper notification. _____ Applicant must initial to certify accuracy of adjacent property owners and accuracy of mailing addresses.
 This application is for submerged state property.

STORMTOOLS (<http://www.beachsamp.org/resources/stormtools/>) is a planning tool to help applicants evaluate the impacts of sea level rise and storm surge on their projects. The Council encourages applicants to use STORMTOOLS to help them understand the risk that may be present at their site and make appropriate adjustments to the project design.

NOTE: The applicant acknowledges by evidence of their signature that they have reviewed the Rhode Island Coastal Resources Management Program, and have, where possible, adhered to the policies and standards of the program. Where variances or special exceptions are requested by the applicant, the applicant will be prepared to meet and present testimony on the criteria and burdens of proof for each of these relief provisions. The applicant also acknowledges by evidence of their signature that to the best of their knowledge the information contained in the application is true and valid. If the information provided to the CRMC for this review is inaccurate or did not reveal all necessary information or data, then the permit granted under this application may be found to be null and void. Applicant requires that as a condition to the granting of this assent, members of the CRMC or its staff shall have access to the applicant's property to make on-site inspections to insure compliance with the assent. This application is made under oath and subject to the penalties of perjury.

08/04


 Owner's Signature (sign and print) John F. Bowen Patrick M. Bowen

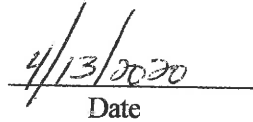
PLEASE REVIEW REVERSE SIDE OF APPLICATION FORM


STATEMENT OF DISCLOSURE AND APPLICANT AGREEMENT AS TO FEES


The fees which must be submitted to the Coastal Resources Management Council are based upon representations made to the Coastal Resources Management Council by the applicant. If after submission of this fee the Coastal Resources Management Council determines that an error has been made either in the applicant's submission or in determining the fee to be paid, the applicant understands that additional fees may be assessed by the Coastal Resources Management Council. These fees must be paid prior to the issuance of any assent by the Coastal Resources Management Council.

The applicant understands the above conditions and agrees to comply with them.


Signature


Date


Print Name and Mailing Address



CRMC AQUACULTURE APPLICATION FOR STATE ASSENT

Applicant Name and Mailing Address:

Applicant Name(s): John Bowen, Patrick Bowen
Street: 79 Shaw Road
City/Town: Little Compton State: RI Zip Code: 02837
E-Mail: Seanbow@yahoo.com

CRMC File Number: 29-12-023

DEM License Number: Application Pending

Type of Facility: Commercial lease site

Location of Proposed Aquaculture Site (Waterway): Sakonnet River, Southwest of Seapowet Creek



Size of Proposed Aquaculture Site: 0.97 acres

Latitude /Longitude of Proposed Aquaculture Site:

Northeast Corner: 41.580836, -71.209611
Northwest Corner: 41.580975, -71.210326
Southwest Corner: 41.580122, -71.209876
Southeast Corner: 41.580026, -71.209485

Signature of Requestor: *John Bowen / Patrick Bowen* Date: 4/13/2020

1. Introduction.

John Bowen and Patrick Bowen are seeking State Assent from Coastal Resources Management Council for a shellfish aquaculture farm in Tiverton, RI. The site is located in the Sakonnet River, Southwest of Seapowet Creek. The site was chosen for a variety of reasons, including proximity to the nutrient rich Seapowet Creek tidal flow, depth, and lack of wild shellfish resource within the site.

Farming practices will focus on environmental sustainability, and utilize a low-profile approach. The growout gear utilized will not be visible from shore, even at low tide. Culture methods will suit the site and accommodate multiple stages of growth, consisting of top loading cages, with mesh bags affixed to the cages.

John Bowen and his brother Patrick Bowen will be primarily responsible for daily management of the farm, with their sons Samuel and Malcolm actively assisting in farm operation. John and Patrick have both completed the course, "Fundamentals of Shellfish Farming: Practical Tools, Tips, and Techniques", presented by Roger Williams University and Cape Cod Cooperative Extension, and both have experience working on an oyster farm, dating back to the early 1980s. Additionally, John has a Bachelor's Degree in Environmental Science, with Emphasis in Aquaculture from Unity College in Maine. It is their intention to be model stewards of the area, and they understand the responsibility and privilege of a shellfish aquaculture lease.

Changes to application as a result of recommendations from the Preliminary Determination Hearing, held February 17, 2020:

1. *Tiverton Harbor and Coastal Waters Management Commission, DEM, and an objector had concerns regarding the shallow depth of the proposed site.*

In response to this, the location of the site was moved into deeper water (average MLW depth of two to four feet).

2. *Tiverton Harbor and Coastal Waters Management Commission and DEM had concern regarding the location of the site in relation to the DEM Recreational Shellfish Area.*

In response to this, the site was moved to the west, and outside the bounds of the DEM Recreational Shellfish Area.

3. *Concern was raised by DEM and CRMC regarding transporting oyster cages across and through the Sapowet Management Area public parking area.*

In response to this, the applicants will not transport oyster cages across the Sapowet Management Area public parking area. Installation (placement) and removal of the cages will be conducted by boat and/or private access to the shore.

As stated in the CRMC Preliminary Determination Report of Findings,

"The Commission, DEM, and the objector all stated that they would not have an issue with this farm if it was moved to deeper water adjacent to this site."

John and Patrick Bowen (applicants) believe that the above changes to their initial application address the concerns resulting from the Preliminary Determination Hearing, and as expressed in the CRMC Preliminary Determination Report of Findings.

OPERATIONAL PLAN:

1. Name and Address:

John Bowen, Patrick Bowen
79 Shaw Road
Little Compton, RI 02837

2. CRMC File Number: 2019-12-023

3. DEM Aquaculture License Number: To be determined

4. Type of Facility: Commercial Aquaculture Lease Site

5. Location of Facility: Tiverton, RI, Sakonnet River, Southwest of Seapowet Creek. The dimensions of the site are: West Side: 330', North Side: 200', East Side: 300', South Side: 110'. The site extends in a Southwest direction in a trapezoid shape. The proposed site is 42,212 square feet, or .97 acres.

Setbacks:

320' from Northeasterly corner to Mean Low Water (MLW) (nearest point of the site)

325' from the Southeast Corner to Mean Low Water (MLW)

410' from a point on the SW corner of the Seapowet Bridge to the NE corner of the site

500' from a point on the SW corner of the Seapowet Bridge to the NW corner of the site.

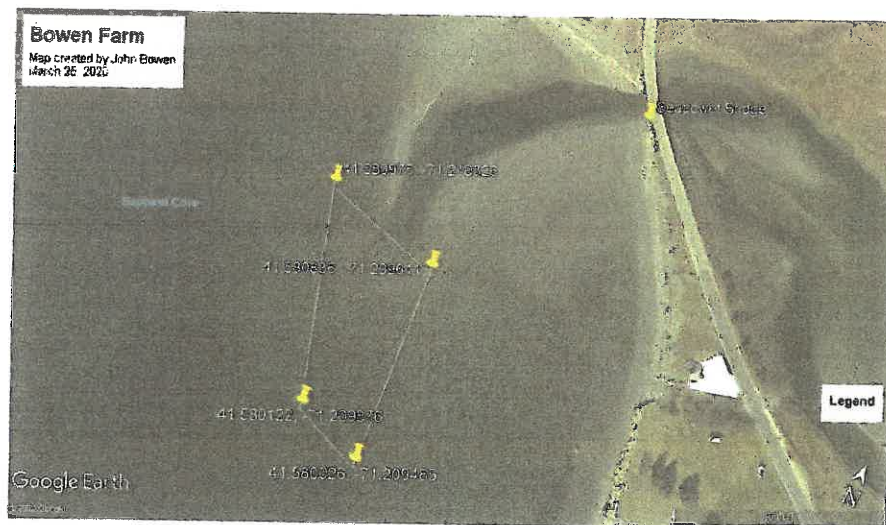
Longitude/Latitude of Proposed Aquaculture Site:

Northeast Corner: 41.580836, -71.209611

Northwest Corner: 41.580975, -71.210326

Southwest Corner: 41.580122, -71.209876

Southeast Corner: 41.580026, -71.209485



6. Species Grown: Crassostrea virginica. Eastern Oyster shellfish seed is to be purchased from a New England shellfish hatchery approved by DEM (Aquacultural Research Corporation, Dennis, MA; Fishers Island Hatchery, New York; Mook Sea Farms, Damariscotta, ME, or other approved

shellfish hatchery), in accordance with regulation. Only diploid seed will be deployed in the first year (and likely thereafter). It is the hope of the applicants that any oyster spawning which results from the farm will supplement the natural oyster recruitment in the area.

Applicants are very much aware of the importance of agricultural biosecurity as applied to shellfish aquaculture, and will be fully compliant with Biosecurity Board protocols.

7. **Gear Description:** Predominant culture method will be top loaded wire cages, dimensions of 24" wide, 48" long, and 14" tall, with 2" runners to keep them elevated from the bottom (total cage height is 16" tall). The cages will be placed directly on the bottom. Cages are accessed through the top, will contain stacked trays (plastic or wire), and will be covered with a rigid wire cover, affixed with shock cord.

The cages will be deployed in a series of ten (each ten cages referred to as a "trawl"), oriented such that the 48" sides of the cages are approximately 6" apart, each trawl spanning approximately thirty feet. The trawls will be secured with 5/8"x36" helical anchors installed at each end, with a line (half inch diameter, three strand, twisted nylon rope, minimum breaking load (MBL) of 5,670 lbs) attached to the helical-anchors on each side, creating a lateral line around the trawl. Each cage will be secured to the lateral line on both ends.

Additionally, standard 18"x36" ADPI bags (rigid mesh plastic bags) will be secured directly to the cages using heavy-duty clips.

The first year 25,000 oyster seed will be purchased, and grown utilizing the culture methods described above. We anticipate harvest time to be approximately 18-24 months.

8. Identifying Markers

Each of the four corners of the farm will be marked with standard 11" pot buoys, each of which will be marked in 3" letters "CRMC", and the File Number provided at the time of Assent. This will be done within ten days of CRMC Assent.

9. DEM Shellfish Harvesting Classification:

DEM Growing Area 4 (GA4). NSSP Growing Area Classification: Approved.

10. Description of Practices and Procedures:

As described above, Crassostrea virginica, Eastern Oyster shellfish seed is to be purchased from a regional shellfish hatchery approved by DEM (Aquacultural Research Corporation, Dennis, MA; Fishers Island Hatchery, New York, Mook Sea Farms, Damariscotta, ME, or other hatchery approved by DEM and CRMC), in accordance with regulation. We plan to use only diploid seed in the first year (and likely thereafter). The first year (and likely thereafter) larger seed size will be purchased, anticipating 5-7 mm size). The CRMC Aquaculture Coordinator will be notified of seed source and provided with a pathology report as required, at least five days prior to delivery of the seed.

11. Harvest, Storage, and Transportation:

It is anticipated that harvest time will be 18-24 months. Initially, oysters are expected to be sold to licensed Rhode Island Wholesale Dealers, rather than direct marketed, however the goal of the applicants is to attain proper licensure to sell shellfish locally. Harvesting and transporting oysters will be conducted with a focus on public health requirements, including icing, tagging, sanitation, and record keeping as required.

12. Time Table of Work

Farm work will take place predominantly at low tide (an hour before to an hour after), accessing the site using waders (or shorts during the summer months), and will consist of replacing bio-fouled plastic and wire trays inside the cages with clean trays, to reduce fouling and allow for better water flow over the oysters; splitting volumes of oysters into additional gear to maintain low densities; and culling/sorting oysters by size and quality. As oysters reach harvest size, they will be pre sorted for quantity, and pre bagged to reduce harvest time and allow for more rapid cooling during the summer months.

13. Record Keeping:

Records of all seed purchases (including origin, quantity, pathology reports, etc.), harvesting records, and operating records will be submitted to CRMC as required, and maintained by John Bowen, available for review as needed upon request. Annual reporting to CRMC with all required information will be conducted as required.

14. Procedures for maintaining records regarding upwellers in prohibited waters:

An upweller will not be used.

15. Procedure for maintaining records for operations using seed from prohibited waters:

Seed will not be obtained from prohibited waters.

Coastal Resources Management Program -- Section 1.3.1(A) -- Category B Requirements

1. Demonstrate the need for the proposed activity or alteration:

John Bowen and Patrick Bowen are proposing an oyster farm in Tiverton, RI. The site is located in the Sakonnet River, Southwest of Seapowet Creek. This site was chosen based upon proximity to the nutrient rich Seapowet Creek tidal flow, water depth, and lack of wild shellfish resource within the site. Shellfish aquaculture, especially oyster culture, is increasing in Rhode Island, however, the East Bay is largely under-represented. This proposal utilizes a low profile approach to this nutrient extractive agricultural process in an environmentally sensitive area, and helps to maintain local, historical marine tradition.

2. Demonstrate that all applicable local zoning ordinances, building codes, flood hazard standards, and all safety codes, fire codes, and environmental requirements have or will be met:

Permits required for the proposed lease will be obtained through RI CRMC pending approval of subsequent applications.

3. Describe the boundaries of the coastal waters and the land area that is anticipated to be affected: The proposed lease site is located in Tiverton, in the Sakonnet River, Southwest of Seapowet Creek. Latitude/Longitude of Proposed Aquaculture Site:

Northeast Corner: 41.580836, -71.209611

Northwest Corner: 41.580975, -71.210326

Southwest Corner: 41.580122, -71.209876

Southeast Corner: 41.580026, -71.209485

The dimensions of the site are: West Side: 330', North Side: 200', East Side: 300', South Side: 110'. The site extends in a Southwest direction in a trapezoid shape. The proposed site is 42,212 square feet, or .97 acres.

Setbacks:

320' from Northeasterly corner to Mean Low Water (MLW) (nearest point of the site)

325' from the Southeast Corner to Mean Low Water (MLW)

410' from a point on the SW corner of the Seapowet Bridge to the NE corner of the site

500' from a point on the SW corner of the Seapowet Bridge to the NW corner of the site.

4. Demonstrate that the alteration or activity will not result in significant impacts on erosion and/or deposition processes along the shore and in tidal waters:

All gear on the site will be temporary (not permanent), and designed to allow water to flow through, having minimal impact on erosion or deposition.

5. **Demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life:**

Culture methods proposed are intended to be low-impact. The site should have no negative impact on the abundance or diversity of plant and animal life. To the contrary, aquaculture gear provides habitat structure and supports a diverse assemblage of juvenile fish, crabs, lobsters. Oyster grow-out cages provide valuable habitat for finfish and have been compared with artificial reefs as part of habitat restoration programs.*

**Tallman, Forrester; Transactions of the American Fisheries Society, May, 2007*

6. **Demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore:**

As a result of the Preliminary Determination Hearing and subsequent CRMC Report of findings, the coordinates of the proposed site have been moved into deeper water, and outside of DEM's Recreational Shellfish Area.

The site is located in the Sakonnet River, on the southwest side of Seapowet Creek. The water depth and coarse sand/gravelly bottom are not conducive to boating*, swimming**, or fishing, and there is no significant wild shellfish resource on the site. **The area SW of Seapowet Point is extremely shallow and cannot be safely navigated during low tides***. The area west of Seapowet and Fogland Points presents dangerous swimming conditions.** Fishermen, shellfishermen and bathers typically use the area to the north of the Seapowet Creek. The lease site would still be possible for people to walk or wade through, or kayak through.

*TIVERTON HARBOR AND COASTAL WATERS MANAGEMENT PLAN: II(A)(3)(e)

** CODE OF ORDINANCES, TOWN OF TIVERTON, Chapter 14, Article II, Section 14-193

7. **Demonstrate that the alterations will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation:**

The proposed gear is designed to be low-impact, not extending greater than 18" from the bottom. All gear is intended to allow water to flow freely, as it increases oyster growth. Oyster filtration has been found to reduce turbidity and increase water clarity. Turbidity or sedimentation caused by work on the farm should be minimal and temporary.

8. **Demonstrate that there will be no significant deterioration in the quality of water in the immediate vicinity as defined by DEM:**

The proposed oyster farm will have no negative effect on water quality as defined by DEM (based on fecal coliform levels). Additionally, as estuarine nutrient loading is increasingly an ongoing global issue of concern, oysters are able to integrate nitrogen from algae in the water column within shell and tissue, which through harvesting, is removed from the system*, asserting an ecological benefit.

* Pollack, Yoskowitz, Kim, Montagna; *Plos One*, Volume 8, Issue 6, June 2013

9. **Demonstrate that the alteration or activity will not result in significant impacts to areas of historic and archaeological significance:**

There are no known historic or archaeological resources in the proposed site.

10. **Demonstrate that the alteration or activity will not result in significant conflicts with water dependent uses and activities such as recreational boating, swimming, navigation, and commerce:**

As a result of the Preliminary Determination Hearing and subsequent CRMC Report of findings, the coordinates of the proposed site have been moved into deeper water, and outside of DEM's Recreational Shellfish Area.

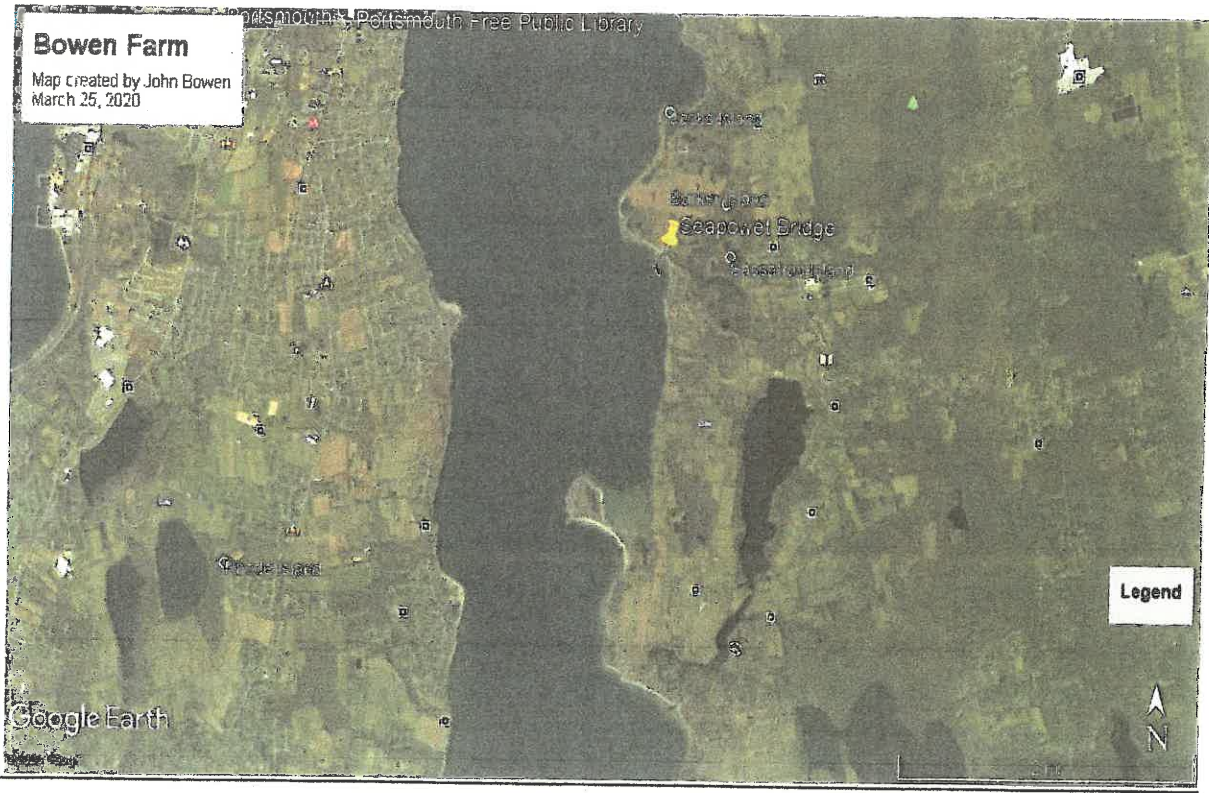
The site is located in the Sakonnet River, on the southwest side of Seapowet Creek. The water depth and coarse sand/gravelly bottom are not conducive to boating*, swimming** or fishing, and there is no significant hardshell clam resource on the site. The area SW of Seapowet Point is extremely shallow and cannot be safely navigated during low tides*. The area west of Seapowet and Fogland Points presents dangerous swimming conditions.** Fishermen, shellfishermen and bathers typically use the area to the north of the Seapowet Creek. The lease site would still be possible for people to walk or wade through, or kayak through.

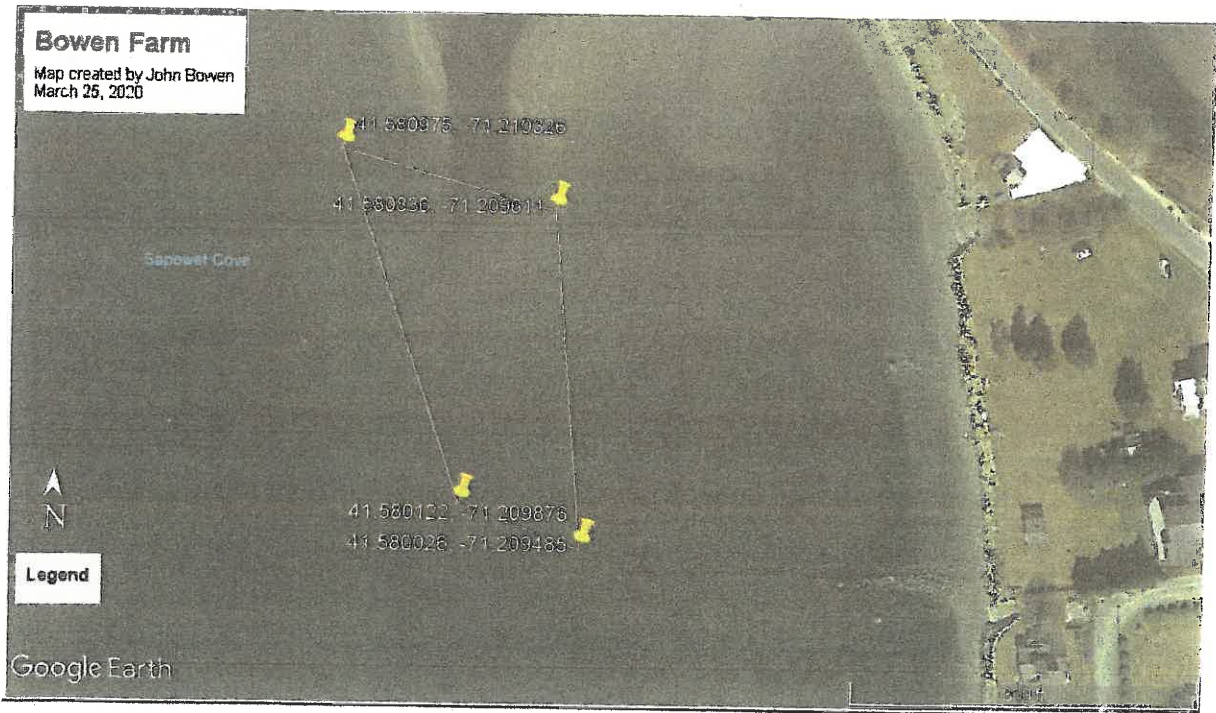
*TIVERTON HARBOR AND COASTAL WATERS MANAGEMENT PLAN: II(A)(3)(e)

** CODE OF ORDINANCES, TOWN OF TIVERTON, Chapter 14, Article II, Section 14-193

11. **Demonstrate that measures have been taken to minimize any scenic impact:**

The gear design is such that it will not be visible, even at low tide, with the exception of buoys at each of the corners, as required.







North



South



East



West



BOWEN OYSTER FARM
MARCH 2020
P. BOWEN

SCALE $\frac{1}{8}'' = 1''$

SECTION VIEW (SIDE)
TYPICAL OYSTER CAGE GEAR LAYOUT

AVE. MEAN LOW TIDE
© CAGE LOCATIONS
20" - 42"

24" X 48" X 16" WIRE CAGE W/ 3 LEVELS OF TRAYS
18" X 36" ADPI OYSTER BAG CLIPPED TO TOP

STANDARD ADPI BAG
CLIPPED TO CAGE

$\frac{1}{2}$ " NYLON ROPE
LATERAL LINE
BOTH SIDES

16"

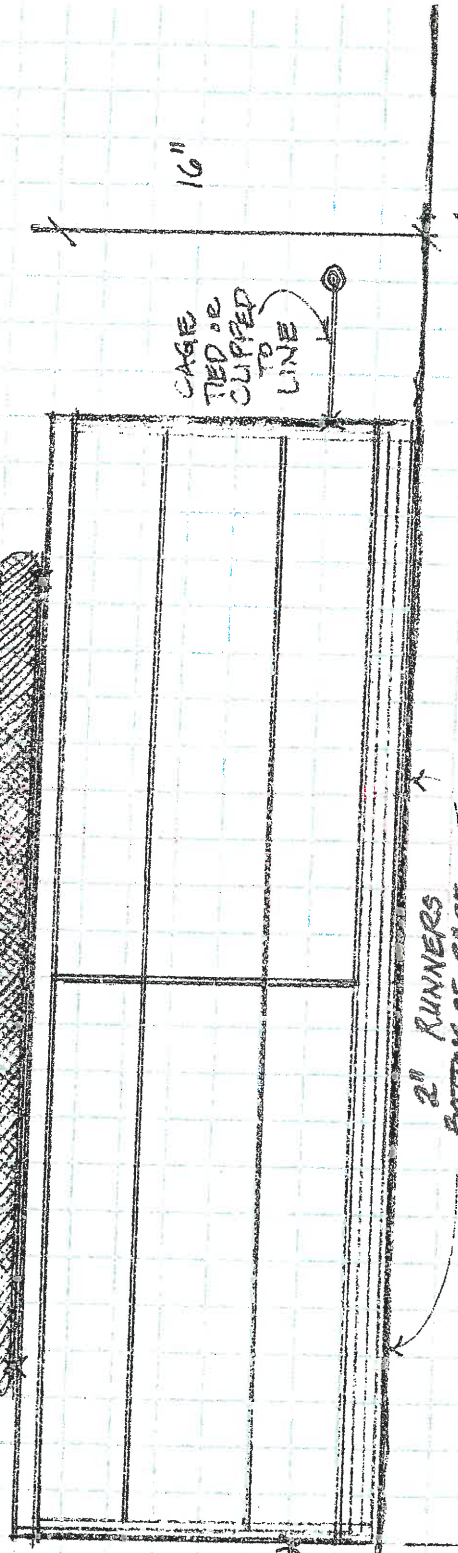
CAGE
TIED TO
CLIPPED
TO
LINE

2" RUNNERS
BOTTOM OF CAGE

48"

42"

20"

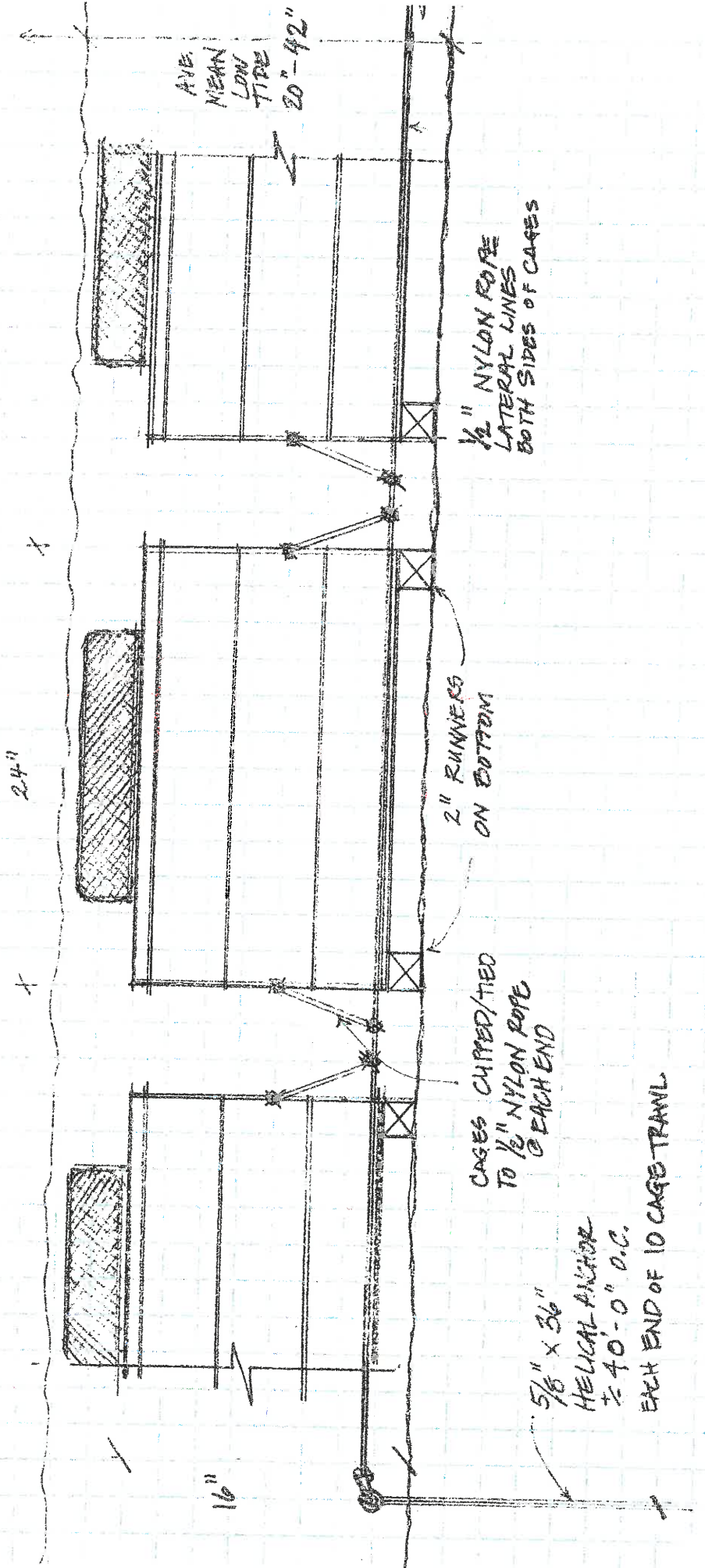


BOWEN OYSTER FARM
 MARCH 2020
 P. BOWEN

SCALE: 1/8" = 1'

SECTION VIEW (END)
 TYPICAL OYSTER CAGE GEAR LAYOUT

- 24" x 48" x 16" WIRE CAGE W/ 3 LEVELS TRAYS
- 18" x 36" OYSTER BAG CHIPPED TO CAGE

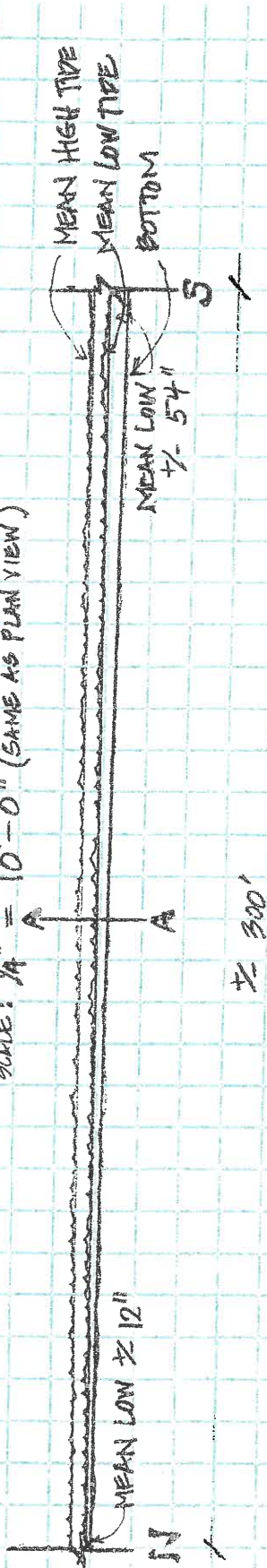


5/8" x 36"
 HELICAL ANCHOR
 ± 40'-0" O.C.
 EACH END OF 10 CAGE TRAIL

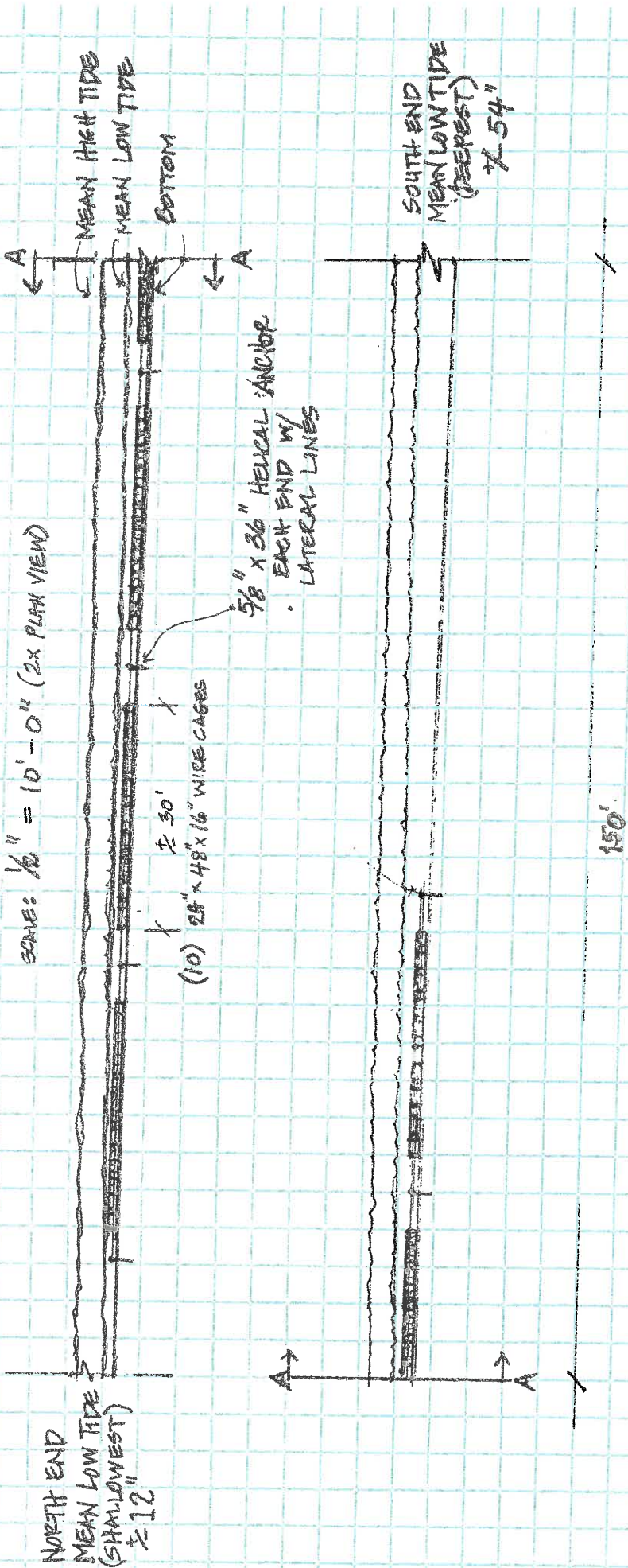
EDDIE OYSTER FARM
MARCH 2020
P. POWEN

SITE CROSS SECTION

SCALE: $\frac{1}{4}'' = 10' - 0''$ (SAME AS PLAN VIEW)

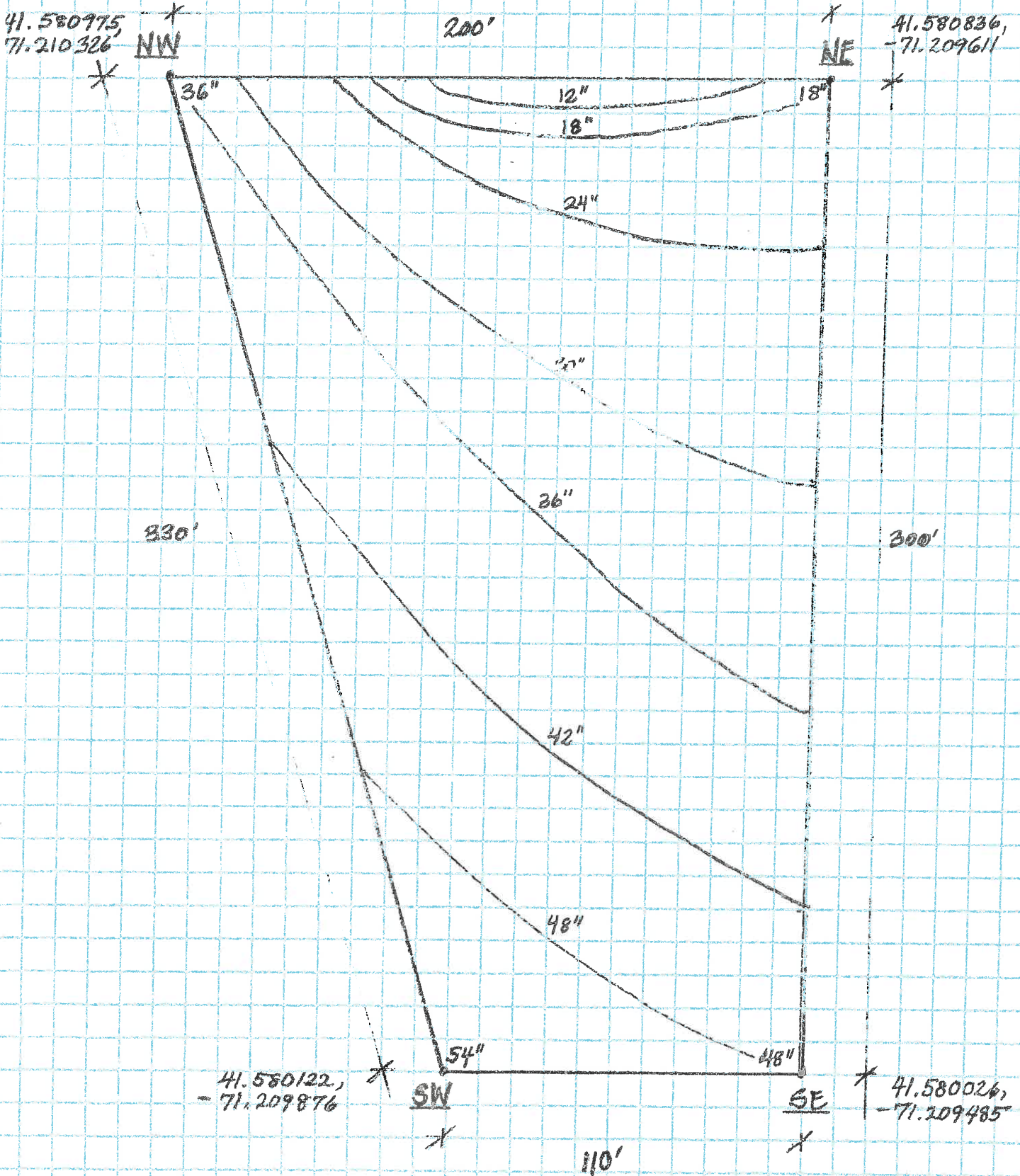


SCALE: $\frac{1}{16}'' = 10' - 0''$ (2X PLAN VIEW)



BOWEN OYSTER FARM
MARCH 2020
P. BOWEN

SITE PLAN
SCALE: $\frac{1}{4}'' = 10'-0''$
DEPTH CONTOURS @ MEAN LOW TIDE



**RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF FISH AND WILDLIFE**

**Application for a Special Permit for Aquaculture
R.I.G.L. 20-10-12**

Name: John Bowen, Patrick Bowen

CRMC Assent#: Applied For

Address: 79 Shaw Road

Assent Expiration Date: N/A

Little Compton, RI 02837

Assent Type: Commercial

Species to be cultured/possessed: Eastern oyster, *Crassostrea virginica*
(must coincide with terms of CRMC Assent)

Location where organisms will be held: Sakonnet River, Tiverton, RI
(must coincide with terms of CRMC Assent)

Land Based: NO

Open Water: YES

Bottom Culture: NO

Cage Culture: YES Number: 200 Approximate Size: 24"Wx48"Lx16"H

Raft Culture: NO

Other (describe): Standard 18"x36" ADPI bags secured to cages.

Lease: One lease site, applied for. Size: 0.97 acres

Type/description of markers used to identify site: Yellow pot buoys, 11" on each corner,
marked with CRMC Assent Number

(Must coincide with terms of CRMC Assent)

Will the cultured species always be maintained within the lease?: YES

Will they be moved (from upwellers, spat collectors, raceways, cages, etc. to grow-out
area) as part of culture: NO

Purpose for culture: Food Production

Is the end product to be sold?: YES

In-state: YES Out of State: NO

Live: YES Whole: YES Processed: NO

Source of organisms to be used for culture: Hatchery: YES

Name of Hatchery: Approved hatchery to be determined

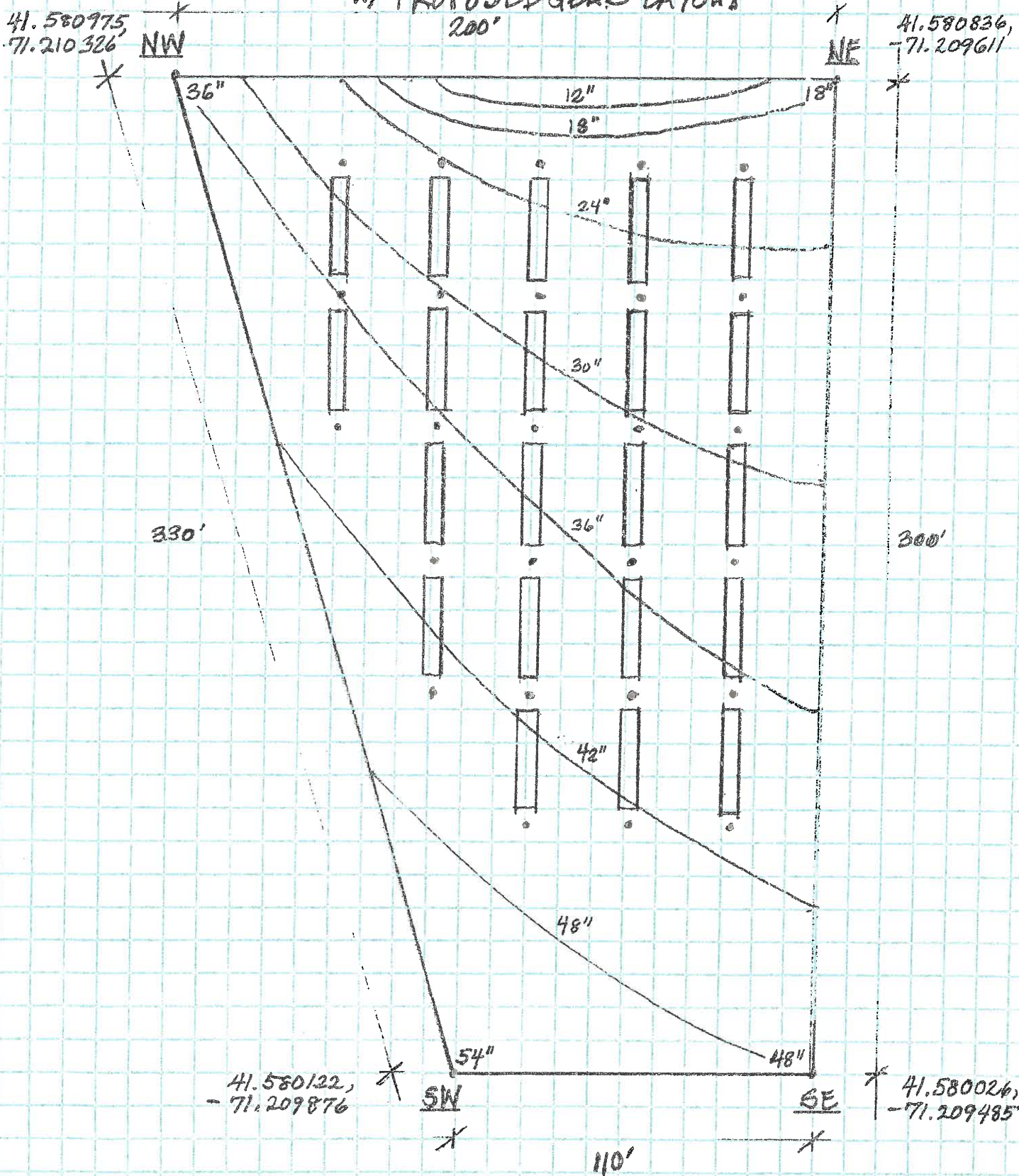
BOWEN OYSTER FARM
 MARCH 2020
 P. BOWEN



SITE PLAN

SCALE: $\frac{1}{4}'' = 10'-0''$

DEPTH CONTOURS @ MEAN LOW TIDE
 W/ PROPOSED GEAR LAYOUT



Anticipated time of delivery to Rhode Island?: After CRMC Assent granted, when seed is available.

The aquaculturist must notify the D.E.M. Divisions of Fish and Wildlife and Enforcement of every shipment of animals for culture at least five days prior to entry into the state and each shipment must be accompanied by a certificate of disease inspection from a recognized laboratory appropriate to the species being raised.

Approximate size of organisms (seed, fingerlings, larvae, adults) to be imported into RI: 7mm

Approximate quantity anticipated to be received this (permit) year: 25,000

Other Conditions:

By submission of this application for issuance or renewal of a Special Permit for Aquaculture, the aquaculturist provides the Division of Fish and Wildlife and the Division of Enforcement with the authority to enter and inspect all aquaculture facilities which have been requested to be permitted. (R.I.G.L. 20-10-15). By submission of this application, the aquaculturist agrees to acquire and maintain all of the appropriate licenses and permits necessary to conduct the culture and seafood business within the State of R.I. and comply with all laws, rules, and regulations regarding the possession, sale, trade, transport, purchase, and barter of fish/shellfish and seafood products. Noncompliance of the conditions of this permit will result in forfeiture of this Special Permit for Aquaculture and possible prosecution.


(Authorized Signature)



4-13-2020
(Date)

From: Phil Capaldi <philcapaldi@yahoo.com>
Sent: Wednesday, April 22, 2020 3:31 PM
To: 'Bruce Cox, Esq., Tiverton Harbor Commission'; 'Charles Smith'; 'Dave Robert, RICA, Tiverton Tax Assessor'; 'Denise M. deMediros, President, Tiverton Town Council'; 'Dennis M. Canario, Representiatve'; 'James A. Seveney, Senator, Portsmouth'; 'Jeanne Spencer, Tiverton Town Clerk's Office'; 'Louis P. DiPalma, Senator, Middletown'; 'Nancy Mello, Tiverton TC'; 'Neil Hall, Tiverton Building Official'; 'Robert D. Lloyd, Chief, Tiverton Fire Dpt.'; 'Thomas Ramotowski, Vice Chair, Tiverton Cons Comm'; 'Tiverton Town Planner'; 'Walter S. Felag, Jr., Senator'; 'William M. Anderson, Tiverton DPW Director'; 'Alison Kates, NRPA Program Coordinator'; 'Amy Rose Weinreich, Charlestown TC'; 'Andrew Nota, East Greenwich Town Manager'; 'Bruce Eastman, RISA'; 'C. Brown, DBEngineers'; 'Carol Wordell, Little Compton Town Clerk'; 'Charlotte Taylor'; 'Chris Church, Reporter'; 'Christina Collins, Jamestown Acting Town Admin'; 'Christine Andrews, QDC'; 'Chuck Horbert, RIDEM'; 'Colin Howard, Independent RI -- South Kingstown'; 'David Latham'; 'David Murdock'; 'David Prescott, Save the Bay'; 'Deborah Mongeau, Librarian'; 'Dennis Erkan, RIDEM F&W'; 'Diane Ray CIV USARMY CENAE'; 'Donna Giordano, Westerly TC'; 'Emilie Holland'; 'Eric Schneider, RIDEM Fish and Wildlife'; 'Erin Liese, Jamestown Town Clerk'; 'Glenn Modica'; 'James Bessette, Editorial Assistant'; 'James Tierney, Narragansett Town Manager; Jamie Hainsworth, Jamestown Town Manager; 'Jean Bellm, Exec Asst, Barrington'; 'Jeannette Alyward, North Kingstown TC'; 'Jeffrey Gardner'; 'Jennifer M. West , Portsmouth TC'; 'Jerry Elmer , Esq, CLF'; 'John Brown, THPO, Narragansett Indian Tribe'; 'John Torgan'; 'John Williams, Warwick Cove Marina'; 'Jonathan F. Stone, Exec Dir'; 'Jude Zeh'; 'Julie Coelho Warren TC'; 'Kathy & Steve Jacques'; 'Kathy & Steve Jacques'; 'Kendra L. Beaver, Esq, Save the Bay'; 'Laura C. Swistak, City Clerk, Newport'; 'Lawrence Taft, Exec Dir'; 'Leigh Carney, Town Clerk'; 'Liz Boardman'; 'Louis P. Cirillo, Bristol Town Clerk'; 'Lyn Pagliarini, Warwick City Clerk'; 'Lynn D'Abrosca, City Clerk, Warwick'; 'Maria Wall Cranston TC'; 'Mark Schwager, EG Town Council President'; 'Matt Gineo, Oldport Marine'; 'Matt O'Brien, AP Reporter'; 'Meg Kerr, Audubon Society of RI'; 'Melanie Jewett Army, AICP, RIDOT'; 'Meredith J. DeSisto, Barrington TC'; 'Michael McGiveney'; 'Michael S. Wierbonics, US ACOE'; 'Mike Jarbeau, Save The Bay'; 'Neal Personeus, RIDEM'; 'Nick Donadio'; 'Peter A. Healey'; 'Peter M. Vieira, Marine Construction'; 'Providence City Clerk'; 'Richard Goldstein Pawtucket TC'; 'Richard Kalunian'; 'Robert Lyons, Ocean House Marina'; 'Rodman R. Black Jr. HIIA'; 'Ryan Belssing, Independent RI -- Narragansett'; 'Sarah Frazar, RIDEM Water Resources'; 'Scott Briggs, Librarian'; 'Susan Flynn, SK Town Clerk's Office'; 'Thomas R. Evans, State Librarian'; 'tim rockwell'; 'US Army Corp of Engineers'; 'Wendy J. W. Marshall, Middletown TC'; Lisa Turner
Subject: Re: 30 day public notice

Thank you Bowen Family!

I appreciate your willingness to consider the objection raised - and to pivot to accommodate for future generations to enjoy the DEM location!

I appreciate talking with you face to face at the meeting. It speaks to your character.

As your business develops, grows and thrives, and you become professionally connected to other RI growers - please continue to advocate for the recreational user - and offer

alternative solutions to aquaculture sites that are in areas suitable for recreational shellfishing.

Thanks again -

Phil Capaldi
15 Baneberry Trail
Saunderstown, RI 02874
401-413-3336

On Friday, April 17, 2020, 11:06:21 AM EDT, Lisa Turner <lturner@crmc.ri.gov> wrote:

Please Note: Comments must be received by May 17, 2020. Thank you!

Lisa A. Turner

Office Manager

Coastal Resources Management Council

Oliver Stedman Government Center

4808 Tower Hill Road; Room 116

Wakefield, RI 02879

401-783-3370

2020-04-037

cstaff1

From: Kevin Moore <kevinpjmoore@icloud.com>
Sent: Monday, May 4, 2020 2:08 PM
To: cstaff1@crmc.ri.gov
Cc: Sean & Shelly Bowen; Patrick Bowen
Subject: John & Patrick Bowen's Oyster Farm Application

Dear Sir/Madam,

This note is in support of the above referenced application for an oyster farm in the Sakonnet River in Tiverton RI
I am familiar with the proposed farm site and believe that it's proximity to the outlet of the Seapowet Creek will be environmentally beneficial in reducing any nutrient loading that might flow from that creek
Additionally, I also feel that the East Bay is in need of, and can support, more aquaculture.
Thank you

Kevin Moore
60 Warrens Point Rd
Little Compton RI 02837
610-324-6972

Sent from my iPhone=

Cstaff1

From: Taylor Johnston <taylor.mauck@gmail.com>
Sent: Sunday, May 24, 2020 8:23 AM
To: cstff1@crmc.ri.gov
Subject: Bowen application 2020-04-037

Dear Sir/Madam,

I write in support of John and Patrick Bowen's application for an oyster farm at Sapowet in Tiverton. I have discussed the project with the Bowens, and as a grower myself, am confident in their abilities: John Bowen has a degree in aquaculture and has 30 years of familiarity, and both worked for one of the first oyster farms in the State, in Little Compton, 40 years ago.

I'm also confident in John and Patrick's stewardship, and their intention to be a good neighbor in their recognition of and respect for the public's rights to Sapowet. Beyond all, the project makes sense.

I understand that this project will be a win/win, with the oysters taking advantage of the nutrient loading that development and farm run off around the estuary has created. As most of the farms are on the West Bay, the East Bay should have the same access and I wholeheartedly support the Bowen's application.

Thank you for your consideration,
Taylor M Johnston
Little Compton

cstaff1

From: james quinn <jquinnmd@yahoo.com>
Sent: Monday, May 18, 2020 10:12 PM
To: cstaff1@crmc.ri.gov
Subject: File Number 2020-04-037
Attachments: Bowen Oyster Farm.pdf

Attached is a letter of support for this application. Thank you.

May 18, 2020

I am writing in support of the application of John and Patrick Bowen, File Number 2020-04-037, for a R.I. State Assent to operate and maintain a one-acre oyster farm in the Sakonnet River.

As a former oyster culturist and graduate student at URI's Graduate School of Oceanography, I had a R.I. Assent for a two-acre lease for ten years in the 1980's. Both of the applicants worked with me in what was one of the early oyster farms in R.I. I can attest that both applicants have the education, technical abilities, and environmental consciousness to operate an oyster farm within CRMC guidelines.

Since the days of dredging leased oyster beds, it has become increasingly recognized that modern oyster culture methods offer benefits to local economies and meet the needs of market demand without detrimental ecological consequences. Successful R.I. oyster farms are underrepresented in the East Bay area.

I would like to comment on several aspects of this application. I have reviewed the application and visited the site recently and many times over the years. The site is well chosen for protection from wind and surf, as well as high-flow conditions provided by tide and outflow from Seapowet Creek. It is suitable for the bottom system proposed in the application. The applicants have modified the location of the one-acre area to the south of the creek to be outside of a recreational area on the northern side. This site does not conflict with uses for bathing, fishing, or boating.

The scope and profile of the project are modest. The grow-out gear proposed would only occupy less than 4% of the total one-acre site and would not be visible at low tide. The activity for maintenance and harvesting also would be minimal, given that the proposed number of seed is 25,000.

I urge the council to grant this Assent for a small-scale, low-impact oyster farm, which does not conflict with existing uses, has little or no environmental impact, and has the potential for enhancing the native oyster population in the Sakonnet River.

Thank you for your consideration of these comments.

James Quinn, MD, MS
15 Milton Road
Little Compton, R.I. 02837



Cstaff1

From: margaret manning <margaretmanning99@gmail.com>
Sent: Saturday, May 16, 2020 1:48 PM
To: cstaf1@crmc.ri.gov
Subject: File #: 2020-04-037 (John Bowen and Patrick Bowen)

To Whom it May Concern,

As the sister of Patrick and John Bowen, and as a native Rhode Islander and life-long resident of the East Bay, I am writing in enthusiastic support of their aquaculture application for state assent.

Now, more than ever, as we weather the current coronavirus pandemic, it is critical that Rhode Island facilitate the increase of **local food production** and **job creation**. There couldn't be a more timely opportunity for CRMC to take the lead in a way that is **in keeping with our shared coastal resources** and treasured **heritage of working waterfronts**. Family-owned AND operated small businesses which have a vested interest in the stewardship of the areas in which they live and work, are exactly what the CRMC should be encouraging and supporting.

This is just one such application before you, but it is a profound example of the resourcefulness of resilient Rhode Islanders in these uncertain times. This is a modest proposal to seed oysters on a .97 acre farm but it is emblematic of the unfailing positivity and creativity of Rhode Islanders and our state's motto: "Hope." Small steps such as this application represent seeding a sustainable future for generations of Rhode Islanders. Your assent would represent Rhode Island's "lively experiment" at it's best.

Patrick and John are responsible, knowledgeable, passionate, and selfless. Their family values, work ethic, and good old-fashioned Yankee ingenuity are bar none. Their roots in the area go back 150 years and four generations. They live and raise their families in the adjacent town of Little Compton. Their integrity and experience, along with their unbridled enthusiasm for aquaculture and for sharing skills and science with future generations (as evidenced through their children's participation), ensure that they will be model stewards of this farm.

The CRMC process that is in place and that affords ample public input and careful consideration is a good one. I am confident that the Bowen's well-reasoned and responsive proposal would sail past the bar of why this process was established in the first place. I am convinced that it exceeds the criteria for favorable consideration and is worthy of CRMC assent.

Thank you,

Margaret Manning
81 Shaw Road
Little Compton, RI 02837

Cstaff1

2020-04-037

From: lindsey june <lindseymjune@yahoo.com>
Sent: Thursday, May 14, 2020 11:46 PM
To: cstaff1@crmc.ri.gov
Subject: Seapowet farm

To whom it may concern,

Never in the history of Rhode Island has there been a better match for this aquafarm. As i have personally known the Bowens for years, means nothing in this email.

What does hold "water" in this email is both the dedication and stewardship of the project before you. Never in my life have I before met such a dedicated family in the art of living and loving the native land. The giving of their time to teach their children is like no other. It is a family affair. All stewardship will be on par, and passed down. I strongly look forward to reaping the rewards of the Bowens' endeavours. There will be no better candidate for this, hands down.

And we need this for our local economy. That can't be dismissed.

One of the elder Bowens taught me years ago " We only borrow the sea, as we do not own it. We simply entrust it to the next generation".

I will never know a better set of people to entrust our future to,(and i have a 6 year old.

So that is a priority)!

Please ...know that this is the best and most educated choice in your decisions.

Warmest Regards,

Lindsey June

Little Compton, RI

[Sent from Yahoo Mail on Android](#)

Cstaff1

From: Timothy O'Toole <totoole635@gmail.com>
Sent: Monday, May 11, 2020 8:07 AM
To: cstaff1@crmc.ri.gov
Subject: CRMC FILE # 2020-04-037

Greeting,

My name is Timothy F. O'Toole. I reside at 147 Long Highway, in Little Compton, RI, along with my wife and three children. 02837

Last week I had the good fortune to cross paths with my friend, John Bowen. We spent an hour or so discussing the oyster farm that he, and his brother Patrick are proposing for the Seapowet area in Tiverton. I was very impressed with the plan and their dedication to the project.

I have known the Bowen family since the early 1980's. They are honest, "salt of the earth" people, with strong roots in the East Bay community. I have seen how they fish and how they farm, and John's compost pile is a thing of beauty. They are good stewards of the land and sea.

I work in Providence and Warwick, and am familiar with the shellfish farms in South Country. The Bowen's proposed oyster farm seems to be a positive step towards strengthening aquaculture in the under represented East Bay.

As we begin to emerge from the recent troubles, I realize how lucky my family is to live in a place where our food supply is so very local. I feel better eating food harvested by people I know and trust.

Thank you,

Timothy F. O'Toole
(401) 787-4267

Cstaff1

2020-04-037

From: searope <phgmag@aol.com>
Sent: Thursday, May 14, 2020 9:03 AM
To: cstaff1@crmc.ri.gov
Cc: Sean Shelley Bowen; Patrick Bowen
Subject: John & Patrick Bowen's Oyster Farm Application

Dear Sir, Madam,

This e-mail is in support of John and Patrick Bowen's Application for an Oyster Farm in the Sakonnet River.

We are familiar with the Sakonnet Area and believe this Oyster Farm will be an asset to the East Bay.

John and Patrick are very knowledgeable , hard working and reliable stewards of the Sakonnet area.

We believe that responsibly grown and maintained aquaculture can only improve our rivers, oceans and our quality of life.

Thank you for your consideration in this matter.

Sincerely,

Philip and Margaret Grandchamp
28 Indian Road
Little Compton Rhode Island 02837

413-822-5738

Sent from my iPad

Cstaff1

From: gomezjt@cox.net
Sent: Tuesday, May 12, 2020 8:14 PM
To: cstaff1@crmc.ri.gov
Subject: 2020-04-037

CRMC staff,

This email is in reference to the planned oyster farm near the Seapowet bridge in tiverton, with applicants John and Pat Bowen. I've read thru the application and am truly impressed. The applicants have submitted a thorough and and we'll conceived plan. In addition to the natural benefits an oyster farm brings to the Bay, it fills a local East Bay need for shell fish production.

I have also personally known John and Pat Bowen for over 40 years. They are honest and hard working. Combined with John's education and experience in aquaculture, and Pat's in construction management, this project will be something RI will be proud of for years to come.

Please feel free to contact me with any questions.

Jason Gomez
401 864 2016
gomezjt@cox.net
14 River Run
East Greenwich,RI

cstaff1

From: Kenny Mendez <kenneth.mendez@gmail.com>
Sent: Tuesday, May 19, 2020 5:05 PM
To: cstaff1@crmc.ri.gov
Subject: File #2020--04-037 application for one acre oyster farm

To whom it may concern,

I am writing to request a hearing and to receive consideration for the proposed one acre oyster farm at the mouth of Seapowet Marsh on the Sakonnet River. I urge CRMC not to grant approval for that location and instead find a more appropriate location. The current proposed site location is in prime striped bass fisheries habitat used by migratory fish that use that section of the Sakonnet River to feed on nutrients flowing out of the marsh. In addition, the location of that structure is frequently used by recreational fishermen, kayakers, and beach-goers. The location of the proposed farm would displace those recreational activities and displace prime fish habitat.

My address is 123 Long Pasture Way, Tiverton. You can reach me on this email address and my cell phone number is 703-304-1488.

Thank you for your consideration.

Sincerely,

Kenneth Mendez

Amanda Turco

From: CRMC Staff <cstaff1@crmc.ri.gov>
Sent: Monday, July 20, 2020 8:25 AM
To: Amanda Turco
Subject: Fwd: Bowen Oyster Farm; File# 2020-04-037

----- Original Message -----

From: Justin <jcd401@gmail.com>
To: cstaff1@crmc.ri.gov
Cc: friendsofseapowetmarsh@gmail.com, stevem@risaa.org
Date: 07/18/2020 9:37 AM
Subject: Bowen Oyster Farm; File# 2020-04-037

Dear team CRMC,

I am writing to express my concern and displeasure regarding the proposed oyster farm located at Seapowet Marsh in Tiverton, RI (File# 2020-04-037). I have just recently learned that the proposition has continued to move forward, and sadly without any significant opposition from the many residents and other outdoor enthusiasts who utilize the area for recreation. I understand that the comment period has closed, but I would like to have my note added to the file if at all possible.

Like many others in our state, I am an avid surf/shore fisherman. As such, I spend much of my time from April to November wading the shorelines of RI in search of striped bass, an extremely valuable species that we are so fortunate to have inhabiting our coastal waters. It is a fish whose commercial value is eclipsed by the wealth of unique recreational opportunities it provides. Fishing for many of us striper fisherman has become more of a lifestyle than a hobby; one where we are equally attached to our favorite spots as our own backyards. More so than most, we understand that our pursuits are only made possible by free public access, that we happily share with beach goers, kayakers, and the like. For myself and fellow anglers in the know, Seapowet Marsh is synonymous with striped bass fishing, and the placement of the Bowens oyster farm threatens to end that reality.

The farm is planned to be located in the fertile outflow of the marsh, just off the beach in shallow water. The one acre plot chosen here is prime fish habitat and for this reason, the most frequented area by the majority of anglers visiting Seapowet. The usual approach for wade-fisherman here is to walk out into waist deep water along the elevated sandbar, and depending on the tide, fishing from within the prospective farm, or at the very least casting within its perimeter. Fishing outside of the outflow is not nearly as productive, as the current running through this section creates a unique set of conditions. Unfortunately, we do not have the luxury of simply moving down the beach for this reason. The Bowen's commercial endeavor, in its current location, will completely displace our recreational activities and is an unfair use of this fantastic public space.

The biggest key to fishing successfully is choosing the right location, but without a boat, that means finding where you are allowed free access. RI has many legal access points mapped, but

the majority provide no parking opportunity, close during nighttime hours, or have been effectively privatized by abutting homeowners. Seapowet is really a gem in that it provides open and unrestricted access year-round for recreational activities. I feel the farm could jeopardize this altogether if placed in water accessible by foot, as security may become an issue. I worry parking may be jeopardized, as the commercial workers will be utilizing some of the already limited parking spaces during daytime hours. I believe allowing this operation will be opening a can of worms that leads to the average person losing more of their right to coastal access. Lastly, I'm concerned that increased human activity across this prime fish habitat may displace them as well.

For these reasons I would ask you to extend the public comment period, taking input from other anglers, kayakers, and town residents on how this would personally impact them and their enjoyment of the space. The community deserves a fair chance to voice their opinion on this, as the Bowen's endeavor benefits very few, but affects many. The events of the last several months have been distracting to say the least, and it is no surprise how this remained under the radar. Now that there are some of us in the know, we can spread the word and encourage others to speak their point of view regarding this massive change, before it is too late.

Thank you for your time and everything you do to protect the health of our coastline.

Sincerely,

Justin DiTucci
Tiverton, RI
401-207-8872

STATE OF RHODE ISLAND
COASTAL RESOURCES MANAGEMENT COUNCIL

* * * * *

IN RE: SEMIMONTHLY MEETING VIA ZOOM

* * * * *

Date: May 11, 2021
Time: 6:00 p.m.
Place: Via Zoom
Providence, RI

MEMBERS PRESENT

Jennifer Cervenka, Chairwoman
Raymond C. Coia, Vice Chair
Donald T. Gomez
Patricia Reynolds
Joy Montanaro
Ronald Gagnon, DEM

Anthony DeSisto, Esquire, Legal Counsel
John Longo, Esquire, Legal Counsel

STAFF PRESENT

Jeff Willis, Executive Director
James Boyd, Deputy Director
Benjamin Goetsch, Aquaculture Coordinator
Laura Dwyer, Public Educator and Information
Coordinator
Lisa Turner, Recording Secretary
Ryan Moore, Moderator

ORIGINAL

Rebecca J. Forte Court Reporting
Certified Professional Court Reporters
33 Rollingwood Drive
Johnston, RI 02919
(401) 474-8441
stenorf@gmail.com

Rebecca J. Forte Court Reporters
(401)474-8441 stenorf@gmail.com

I N D E X

APPLICATIONS WHICH HAVE BEEN OUT-TO-NOTICE AND ARE BEFORE THE FULL COUNCIL FOR DECISION:

APPLICATION	PAGE
2020-04-037 - JOHN BOWEN & PATRICK BOWEN	21
2019-12-079 - SEAKIST AQUACULTURE, LLC	45
PUBLIC HEARING ON PROPOSED RULEMAKING: MANAGEMENT PROCEDURES (650-RICR-10-00-1)	15

Semi-Monthly Meeting - May 11, 2021

3

1 (MEETING COMMENCED AT 6:07 P.M.)

2 CHAIRWOMAN CERVENKA: I think we can get
3 started. We have a quorum. So welcome, everybody,
4 to the May 11, 2021, Rhode Island Coastal Resources
5 Management Meeting. It is 6:07 p.m. And for
6 Council members tonight we have myself,
7 Jennifer Cervenka, I'm the chair. Vice Chair
8 Raymond Coia.

9 VICE CHAIRMAN COIA: Raymond Coia is here.

10 CHAIRWOMAN CERVENKA: Thank you.
11 Patricia Reynolds.

12 MS. REYNOLDS: Patricia Reynolds, present.

13 CHAIRWOMAN CERVENKA: Ron Gagnon.

14 MR. GAGNON: Ron Gagnon, here.

15 CHAIRWOMAN CERVENKA: Don Gomez.

16 MR. GOMEZ: Gomez, present.

17 CHAIRWOMAN CERVENKA: And Joy Montanaro.

18 MS. MONTANARO: Joy Montanaro, present.

19 CHAIRWOMAN CERVENKA: Thank you. For CRMC
20 staff we have Executive Director Jeff Willis.

21 MR. WILLIS: Here, Madam Chair.

22 CHAIRWOMAN CERVENKA: Deputy Director
23 Jim Boyd.

24 MR. BOYD: Here, Madam Chair.

Semi-Monthly Meeting - May 11, 2021

4

1 CHAIRWOMAN CERVENKA: Chief legal counsel
2 Tony DeSisto.

3 MR. DeSISTO: Here, Madam Chair.

4 CHAIRWOMAN CERVENKA: And for the record,
5 at some point this evening, Mr. DeSisto is going to
6 go leave us, and Attorney Longo is going to join
7 us. And you'll let us know, Mr. DeSisto, when that
8 happens?

9 MR. DeSISTO: Yes.

10 CHAIRWOMAN CERVENKA: We have, as our
11 aquaculture coordinator, Ben Goetsch.

12 MR. GOETSCH: Present, Madam Chair.

13 CHAIRWOMAN CERVENKA: Lisa Turner, our
14 recording secretary.

15 MS. TURNER: Present, Madam Chair.

16 CHAIRWOMAN CERVENKA: Ryan Moore, our
17 moderator.

18 MR. MOORE: Present, Madam Chair.

19 CHAIRWOMAN CERVENKA: Laura Dwyer, our
20 public outreach coordinator.

21 MS. DWYER: Here, Madam Chair.

22 CHAIRWOMAN CERVENKA: And -- thank you.
23 And finally, Cindy Tangney, our court reporter.

24 THE REPORTER: Present.

1 CHAIRWOMAN CERVENKA: Thank you.

2 VICE CHAIRMAN COIA: Madam Chair, I want
3 to go where Cynthia is.

4 CHAIRWOMAN CERVENKA: Who?

5 VICE CHAIRMAN COIA: I said, I want to go
6 where Cindy is. Look at her background.

7 CHAIRWOMAN CERVENKA: I know.

8 VICE CHAIRMAN COIA: It reminds of a
9 couple of weeks ago, right?

10 CHAIRWOMAN CERVENKA: Yes, absolutely. I
11 miss it. Although, there have been shark sightings
12 since leaving, so I'm glad I'm back safely on the
13 East Coast.

14 All right. So turning to Mr. Moore, would you
15 please run us through the rules for this Zoom
16 meeting, and in particular, how those who are
17 watching can participate.

18 MR. MOORE: Absolutely. This is the
19 Rhode Island Coastal Resources Management virtual
20 semimonthly, 5/11/2020, conducted in accordance
21 with Executive Order 21-30. One-hundred and
22 thirty-third supplemental emergency declaration
23 extension under executive orders.

24 If you're having problems with your computer

1 audio, use the call-in numbers for this meeting.
2 The numbers will be posted in the Zoom chat box
3 once this presentation is concluded.

4 A note to the meeting participants and
5 attendees. Please be advised this is an online
6 meeting, including all audio, video, names and
7 comments visible in the chat box are being
8 recorded. All members of the public who wish to
9 comment during these proceedings must correctly
10 identify themselves before proceeding.

11 Council members, applicants, and CRMC staff,
12 please turn video on. Do not use phone and
13 computer audio at the same time. Raise your hand
14 or use the "raise hand" function to be recognized
15 by the Chair. Identify yourself by first and last
16 name.

17 Members of the public, please keep your video
18 off. Mute your microphones when not speaking. Use
19 the "raise hand" function to be recognized by the
20 Chair. Wait to be recognized and unmuted by the
21 moderator to speak. Identify yourself by first and
22 last name.

23 For those on the phone, please press star 9 to
24 use the "raise hand" function. When recognized,

1 identify yourself by first and last name.

2 CHAIRWOMAN CERVENKA: Thank you,
3 Mr. Moore.

4 Okay. Proceeding first on our agenda to
5 approval of the meeting minutes for April 29, 2021.
6 Those were circulated earlier and are also
7 available on the website.

8 VICE CHAIRMAN COIA: Madam Chair, Ray Coia
9 moves approval.

10 CHAIRWOMAN CERVENKA: Thank you, Mr. Coia.
11 Is there a second?

12 MR. GAGNON: Second.

13 CHAIRWOMAN CERVENKA: Thank you,
14 Mr. Gagnon. I'll do a roll call.
15 Vice Chair Ray Coia?

16 VICE CHAIRMAN COIA: Ray Coia votes aye.

17 CHAIRWOMAN CERVENKA: Patricia Reynolds?

18 MS. REYNOLDS: Reynolds votes aye.

19 CHAIRWOMAN CERVENKA: Ron Gagnon?

20 MR. GAGNON: Ron Gagnon, aye.

21 CHAIRWOMAN CERVENKA: Don Gomez?

22 MR. GOMEZ: Gomez, aye.

23 CHAIRWOMAN CERVENKA: Joy Montanaro?

24 MS. MONTANARO: Joy Montanaro, aye.

1 CHAIRWOMAN CERVENKA: And myself,
2 Jennifer Cervenka, abstaining because I was absent
3 at that meeting. So the meeting minutes of
4 April 29, 2021, have been approved.

5 Next on our agenda are subcommittee reports.
6 Mr. Boyd, do you have any of those?

7 MR. BOYD: Yes, Madam Chair, one
8 subcommittee report. A workshop for the Raso
9 subcommittee has been scheduled for Friday, May the
10 28th, starting at 10 a.m. and scheduled until noon
11 if necessary. And the purpose of this workshop is
12 for the subcommittee to review its recommendation
13 to the full Council.

14 CHAIRWOMAN CERVENKA: And that's
15 essentially reviewing a draft decision prepared by
16 Mr. DeSisto; is that right?

17 MR. BOYD: That would be correct, yes.

18 CHAIRWOMAN CERVENKA: Great. All right.
19 Any questions about that?

20 (NO RESPONSE)

21 CHAIRWOMAN CERVENKA: Okay. If none,
22 thank you, Mr. Boyd. We'll move on to Mr. Willis
23 and his report.

24 MR. WILLIS: Thank you, Madam Chair. I

1 have just a couple of items to report to the
2 Council tonight.

3 First thing, you'll remember back in 2019 the
4 Council had a federal consistency decision issued
5 for the Vineyard Wind offshore renewable energy
6 project. This is the one that's between
7 Martha's Vineyard and Nantucket. The record of
8 decision on that matter was issued today by the
9 Bureau of Ocean Energy Management, BOEM
10 affectionally known as. And from this point
11 forward, the federal agencies have 90 days to issue
12 the outstanding federal permits for that project so
13 that the project, in itself, can go to fiscal
14 close. So it's entirely probable that by the end
15 of the summer, early fall, this project will be
16 ready to construct.

17 Along the renewable energy front, we are
18 continuing our negotiations on the South Fork
19 project, which is an Orsted renewable energy
20 project between the Fishermen's Advisory Board,
21 which is advisory board to the CRMC staff, and the
22 developer Orsted. We are continuing our
23 negotiations on that. But as you also know, at the
24 next Council meeting staff will be making its

1 presentation to you all on its recommendation for
2 the project relative to our federal consistency
3 review.

4 And then, lastly, which I read about in the
5 press and I alerted you to also, the Block Island
6 Wind Farm, the cable that goes from the farm to
7 Block Island and then the cable that leaves the
8 island and goes to the mainland, as you know, the
9 Council had ordered both Orsted, who owns the cable
10 going to the island, and National Grid, who owns
11 the cable going from the island to the mainland,
12 both those cables, after they were installed,
13 day-lighted, as not required by the Council and the
14 staff when we permitted that project. So the order
15 to have those cables reburied was issued by the
16 Council last year, with a May 31st deadline to have
17 both cables reburied. I've been reporting to the
18 Council on the progress of that work over the past
19 winter and spring, and up until very recently, the
20 progress has been positive.

21 Orsted has reburied its cable by installing
22 with horizontal directional drilling technique and
23 conduit. That started offshore and day-lighted
24 underneath Crescent Beach to a manhole, if you

1 will, on the other side of the beach, and laid the
2 cable -- and are laying the cable in that conduit
3 now, and they're wrapping up their part of the
4 project by removing the old cable that has been
5 discontinued.

6 Right following on the heels of that work was
7 the National Grid effort, who also laid a conduit
8 with the HDD method, and in the course of the time
9 frame that it laid that conduit and then started to
10 install the cable, ran into some issues with
11 obstructions inside that conduit.

12 The National Grid team and its contractor
13 tried several different methods to clear that
14 obstruction but could not in a timely fashion to
15 make sure that they can make the May 31st deadline
16 to reinstall the cable and have asked just today
17 for an extension to our order to not meet the
18 May 31st deadline.

19 As you know, in the press release, they
20 unilaterally made a decision to stop the work and
21 not continue the project until the fall, after the
22 summer season, and that was work with the
23 Town of New Shoreham to get that agreement. But as
24 of working with the agencies, in particular CRMC,

1 in making sure it was consistent with the order,
2 the work will not be done by May 31st, so we have
3 just received an extension request today to have
4 that deadline be extended.

5 As you know, and I just mentioned, we have the
6 next meeting of the Council dedicated to the
7 South Fork Wind matter. And the only time that we
8 can deal with the extension for National Grid to
9 meet -- to rebury the cable after May 31st would be
10 in June. But it's my opinion that because the
11 extension request was received in a timely fashion
12 as possible, and today, prior to the May 31st
13 deadline, that the extension request would be
14 valid, that we can handle that in June. So I'll be
15 working with the Council and National Grid on
16 getting them in front of the Council to ask for
17 that extension and having it be deliberated in
18 front of you all in June.

19 CHAIRWOMAN CERVENKA: Mr. Willis, how much
20 work have they got done, and do they have to start
21 from scratch again, or they have the conduit and
22 it's just a matter of clearing the obstruction, or
23 no one knows yet?

24 MR. WILLIS: It's -- so they tried several

1 ways to clear the obstruction, and they were
2 hopeful in the methods that they tried to do so
3 over the past couple of weeks that they could clear
4 the obstruction so that they could lay the cable.
5 They were not successful, and they made a decision
6 that what they were doing needed further assessment
7 to figure out exactly what is the obstruction. Is
8 it a partially collapsed conduit? Was there damage
9 to the conduit when they were laying it through the
10 HDD process? They don't have the answer to those
11 questions, which we have all asked, and that's part
12 of the assessment that they need to continue and
13 then come up with a plan of how they will meet
14 getting that cable reburied.

15 I suspect one of the ways -- one of the
16 solutions will be to re-drill, horizontal
17 directional drilling, another conduit. But that's
18 part of the assessment that they're going through
19 right now, to figure out all the different pathways
20 to get them to make this project successful.

21 CHAIRWOMAN CERVENKA: Thank you. Any
22 additional questions for Mr. Willis?

23 MR. GAGNON: One question.

24 CHAIRWOMAN CERVENKA: Mr. Gagnon.

1 MR. GAGNON: Jeff, regarding the
2 Vineyard Wind approval, do we know if the
3 agreements we had reached with them through the
4 federal consistency and the funding they were going
5 to provide for the fishing industry is still in
6 effect, or will we expect to see that?

7 MR. WILLIS: And Jim -- I see Jim's hand
8 raised. He can go into detail. But, yes,
9 Mr. Gagnon, the federal consistency decision had
10 a -- there was an agreement between the developer
11 and the Fishermen's group to have a financial
12 package -- compensation package as part of an
13 agreement between those two parties. It wasn't a
14 requirement of the consistency determination, but
15 it was an agreement between those two parties. And
16 that agreement will become effective upon financial
17 close of the Vineyard Wind project, which will
18 occur after all the other federal permits are in
19 order.

20 And, Madam Chair, if Mr. Boyd can go into more
21 detail, he can probably answer Mr. Gagnon's
22 question a little better.

23 MR. BOYD: Just very briefly. BOEM's
24 decision today, the record of decision, requires

1 Vineyard Wind to implement the mitigation
2 packages negotiated between Vineyard Wind and
3 the State of Rhode Island, as well as the
4 State of Massachusetts. So, yes, those agreements
5 are binding, and they are requirements of BOEM's
6 approval in the Vineyard Wind one project.

7 MR. GAGNON: Okay. That's good. Thank
8 you.

9 CHAIRWOMAN CERVENKA: Thank you. Any
10 additional questions?

11 (NO RESPONSE)

12 CHAIRWOMAN CERVENKA: Okay. If none, then
13 I'm going to take our matters out of order. And
14 I'm going to start with the Public Hearing on
15 Proposed Rulemaking because I think that's going to
16 go fairly quickly. So I'll start with that.
17 That's relating to Management Procedures
18 650-RICR-10-00-1. And, Mr. Boyd, I believe, you're
19 going to speak to this.

20 MR. BOYD: Yes, Madam Chair. Thank you
21 very much. The proposed amendments for the
22 management procedures, as you noted, Madam Chair,
23 under the Rhode Island Code of Regulations
24 650-RICR-10-00-1, were publicly noticed on

1 April the 26th. We're presently in the
2 30-day notice period, which will end on
3 May the 26th. So this evening we're providing
4 opportunity for the public, if they choose, to
5 comment on the proposed amendments.

6 Very simply, the amendments are to delete the
7 required \$1,000 filing fee for petitions of
8 declaratory ruling, as well as petition for rule
9 change. And the only other change we're making is
10 to Subsection 1.5.9(a), and that is to increase the
11 time period from five to seven days that an
12 applicant would need to submit materials so that
13 they can be considered by the Council at its next
14 Council meeting.

15 Earlier today, two sets of written comments
16 were forwarded from the CRMC administrative staff
17 to Council members. I will -- they're very brief.
18 I will just read them into the record for this
19 evening, and then we can open up for public comment
20 if anyone chooses to comment.

21 The first letter we received was
22 April the 28th from Save the Bay. Kendra Beaver,
23 on behalf of Save the Bay, indicated that,
24 "Save the Bay, on behalf of its members and

1 supporters, supports the proposed amendments to
2 Sections 1.4.6(A) and 1.4.9 of the
3 Coastal Resources Management procedures to remove
4 the filing fees of \$1,000 for declaratory rulings
5 and petitions for regulatory change. The proposed
6 amendments uphold our constitutional rights to
7 petition the government, comports with the
8 Administrative Procedures Act, and the practice of
9 other administrative agencies in Rhode Island. We
10 appreciate your willingness to listen to our
11 concerns about the fee and respond in a timely
12 manner."

13 The second filing is from the American Civil
14 Liberty's Union filed by Mr. Steven Brown,
15 executive director of the ACLU, and this is
16 actually his testimony to the Council. "The ACLU
17 of Rhode Island appreciates the opportunity to
18 comment on the proposed amendments to
19 650-RICR-10-00-1 concerning the CRMC's Management
20 Procedures and specifically the amendment's
21 proposal to eliminate the \$1,000 filing fee that
22 currently exists for an individual or entity to
23 propose a change to the Council's regulations or
24 seek a declaratory ruling under the

1 Administrative Procedures Act. We write to express
2 our support for these amendments.

3 "Our organization was surprised, to put it
4 mildly, to learn that the filing fee existed. The
5 ACLU has been involved in the rulemaking activities
6 of numerous state agencies over the years, and we
7 have never come across any department of state
8 government obliging petitioners to pay a fee for
9 making use of the APC process. Indeed, there is
10 clearly no authority in the APA for an agency to
11 enforce such a fee.

12 "We additionally believe that significant
13 constitutional issues are implicated in imposing a
14 fee on a person seeking to exercise their first
15 amendment right to petition the government or
16 redress of grievances under the APA. We,
17 therefore, strongly support these proposed
18 amendments to the agency's rules so as to eliminate
19 this problematic financial charge. Thank you for
20 considering our views."

21 As I indicated, Madam Chair and Council
22 members, the public comment period is still open
23 until May the 26th. We may see some other comments
24 submitted; however, at the close of the comment

1 period, staff will put all the comments together,
2 we'll write up a brief staff report and have that
3 prepared in consideration at a later Council
4 meeting where the Council will consider adoption at
5 that time of the proposed amendments.

6 So with that, Madam Chair, I'd be happy to
7 answer any questions, and we can open it up for
8 public comment if there is any.

9 CHAIRWOMAN CERVENKA: Okay, yeah. I
10 think, you know, through the reading of those
11 comments from Save the Bay and the ACLU, we
12 understand the issues with the 1.46 and 1.49.

13 As to 1.5.9(A), increasing from five to seven
14 days of submission of materials, that is just to
15 help out staff and the Council a little bit better
16 in preparing for proceedings where there's
17 witnesses and exhibits. That five days,
18 particularly if you have a weekend, can be
19 problematic in trying to get prepared for a
20 meeting. Is that the motivation for that.

21 MR. BOYD: That is the motivation,
22 Madam Chair, yes.

23 CHAIRWOMAN CERVENKA: Okay. Great. So I
24 strongly support that. All right. Any questions

1 from Council members about these three proposed
2 amendments before I open up the public hearing for
3 any additional comments? Okay. If none, then I
4 will open the public hearing on this, and if anyone
5 would like to comment, you just need to raise your
6 hand, and you'll be admitted into the meeting.

7 (NO RESPONSE)

8 CHAIRWOMAN CERVENKA: Okay. I don't see
9 any hands. So I'll just ask one more time. Anyone
10 want to comment on the proposed amendments, please
11 indicate by raising your virtual hand.

12 (NO RESPONSE)

13 CHAIRWOMAN CERVENKA: All right. So if
14 there's none, then I'm going to close the public
15 hearing. And at this point, we don't vote on
16 anything. We're going to allow for the remainder
17 of the public comment period to transpire and see
18 if we get additional comments, and then it will
19 come back to the Council after that process is
20 concluded and you digest those. Correct, Mr. Boyd?

21 MR. DeSISTO: That's correct.

22 MR. BOYD: That is correct, Madam Chair,
23 yes.

24 CHAIRWOMAN CERVENKA: Okay. Great. All

1 right. Anything further on this?

2 (NO RESPONSE)

3 CHAIRWOMAN CERVENKA: All right. So
4 moving on to our first item which has been out to
5 notice and is before the full Council for decision.
6 That's 2020-04-0437, John Bowen and Patrick Bowen,
7 for establishment of a 0.95 acre oyster farm in
8 Sakonnet River.

9 Mr. Goetsch, are you going to provide the
10 staff report?

11 MR. GOETSCH: Yes, Madam Chair.

12 CHAIRWOMAN CERVENKA: Thank you.

13 MR. GOETSCH: So, yes, as you mentioned,
14 the applicants here are brothers, John and
15 Patrick Bowen. They envision starting a small
16 family-operated oyster farm using submerged gear in
17 the Town of Tiverton southwest of Seapowet Bridge
18 in the Seapowet Cove. This is closest to the DEM
19 recreational fishing area, access area in the
20 town of Tiverton. It's gone through a couple
21 revisions, as recently as today even. I received a
22 new revision based on some late comments that were
23 received after the notice of this meeting being
24 posted.

1 So I'll try to bring you up to speed as
2 quickly as I can here. I know there might be a
3 little discussion with some of the folks I've been
4 talking to in the last few days. But to start off,
5 this started during the PD as a location that was
6 rather shallow. You can see that on Page 9 of the
7 Council packet. It's Attachment D. The PD
8 meeting, the concerns that were raised really had
9 to do with how shallow the site was. There was a
10 little bit of concern from CRMC that it might be
11 too shallow to accommodate the gear and have the
12 gear remain submerged at all, you know, during most
13 tides.

14 There also was a concern regarding the
15 recreational shellfishing layer that appears on the
16 DEM marine fisheries map. As the Council may
17 remember, this is a layer that was developed
18 through, like, the shellfish, you know, initiative,
19 shellfish management plan with URI. So it's based
20 on public input. It's not vetted information.

21 The applicants -- we're fairly certain that
22 there were not a lot of quahogs there. We did a
23 survey and found no quahogs there. And, clearly,
24 this wasn't a conflict with the recreational

1 shellfishing.

2 However, because that was a concern that was a
3 concern that was raised by DEM, the applicants
4 moved the site to deeper water and moved it outside
5 of the recreational shellfishing area. That was
6 the proposal that was noticed on April 7th of 2020.
7 And you can see that on Attachment B, Page 7 of the
8 packet there. The biggest difference you can see
9 is that the shape, as proposed, went further to the
10 west and encroached kind of towards the mouth of
11 the outflow of what is known as Seapowet Creek
12 there.

13 We actually received five letters of support.
14 One of those letters of support was from an
15 objector at the PD meeting who commended the
16 applicants for adjusting their plans to accommodate
17 the perceived recreational shellfishing conflict.
18 However, we received two objections just outside
19 the 30 days, but one was just two days after the
20 closing. The other one was about a month later --
21 a month or two later in July. And both those
22 comments had to do with recreational shore fishing.

23 So it appeared that the applicants had an
24 attempt to find deeper water and avoid conflict

1 with the recreational shellfishing layer, had
2 pushed themselves towards another conflicting user
3 group, and that would be the shore fishermen.

4 From my own observations of this area, I've
5 seen people fishing on the shore of the DEM parking
6 lot access area at Seapowet Marsh. It's an area
7 that sees light to regular recreational use
8 depending on the season, and there are people
9 generally recreating but also fishing. So the
10 concern was that people would be walking out on the
11 sandbar that is attached to that beach there and
12 casting out into what would be the proposed farm.

13 So this revision that came about due to these
14 concerns was largely coordinated by Dave Beutel.
15 It was before my official start here. So I kind of
16 came into this application just after the public
17 notice. But the second revision removed the --
18 moved the lease a little bit further back to the
19 east, again, away from the kind of outflow of the
20 creek there and the sandbar.

21 That -- that revision was also put out onto
22 the public notice email list. It received -- and
23 received no comments directly back on that email.
24 However, we did get a request from the

1 Tiverton Harbor Commission. They wanted to weigh
2 in. Again, they actually, I think, requested an
3 extension of the 30 days to schedule a meeting to
4 discuss.

5 The harbor commission was at the PD meeting.
6 They are the ones that had a primary concern about
7 the shallow water, and it indicated at the meeting
8 that if it was in deeper water, they wouldn't have
9 a problem. When they reviewed the application as
10 proposed, they objected to it. And that was by
11 vote, but from what I could tell, there was -- it
12 was not quite clear why they were objecting. It
13 seemed they had concerns about water quality in the
14 area, in addition to maybe the presence of moorings
15 that might be nearby.

16 So after that, the application moved to the
17 Shellfish Advisory Panel of the Marine Fisheries
18 Council. And during that meeting, there was some
19 confusion with the two kind of competing proposals.
20 You know, the first, called the original proposal,
21 and then the first revision, which were, I think, I
22 didn't call this in my report, but we're going to
23 call it Alternative 1.

24 So there was a bit of confusion about which

1 one they were going to -- commenting on. I asked
2 them to comment on both. If they had a preference,
3 to indicate such. If they had issues with both,
4 indicate that as well. Or if they believed both
5 were consistent, to vote accordingly.

6 However, the Council -- I'm sorry -- the panel
7 decided to object, largely on the grounds that they
8 felt the marine -- the full Marine Fisheries
9 Council should review this and kind of sort things
10 out. Is my connection okay? I just got a message
11 that it's unstable.

12 CHAIRWOMAN CERVENKA: We can hear you
13 consistently. You just freeze up.

14 MR. GOETSCH: Can everyone hear me okay?

15 CHAIRWOMAN CERVENKA: Like, your picture
16 freezes.

17 MR. GOETSCH: I think I might try turning
18 off my camera.

19 CHAIRWOMAN CERVENKA: Yeah, that's fine.

20 MR. GOMEZ: I think you're fine. It just
21 seems a little tinny, but we can still hear the
22 words.

23 MR. GOETSCH: Yeah, that's good. This
24 happens sometimes when I try to do this from home.

1 I apologize. So, yes, the staff panel basically
2 punted it to the Marine Fisheries Council. The
3 applicants availed themselves of their right to
4 have the Marine Fisheries Council review the
5 application.

6 At that meeting, there were three motions
7 made. Two to approve it or to determine that it
8 was consistent with the pursuit of the marine
9 fisheries. That being the alternative one. And
10 one to remand it actually back to the staff for the
11 review. There was some concern that they had
12 really no knowledge or input of this area from
13 their members. But the meeting ended with actually
14 all motions failing, and they just gave up, and
15 there was no opinion rendered.

16 This is just kind of as a footnote, that at a
17 subsequent meeting I found the staff's own policy
18 document which governs their review of aquaculture
19 applications. It dates back to 2009. But I dug
20 that up and brought it back out to refamiliarize
21 myself and the panel members with the procedures
22 there. And sure enough, part of those procedures
23 was that the staff and the members should consider
24 revisions, modifications that come about due to

1 objections in the review period. So I hope to
2 avoid further confusion with future applications
3 with the panel and the Council.

4 So after that, in the fall of 2020, I actually
5 talked with the applicants a bit about -- about the
6 two proposals. I had come to believe that the
7 alternative one was a better layout than the
8 original. Largely because it seemed to remove the
9 farm further from that northern shore there of the
10 DEM access area where fishing would likely be
11 occurring. And in support of that, I asked the
12 applicants to actually resubmit an entire
13 application package that had the new coordinates,
14 the new lease shape, a gear layout that was
15 consistent with the new lease shape so that -- so
16 that we could propose -- so that the applicants
17 could propose this alternative to the Council here
18 for consideration. And if they found it was
19 appropriate to approve, there wouldn't be any
20 confusion in the record of what that site should
21 look like. And basically --

22 CHAIRWOMAN CERVENKA: Mr. Goetsch?

23 MR. GOETSCH: Yes.

24 CHAIRWOMAN CERVENKA: Just a question for

1 clarification of the record. When you're talking
2 about Alternative 1, which attachment are you
3 referring to in the staff report?

4 MR. GOETSCH: It's Attachment C, Page 8.

5 CHAIRWOMAN CERVENKA: Thanks.

6 MR. GOETSCH: And I have some other
7 diagrams, too, that I'll show later that will
8 hopefully clarify things.

9 CHAIRWOMAN CERVENKA: Okay.

10 MR. GOETSCH: Because there's a couple --
11 three different shapes we're going to talk about
12 here. So -- so with that revised application
13 package, I asked the harbor commission if they'd be
14 willing to take a look at this application again
15 and have the applicants appear before them at a
16 meeting, which they were not at the previous
17 meeting. And they agreed.

18 And we took a look at the new application, the
19 new lease shape. I should note there was
20 another -- there was another issue with the
21 original application where the applicants proposed
22 accessing the site from the DEM management area
23 using the parking lot and the shore to cross,
24 basically, the channel to service and build out the

1 lease. That was something that was changed in the
2 revision as well. DEM does not support that. And
3 I think the Commission also had an issue with it.
4 CRMC likewise finds it probably would not be
5 appropriate.

6 So the applicants have also modified the
7 application to make clear that they will service
8 and construct the lease using private shore access
9 for -- or a vessel.

10 So looking at the -- so I explained to the
11 harbor commission that there are no issues of water
12 quality and DEM Office of Water Resources has
13 signed off on this as part of the regular review
14 process, and it is indeed in waters approved for
15 shellfish. That was a nonissue in my mind. I just
16 wanted to make sure the Commission understood that.

17 However, from looking at satellite photos,
18 various photos throughout the years, I was able to
19 determine that there was probably two moorings in
20 the vicinity of this lease. One of them is quite
21 far away and to the west. One was to the south and
22 was very close to the original proposed southern
23 boundary. So the alternative one, it kind of moves
24 the southern boundary a little north and well clear

1 of this mooring.

2 I was able to demonstrate this to the
3 Harbor Commission to their satisfaction, that there
4 would not be an impact to the moorings here. And
5 they were -- they voted to remove their objection
6 and recommend it move forward. So that was -- that
7 was helpful. A helpful meeting, for sure.

8 And then this application kind of continued to
9 wait for an opportunity for public hearing. When
10 we did have the chance to get this on an agenda and
11 we posted the notification, I received an email
12 from one Kenny Mendez, who had written an objection
13 letter back over the summer in late May, May 19th.

14 When I had read his letter originally, I
15 understood it that it was primarily concerned with
16 fishing, as was the other objection we had
17 received, and shore fishing in particular and
18 casting potentially into the lease.

19 You know, based on my conversations with
20 Dave Beutel about that Alternative 1, it seemed
21 that it was -- that the revision had addressed
22 that. However, I had a long, lengthy conversation
23 with Mr. Mendez. He also provided me with a
24 PowerPoint presentation he had put together, which

1 we reviewed together. And he kind of educated me
2 on how a certain segment of anglers utilized this
3 area, particularly for striped bass fishing. And
4 particularly, I guess, at night, according to him,
5 and that they are aggressive waders, in the sense
6 they wade out to rather deep water and cast very
7 far in towards the outflow of the channel.

8 Now, I have the -- do I have the ability to
9 share screen? I can show you one of the slides he
10 provided me. It might kind of show the
11 Council -- illustrate for the Council the concern.

12 CHAIRWOMAN CERVENKA: Mr. Moore, can you
13 authorize Mr. Goetsch to share a screen?

14 MR. MOORE: Ben, you are all set.

15 MR. GOETSCH: Great. Thank you.

16 MR. MOORE: You're welcome.

17 MR. GOETSCH: Okay. So I think you can
18 see that there. You can see, under the outline of
19 the lease here, as proposed the original -- and
20 these are 250-foot casting ranges, representing, I
21 guess, a spin -- you know, spin caster -- someone
22 wading out off this sandbar quite far and casting
23 in all these directions. And you can see it
24 overlaps the lease some.

1 He also provided another slide here, which was
2 something -- this is a quote from a book, I think
3 about fishing -- shore fishing for stripers. You
4 know, if you look for these ripples, it's going to
5 be a red-hot destination. You can see the ripples
6 are about here. If I flip back here, you can see
7 the ripples are here. So, you know, it seems like
8 this would be kind of the area you'd want to
9 target. These casting lines seem to be a bit
10 further than that, but he represented he fishes
11 throughout this area. I'll stop that share.

12 So --

13 CHAIRWOMAN CERVENKA: Mr. Goetsch, I just
14 have a question for you.

15 MR. GOETSCH: Yes.

16 CHAIRWOMAN CERVENKA: Forgive me, you
17 know, for my fishing ignorance. I'm just trying to
18 understand the conflict. So if you're casting into
19 the lease area but you have submerged cages, does
20 your cast get caught in the submerged cages, or is
21 it something different that we're talking about?

22 MR. GOETSCH: Well, I think that was part
23 of his concern. He's also a fly fisherman. Fly
24 fishing -- you can't cast quite as far. It's more

1 of a surface-type action. A lot of spin casters
2 will use surface lures as well that ride just under
3 the surface or break the surface. It's possible
4 you could have tackle tangled in a cage. It might
5 be also possible to cast in between the rows of the
6 cages. I think there was also a concern that the
7 presence of the cages themselves might prevent
8 someone from wading in there or posing a danger.
9 Those were all points he made to me in our
10 conversation.

11 MR. GOMEZ: If I just might add, if
12 you're casting with a fish finder using chunks or
13 even live bait, that will tangle, there's no
14 question that will tangle, but I have never seen
15 anybody doing that, and I've only probably spent
16 over 70 years in that area.

17 MR. GOETSCH: Yeah.

18 MR. GOMEZ: There's an awful lot of fly
19 fishing. As the estuary comes in and out, they
20 fish on both sides of the bridge, and a lot of it
21 is fly fishing. You'll see surface casting with
22 poppers and different types of lures that shouldn't
23 be a problem. And the only thing that would be
24 affected is if somebody's out maybe at midnight and

1 does go out quite a ways and is using chunks, but
2 I've never seen that in that area.

3 And it's similar to the Omni Creek Oyster Farm,
4 Melanson, Pete Melanson, in that the estuary comes
5 out, that whole marsh empties there, and it's a
6 great spot for stripers, and he gets very big
7 stripers in his oysters. And you can walk out
8 there and cast into the area there also. But
9 nobody ever has a problem there. I've done that
10 myself without hanging up, and you just don't use a
11 chunk on the bottom with a fish finder rig.

12 Other than that -- so I just wanted to maybe
13 add that point. It's a very -- it would not happen
14 very often, that type of fishing, in that type of
15 an area. The fly fishing, the surface casting, and
16 spoons and things like that, would be the prevalent
17 way, I think.

18 MR. DeSISTO: Madam Chair, I beg your
19 pardon. And I don't like to do this in the middle
20 of presentations, but I've got a procedural
21 question. And that has to do with Section 20-10-5
22 in Fish and Wildlife, Subsection B. "No
23 application shall be approved by the CRMC or a
24 permit granted prior to the consideration of

1 recommendations by both the director and the MFC."
2 I see that there's no recommendation from the
3 RIMFC, and I'm curious as to exactly what happened
4 there. Is it that they need more information, is
5 it that they just couldn't go either way on this so
6 that is -- the recommendation is that they just
7 can't go yes or no on this for a recommendation?
8 I'm unsure of that, but I'm a little concerned
9 about that language in 20-10-5.

10 CHAIRWOMAN CERVENKA: Yeah. So,
11 Mr. Goetsch, you had spoken to this a little bit,
12 and I guess that it would be clarified in the
13 future, but for purposes of this application, we
14 don't -- we don't have a recommendation from that
15 body; is that right?

16 MR. GOETSCH: I have a letter from
17 Bob Ballou, the chair of the MFC, which outlines
18 the results of that meeting. That is attachment --
19 yeah, it's from 11/16 -- that would be on the --

20 MR. WILLIS: Ben, it's on P18 of the
21 Council's agenda package.

22 MR. GOETSCH: Thank you.

23 CHAIRWOMAN CERVENKA: What page?

24 MR. WILLIS: P18. It's attachment G1.

1 MR. GOETSCH: Yes.

2 MR. DeSISTO: And what happened there?

3 MR. GOETSCH: Well, they made a series of
4 motions. There was a lot of discussion. In my own
5 opinion, they -- they -- I'm going to turn my video
6 off again. I'm stalling. They made -- the first
7 motion was to, you know, approve Alternative 1.
8 That failed after some discussion.

9 The second motion was to send it back to the
10 staff for further review. That motion failed.
11 There was a second motion to, again, approve the
12 first revision, and that motion failed. And after
13 that, the meeting was -- you know, they moved on.
14 It was a frustrating experience, to say the least.

15 I did get the letter from Bob Ballou, as we
16 regularly do from Marine Fishery Council, after,
17 you know, they review an application. And, you
18 know, even though I guess it resulted, you know,
19 conveyed no recommendation, I thought that the
20 record was complete with his letter.

21 CHAIRWOMAN CERVENKA: So it looks like
22 he's saying because of the process of how it got
23 there --

24 MR. GOETSCH: It was a procedural problem,

1 I think.

2 CHAIRWOMAN CERVENKA: What?

3 MR. GOETSCH: I think it really was a
4 procedural issue that the Council had, with not
5 knowing how to treat the two revisions.

6 CHAIRWOMAN CERVENKA: So does that -- does
7 that need to be corrected in order for us to act,
8 if it's a condition precedent to our acting?

9 MR. DeSISTO: Well, you know, that's my
10 concern. I see what happened here. I'm not -- I
11 hate to be overly literal, but I think you probably
12 want to focus on that last paragraph from the MFC.
13 And the question to me is, if it gets back in front
14 of them, will they actually be able to make a
15 recommendation? That's the question.

16 MR. GOETSCH: The motions from that
17 meeting are attached as well, which is Page 15 or
18 Page 16 is when --

19 CHAIRWOMAN CERVENKA: Mr. Goetsch, I know
20 your staff report recommends approval of that
21 Alternative 1. Is that -- is that what you're
22 going to recommend tonight or something --

23 MR. GOETSCH: I stand by that
24 recommendation as written. However, the most

1 recent Alternative 2, which I received just, you
2 know, basically earlier today, but have shared with
3 the objectors as well, I would say that that
4 configuration equally I would recommend for
5 approval. And it does seem to remove some of the
6 conflict that Mr. Mendez conveyed to me. I
7 believe, there are at least two other anglers at
8 the meeting tonight with Kenny Mendez who are
9 willing to testify.

10 CHAIRWOMAN CERVENKA: And the
11 Alternative 2, is it in the staff report?

12 MR. GOETSCH: It was not because I
13 received it after the completion of the report.

14 CHAIRWOMAN CERVENKA: Okay.

15 MR. GOETSCH: I can share with you a
16 picture of it, if that's appropriate at this time.

17 CHAIRWOMAN CERVENKA: This was -- so this
18 is not -- it was not considered by the --
19 obviously, because it developed today, but it was
20 not considered by the MFC, the Alternative 2?

21 MR. GOETSCH: No, it was not. I would --

22 CHAIRWOMAN CERVENKA: I guess my
23 question -- hold on one second -- just back to
24 Mr. DeSisto, we're about to get into an area where

1 there's another alternative that may be presented,
2 and it may be an improved alternative that answers
3 some further concerns of the fishermen, but it's
4 not in the package for the Council members, and,
5 you know, it's not available -- it has not been
6 made available publicly, and it wasn't considered
7 by the MFC that -- you know, I'm thinking that we
8 can't -- we likely wouldn't be able to make a
9 decision tonight if we're looking at Alternative 2
10 and maybe not even Alternative 1 if there was some
11 procedural issues raised by MFC. But I'd like your
12 input on that.

13 MR. DeSISTO: These are procedural issues,
14 and I'm just concerned about it. I do think that
15 with this alternative being considered now, which
16 just came in today, and the issue with the MFC,
17 perhaps the best course of action here is to
18 continue the matter, have the MFC take a look at
19 this Alternate 2, and also give Council members a
20 chance to digest it, and have it incorporated into
21 the staff report.

22 MR. GOMEZ: If it's appropriate, I concur
23 with that. It bothers me not having a visual and
24 having time to really think about it. And I think,

1 as Madam Chair has outlined, is the appropriate
2 way, and your conclusion of continuing it for me
3 seems to be something we really need to do. It may
4 not be the time to say that, but it's certainly
5 looking like that and heading in that direction.

6 CHAIRWOMAN CERVENKA: Thank you,
7 Mr. Gomez. My next question is, does it have to
8 be -- I hate to ask the question, but does it have
9 to be renoticed? Is it a material change that has
10 to be put out for public comment?

11 MR. WILLIS: Madam Chair, if I may?

12 CHAIRWOMAN CERVENKA: Yes.

13 MR. WILLIS: Given the MFC issue and given
14 that Ben has worked with the applicant and the
15 objectors to it, I think, to make it clean -- and
16 we always need the MFC recommendation -- to make it
17 clean, we should take this new information that Ben
18 worked out with the two parties to the MFC, get
19 their recommendation, then bring it back, and,
20 hopefully, at that point, we'll have no objections.

21 CHAIRWOMAN CERVENKA: Yeah, because it
22 sounds like, Mr. Goetsch, you know, you were
23 responding to things that came in after public
24 comment period and, you know, you spent a lot of

1 time trying to come up with an appropriate
2 configuration that I think, you know, all
3 stakeholders would want to support. And we don't
4 want it marred by, you know, just a process that is
5 confusing somewhat, it appears. Yes?

6 MR. WILLIS: Yes, Madam Chair, agreed.
7 And we have, on a fairly consistent basis, have
8 modified applications up here depending on what the
9 issues may or may not be. But in this case, we
10 don't have the Marine Fishery Council
11 recommendation. I think we need to make this
12 application clean because of it.

13 CHAIRWOMAN CERVENKA: Okay. So a motion
14 on this would be, Mr. DeSisto, to continue to allow
15 for the development of this Alternative 2 and
16 re-presentation to the Fisheries Council, the MFC.

17 MR. DeSISTO: Correct.

18 CHAIRWOMAN CERVENKA: Mr. Willis,
19 Mr. Goetsch, is there more to that motion?

20 MR. WILLIS: I don't believe so,
21 Madam Chair.

22 CHAIRWOMAN CERVENKA: Okay. Would someone
23 like to support that motion?

24 MR. GOMEZ: Don Gomez. I will support the

1 motion as stated by you, Madam Chair.

2 CHAIRWOMAN CERVENKA: Thank you. I'll
3 take that as a second. And then I'll do a roll
4 call of our group. Okay. Vice Chair Ray Coia?

5 VICE CHAIRMAN COIA: Ray Coia votes aye.

6 CHAIRWOMAN CERVENKA: Patricia Reynolds?

7 MS. REYNOLDS: Patricia Reynolds, aye.

8 CHAIRWOMAN CERVENKA: Ron Gagnon?

9 MR. GAGNON: Ron Gagnon, aye.

10 CHAIRWOMAN CERVENKA: Don Gomez?

11 MR. GOMEZ: Don Gomez, aye.

12 CHAIRWOMAN CERVENKA: Joy Montanaro?

13 MS. MONTANARO: Joy Montanaro, aye.

14 CHAIRWOMAN CERVENKA: And myself,

15 Jennifer Cervenka, aye.

16 So the motion to continue to a date we don't
17 know yet, to develop the Alternative 2 and
18 re-present that to the Rhode Island Marine
19 Fisheries Council. I'll -- I know the applicant's
20 here and some objectors may be here. Thank you for
21 coming tonight and continuing to work to get an
22 appropriate configuration. We appreciate
23 everyone's efforts, particularly Mr. Goetsch also.
24 All right. Anything further on this before we move

1 to our second application?

2 MR. GOMEZ: I just want to note that the
3 good news here is that the application is not
4 denied. It's just taking a little longer to move
5 to get a final vote for it and keeping it clean.
6 Especially if that area, it's a much used area,
7 easily accessible for people, and there's people
8 there all the time. So I think keeping it clean is
9 very good. But the application is still in
10 process. And it sounds like staff thinks that we
11 may have a good -- you know, a good path forward.
12 I just want to encourage the Bowens to stick with
13 it.

14 CHAIRWOMAN CERVENKA: Thank you for that,
15 Mr. Gomez.

16 I see that Mr. Longo has joined us. Does that
17 mean we're losing you, Mr. DeSisto?

18 MR. DeSISTO: We are. But Mr. Longo is in
19 the attendee portion with his hand raised.

20 CHAIRWOMAN CERVENKA: Oh, okay.

21 MR. DeSISTO: How does he get onto the
22 main panel?

23 MR. LONGO: I think I've been admitted.

24 MR. GOMEZ: Look at the smile.

1 CHAIRWOMAN CERVENKA: Yeah, there's his
2 smile.

3 MR. DeSISTO: On that note, everybody have
4 a good night.

5 CHAIRWOMAN CERVENKA: Thank you,
6 Mr. DeSisto.

7 MR. DeSISTO: Good night now.

8 CHAIRWOMAN CERVENKA: Okay. So we're to
9 our second application which has been put out to
10 public notice and is before us for full decision.
11 It's 2019-12-079, Seakist Aquaculture, LLC,
12 proposal for a 4.25 acre expansion to an existing
13 aquaculture site and modification of gear type.
14 Mr. Goetsch.

15 MR. GOETSCH: Yes. Thank you,
16 Madam Chair.

17 CHAIRWOMAN CERVENKA: Thank you.

18 MR. GOETSCH: So this is an application in
19 Dutch Island Harbor, off the west side of
20 Jamestown. The applicants, known as Seakist, is a
21 partnership between Bill Cregan and Nick Papa.
22 They are both experienced aquaculturists.
23 Nick Papa, in particular, has been in the business
24 for a long time. The Seakist site, I would note,

1 is probably one of the best maintained and
2 organized floating gear sites we have in the state
3 really.

4 What they have proposed to do here is enlarge
5 their 3.86 acre site to 8.5 acres. And that's an
6 expansion of about 4.72 acres. Now, you can see
7 the site on Attachment A and B, Page 6 and 7 of the
8 packet there. Page 7 in particular shows you the
9 areas they're expanding towards. So they're
10 expanding offshore and to the northwest.

11 So they currently employ floating gear at this
12 site, and that's of the low-profile variety. You
13 can see an example of this cage from their previous
14 application, Page 8 of the packet, Attachment C.
15 This is similar to the high-profile gear in design,
16 but its size is smaller. You can see it only
17 accommodates, you know, two bags, and it has three
18 floats on the back that are about 4, 4-and-a-half
19 inches thick.

20 They're also approved for a different type of
21 gear at this site, which is the type of gear that
22 they're proposing to use throughout the site with
23 this expansion. That gear I call ultra-low
24 profile, really for lack of a better name, but it's

1 commonly known as a flipfarm, one word, "flipfarm."
2 And that's a New Zealand-based company that has
3 secured distribution in the United States recently.

4 And the type of gear has already been approved
5 by this Council in one other occasion. You may
6 remember the Silkes modification, which is just to
7 the north of this site. He was going to use
8 high-profile floating cages, but had offered the
9 alternative of ultra-low profile flipfarm, which
10 the Council approved at that hearing last year.

11 So this is a similar type of gear. There's
12 some sketches of it on Page 9, Attachment D, and
13 Page 10, as well as what the layout would look
14 like, Attachment F on Page 11. As you can see,
15 it's just regular rows with the center lane through
16 it.

17 CHAIRWOMAN CERVENKA: Mr. Goetsch, is this
18 kind of state of the art, you know, the lowest
19 profile that's on the market for cages?

20 MR. GOETSCH: I would say it's the lowest
21 profile gear that offers the ability to also dry.

22 CHAIRWOMAN CERVENKA: Okay.

23 MR. GOETSCH: Yeah, because you can have a
24 single bag with floats on it. There are other

1 sites that have that, such as the Torry site in
2 Portsmouth. Also, in Point Judith, there is the
3 Jonathan Island Oyster. They use a very similar
4 system. And -- yeah, that is quite low profile,
5 but it isn't terribly robust.

6 This is a little bit more of an open area.
7 You can see some prevailing winds from the south,
8 southwest in particular. This gear design, the
9 flipfarm, was actually designed for rougher water
10 application. So it has that benefit as well.

11 The real benefit of the gear, beyond its low
12 profile and, you know, durability, is efficiency
13 for the farmer. So these larger profile cages or
14 even these lower ones like they use now, you have
15 to reach over the boat and pull them -- physically
16 flip them over. And when these cages are
17 heavy-ladened with market-sized oysters, they can
18 be quite heavy. It can be quite strenuous work.

19 So the flipfarm offers a -- you may remember
20 from previous presentation on the Silkes farm -- a
21 double helix-type apparatus, like a side car, that
22 runs on the side of the boat. And that can catch
23 the line of cages. The cages themselves are, you
24 know, almost side by side with the line through the

1 top, so they can pivot along that. And as it goes
2 around, it twists the line over. So you can use
3 essentially the power of your vessel at a low
4 speed, not a lot, and that will just flip your
5 cages over. And it's as easy as mowing the lawn
6 with a tractor. You just go up and down the lines.

7 So this is quite a bit of labor saving. It
8 has the added benefit of being lower profile. And
9 is, as I mentioned, designed for durability. Each
10 tubular basket has a single black float which is
11 about 2 3/4 inches thick. Not very thick. And so,
12 you know, you wouldn't see much of that float at
13 all really resting on still water, maybe a little
14 bit. You would see, obviously, more of the cage
15 when it's in the drying position. But even still,
16 these cages, I think, will still be lower profile
17 even in the drying position than the current
18 currently utilized low-profile gear.

19 So this applicant, unlike the Silkes
20 application, applied for this expansion with the
21 use of this gear throughout the lease. As I
22 mentioned, he was already approved for this gear.
23 He just hadn't converted it over.

24 The real issues with this lease that occurred,

1 during the PD and later in its review, was the
2 number of individual units proposed. These -- this
3 gear is unique, in that each unit is really only
4 equivalent to, say, one bag, you know, that one
5 oyster bag in capacity.

6 So for instance, you know, the
7 Walrus & Carpenter site which you remember -- may
8 remember the most recent application back in
9 February, I believe, applied for 2,000 of the
10 high-profile floating cages. Those each take about
11 six bags. So it would take six of these individual
12 flipfarm units to equal the equivalent --
13 equivalent capacity -- growing capacity of one
14 high-profile cage.

15 And I did include a comparison picture of the
16 high-profile and the flipfarm system. It kind of
17 gives you an idea of what the system looks like.
18 It's on Page 11, Attachment H. So it's roughly a
19 similar footprint, as you can see. It's not that
20 much longer than the actual high-profile cage, but
21 it's a lot -- clearly a lot lower. And also,
22 Page 14 has another shot with a different angle.

23 But the number of cages proposed here is
24 12,000 cages. And that is roughly equivalent in

1 capacity to the new Walrus & Carpenter site, which
2 uses 2,000 of the high-profile cages.

3 So other than that, this application received
4 its regular review with no -- no issues. No issue
5 from the Marine Fisheries Council or anyone else.
6 They also have received their Army Corps permit as
7 well.

8 And the objections during the 30-day review
9 period, I think we had about maybe ten of them,
10 were mostly from -- again, from the neighborhood of
11 West Wind Drive. A lot of the objection letters
12 came in on something of a form letter making the
13 same points about all the pending applications at
14 the time in Dutch Island Harbor, and that would be
15 the Walrus & Carpenter site, the new one, and the
16 Silkes modification and this -- this expansion. So
17 a lot of the objections were the same.

18 A lot of the residents, you know, because they
19 worked out the deal with the Walrus & Carpenter
20 site noted that, but a lot of the concerns were
21 similar, in that, you know, this will be a visual
22 impact, and, you know, some concerns about birds.
23 And that this will make the harbor no longer
24 pristine, and that we haven't considered

1 recreational uses, and that there was no overall
2 plan for aquaculture in Dutch Island Harbor.

3 You know, addressing the objections, in my
4 opinion, you know, yes, the cages are visible, but
5 I think this design, this particular design of
6 cage, will be less visible, and the applicant has
7 minimized the visual impact in this way while still
8 being able to utilize the proven growing method of
9 floating gear that also affords the opportunity for
10 air drying.

11 CHAIRWOMAN CERVENKA: Mr. Goetsch, the
12 Category B requirement on this, or special
13 requirements for aquaculture, they only require
14 that there be minimization of visual impacts, not
15 that there won't be a visual impact; is that right?

16 MR. GOETSCH: Correct. That is my
17 understanding, Madam Chair.

18 CHAIRWOMAN CERVENKA: Okay. Thank you.
19 Continue. Sorry.

20 MR. GOETSCH: You know, this site is quite
21 far from the homes. I've actually gone to that
22 shoreline on some of my walks inspecting these
23 leases, and it is, you know, much further away than
24 that original Walrus & Carpenter site. They are

1 not moving any closer to that neighborhood with
2 this expansion.

3 And, you know, the activities that we
4 understand that go on in Dutch Island Harbor, and
5 we've had quite an experience there, CRMC, over the
6 last years with these -- these applications. And
7 recreational use in this particular part of the
8 shoreline, it's not very heavy.

9 The town itself, you know, did not object to
10 this application. But I would note that the town
11 did send a letter kind of similar to the letter
12 that the West Wind Drive neighborhood sent, and
13 that was, you know, kind of asking CRMC what the
14 plan was that they had a concern, you know, what
15 development -- what would be the limit to
16 aquaculture here.

17 I certainly recognize that an area can become
18 saturated with aquaculture. There are forces, I'd
19 say, at play that have kind of restricted the
20 aquaculture to this segment of the shoreline.

21 But I've also, you know, been working with the
22 Town of Jamestown, and I've met with the residents
23 on a couple of occasions now to talk about our
24 future Special Area Management Plan, which will

1 have an aquaculture siting component, and have
2 encouraged them to participate.

3 I know we have a number of folks on our
4 stakeholder working group now from Jamestown,
5 including the town planner and the manager of the
6 harbor office. So, you know, we look forward --
7 CRMC looks forward to working with the town and the
8 stakeholders there as we develop the Special Area
9 Management Plan.

10 But -- yeah, given that this expansion is
11 using the type of gear that is the lowest -- lowest
12 profile and is efficient for the operation, I
13 believe it's met all the other requirements of the
14 CRMP, and I would recommend this for approval.

15 CHAIRWOMAN CERVENKA: Just to go back to
16 your note about the other uses, whether or not
17 there's user conflicts, did you say that it's not a
18 heavily used area for recreation, the proposed
19 expansion area?

20 MR. GOETSCH: Yes, that's correct. Yeah,
21 from looking at the -- well, yes. Doing -- you
22 know, from what I know talking with the folks at
23 the harbor office, from my talks with a lot of
24 other stakeholders in the area, I don't -- I don't

1 think this farm will displace a lot of recreation.

2 CHAIRWOMAN CERVENKA: A question for you
3 on the 12,000 ultra-low profile flipfarm cages.
4 It's 12,000 for the entire expanded footprint, or
5 it's 12,000 on top of what they already have? I
6 was confused on that point.

7 MR. GOETSCH: Yeah, so it's 12,000 total.
8 That is the -- the gear plan submitted and approved
9 by Army Corps. And, yeah, that would be for the
10 total -- the total 8 or so acres there. Yeah.

11 CHAIRWOMAN CERVENKA: So they're going to
12 take out the old, low-profile cages on their
13 existing lease and replace with these ultra-low,
14 and then add in new ultra-low?

15 MR. GOETSCH: Yes. I'm not exactly sure
16 what that order will be. The applicant is here and
17 could probably answer that better than I could.
18 But it is my understanding that the end result will
19 be 8 -- 8-and-a-half acres roughly all done in a
20 uniform fashion with the flipfarm gear in neat rows
21 throughout the lease.

22 CHAIRWOMAN CERVENKA: Okay. And is it --
23 so of the 12,000 cages, would it be about, I don't
24 know, 40 percent would be in the existing lease,

1 40 percent of those? Just looking for rough.

2 MR. GOETSCH: Yeah. Yeah. So Page 7,
3 Attachment D, you can see the existing farm there
4 in the hash -- the hashmark.

5 CHAIRWOMAN CERVENKA: Yeah.

6 MR. GOETSCH: So 3.8 acres. And then the
7 expansion is that L-shape around it.

8 CHAIRWOMAN CERVENKA: Okay.

9 MR. GOETSCH: So, yeah, it's roughly
10 40 percent or so, I guess, yeah.

11 CHAIRWOMAN CERVENKA: Other questions for
12 Mr. Goetsch?

13 (NO RESPONSE)

14 CHAIRWOMAN CERVENKA: If none, I would ask
15 the applicant if it would like to speak on its
16 application and be available for questions of the
17 Council. If you raise your hand, we can admit you.

18 Hello, Mr. Papa.

19 MR. PAPA: Hello. Thank you for having us
20 on the agenda.

21 CHAIRWOMAN CERVENKA: Yes. You heard the
22 staff report. Is there anything that you want to
23 reiterate, expand upon, clarify?

24 MR. PAPA: No. I think Ben covered it

1 very well. I guess --

2 MR. LONGO: Excuse me, Madam Chair, would
3 you like me to swear this witness? Is he the
4 applicant?

5 CHAIRWOMAN CERVENKA: Thank you,
6 Mr. Longo. Yes.

7 MR. LONGO: Sir, could you raise your
8 right hand.

9 (NICHOLAS PAPA SWORN)

10 MR. LONGO: You can put your hand down and
11 proceed.

12 MR. PAPA: So I believe that Ben covered
13 the application and all the highlights very well.
14 And to reiterate, some of the most important parts
15 were, we spent a lot of time searching for a
16 low-profile gear because we knew that was one of
17 the main concerns in the area. Also, from our
18 standpoint, efficiency and workability, long-term
19 it was very important, and this is honestly quite
20 an innovative gear type that we're excited to
21 employ. And I think it could, you know, lessen the
22 impact visually at the same time as make our
23 business more viable and sustainable moving
24 forward.

1 CHAIRWOMAN CERVENKA: And did I hear
2 earlier that it's already in use someplace else in
3 Rhode Island, or will this be the first application?

4 MR. PAPA: I believe that this will be the
5 first installation. It's approved just north of
6 us, I know, possibly elsewhere. I'm not up to
7 speed on that. But over in Westport,
8 Massachusetts, there is a guy that has it in use.
9 And right now, because the supply chain's kind of
10 slow going, the gear availability is an issue, so I
11 believe they're expecting containers of this gear
12 to arrive in the beginning of June. And I don't
13 know if that's the holdup with the other farm
14 that's approved or if they just haven't had the
15 need to employ it yet.

16 CHAIRWOMAN CERVENKA: So if you were to
17 get approved, what would be your installation
18 schedule? Do you start with your existing farm,
19 convert it, and then you move over to the expansion
20 area?

21 MR. PAPA: No. I think we would do the
22 opposite. Just from a flow -- workflow and product
23 delivery standpoint, we would keep the existing
24 gear, which is in relatively good shape. We just

1 actually had to put a lot of work and money into it
2 to fix it and get it ready for a couple more
3 seasons. So we would begin on the new ground
4 installing the new gear and then work towards the
5 old gear and eliminate it as we -- as we made it.
6 It's a substantial investment as well. So we would
7 like to do it incrementally. And that's our --
8 that's our plan as of now.

9 CHAIRWOMAN CERVENKA: Okay. And you
10 wouldn't be opposed to a stipulation that would
11 require you to install it for the full acreage over
12 a period of time?

13 MR. PAPA: No, I wouldn't be opposed to
14 that. Obviously, I don't want to hold ground
15 that's not being utilized. That's something
16 we've put on the top of our priority list in our
17 other farm, East Beach Oyster Company, down in
18 Ninigret Pond. We've been really open and
19 welcomed inspections to show that we are utilizing
20 100 percent of our lease. Because I know that, you
21 know, as a public -- public asset, it's important
22 not to take ground that's not being used.

23 CHAIRWOMAN CERVENKA: Sure. Anything else
24 you want to point out to the Council on the

1 application?

2 MR. PAPA: I think we covered all the
3 bases. We're very thankful for the opportunity to
4 farm in Rhode Island waters, and that's something
5 we take seriously. The neatness, partnered up with
6 Bill Cregan, who did a fantastic job setting up the
7 farm, it's unbelievably neat and organized. So I
8 think that about sums it up.

9 CHAIRWOMAN CERVENKA: And have you had
10 interactions with the objectors? Have you dealt
11 with them directly, or has it really been just
12 through CRMC?

13 MR. PAPA: I have not, no. I've been
14 dealing with Ben strictly.

15 CHAIRWOMAN CERVENKA: Any other questions
16 from Council members for Mr. Papa? Okay. I think,
17 Mr. Papa, we'll probably switch over to others who
18 want to comment on the application, and then we may
19 come back to you.

20 MR. PAPA: Great. Thank you.

21 CHAIRWOMAN CERVENKA: Thank you. So I'd
22 ask if there are others who are attendees, if
23 they'd like to speak on this application, either
24 for or against? Now's your opportunity. And I see

1 Sharon Purdie. Ms. Purdie, we can't see -- okay.
2 You're unmuted. We just can't see you.

3 MS. PURDIE: Oh, is there something I
4 should -- oh, you want to see me?

5 CHAIRWOMAN CERVENKA: Well, you don't --
6 you can do whatever you want. I just thought I'd
7 bring it to your attention.

8 MS. PURDIE: Okay. I'll start again,
9 because you probably couldn't hear me. I'm one of
10 the West Wind Drive residents who's been very
11 involved in watching this proliferation of lots of
12 oyster cages. And I do share the observation that
13 this farm is very well-organized compared to some
14 of the other ones.

15 My concern is, as Ben has probably done very
16 well to explain, it's just one application after
17 another, and then each of them now is wanting to
18 expand to larger areas. And if I look at this
19 particular expansion, it's to be twice as much as
20 what is there now. And I think, based on a chart
21 that I got from Ben, there's 29-and-a-half acres
22 currently, and this will add, you know, another
23 4.72. So it's a significant addition to the whole,
24 you know, area that's already there. I think Ben

1 is saying it's not fair to compare cages to cages,
2 but currently there are about 10,635 cages, and
3 this adds another 12,000, just this -- you know,
4 just this one area.

5 CHAIRWOMAN CERVENKA: When you say 10,000,
6 what -- are you referring to all the cages in the
7 area or this lease?

8 MS. PURDIE: No, all the cages in the
9 area.

10 CHAIRWOMAN CERVENKA: Okay.

11 MS. PURDIE: And, you know, just that it
12 seems like -- it's a great farm, but it's just,
13 again, adding so much area of farming to -- to
14 our -- to our harbor. And that -- and it is moving
15 out into the bay more so -- I mean, into the harbor
16 more, so it's not so much affecting the shoreline,
17 but it's just, you know, the boats that are around
18 there and the kayaks that like to stay near shore,
19 now they'll have to go farther out. And dinghies
20 that want to, you know, dinghy over to shore, it's
21 a longer distance.

22 So those are the concerns that I have, in
23 addition to the concern that we've had all along,
24 that, you know, here we are, what's next? You

1 know, it's just lease, after lease, after lease,
2 which is approved, and it just makes the area
3 bigger and bigger and bigger. And we never know
4 when it's going to end.

5 And I know that there's been some work on the
6 SAMP but, you know, it just doesn't get done. And,
7 you know, we're hoping that this is the end of it
8 with this last set, but, you know, we never seem to
9 get any confirmation that we're done. It's always,
10 okay, what's next.

11 CHAIRWOMAN CERVENKA: Yeah. We have made
12 it a priority to start collecting more information
13 and putting together working groups on, you know,
14 aquaculture siting in the bay as a result of people
15 like you coming on in recent months saying this is
16 important to us. And we recognize that it does
17 merit, you know, a full planning process, which
18 we're at the beginning of.

19 I will have Mr. Willis talk about it a little
20 bit, but we have made it a recent priority. It
21 does take some time to go through the process and
22 to talk to all the stakeholders. As I understand
23 it, there is a group that's already established for
24 Jamestown that Mr. Goetsch spoke a little bit

1 about.

2 And I encourage you and people like you to
3 come forward to, you know, keep pressing us to do
4 that because it's personally very important to me
5 because I would rather do it on a more global basis
6 with goals and areas than ad hoc. You know, we do
7 the same work, it's just you see the whole picture
8 when you do the bigger planning process. So I
9 certainly understand your concerns, and we're
10 trying to catch up with that.

11 Mr. Willis, do you want to add anything?

12 MR. WILLIS: Thank you, Madam Chair, and
13 thank you, Ms. Purdie, because the Chair has
14 expressed exactly what we want. We want as much
15 input from as many people, from as many sectors as
16 possible.

17 So what we have done, starting last month, was
18 officially kick off the planning effort for what we
19 call the aquaculture element of the Bay Special
20 Area Management Plan. And we have met with several
21 stakeholders, identifying user groups, uses of the
22 bay, and having individual stakeholder meetings
23 that help formulate what a global agenda may look
24 like in anticipation of holding later this month,

1 early June actually, of our first public -- what we
2 call a working group on aquaculture, that will help
3 shape what this aquaculture element of the plan
4 will look like.

5 So please -- and it's quite large. This
6 working group consists of well over 20 -- Ben,
7 correct me if I'm wrong -- maybe well over 30
8 individuals that represent various issue areas and
9 stakeholder positions in the bay. And like Ben had
10 mentioned, we already have representation from the
11 town sitting on that working group, as well as
12 having previously met with them a couple of times
13 over the past month plus.

14 So while the Chair is correct, we have started
15 the process, but it's been fairly intensive, the
16 process that we've started, to get a very good
17 handle on what scoping exercise should include so
18 that we can move forward on this. It will be our
19 summer task. Our summer task will be to help
20 develop and shape what an aquaculture element for
21 the Bay SAMP will look like.

22 MS. PURDIE: But in the meantime, as more
23 and more of these leases are approved, you know,
24 you're sort of -- aren't you sort of limiting

1 yourself because you've already said such and such
2 is okay, you're probably not going to, you know,
3 take that away from people. So would it make sense
4 not to approve any more expansions or leases until
5 the SAMP is written and approved?

6 MR. WILLIS: It's difficult to stop the
7 flow of applications coming in for a planning
8 exercise of that nature. And so we have applicants
9 for various parts of the bay and in the pond still
10 that we are reviewing. And I understand your
11 concern, but one of the things that we will be
12 looking at is an exclusionary planning process
13 where we're looking to areas that we say, this is a
14 good area, this is not a good area for aquaculture
15 for whatever reason. And one of the reasons may be
16 because there already is enough aquaculture there.

17 So all those types of planning exercises that
18 maybe people are more familiar with on a land side,
19 we'll also be looking at on the water side, too, so
20 not only exclusionary planning. We'll be looking
21 at process questions, we'll be looking at gear
22 issues, just like we're talking about tonight, but
23 in a global, bay-wide perspective.

24 CHAIRWOMAN CERVENKA: And, Mr. Willis,

1 what is the June meeting that you're talking about
2 that Ms. Purdie could attend? I'm not sure it's
3 not scheduled yet, but is that with -- is that the
4 first official working group public meeting?

5 MR. WILLIS: We have -- I knew you'd put
6 me on the spot, and that's okay, Madam Chair.

7 CHAIRWOMAN CERVENKA: I take it back.

8 MR. WILLIS: I'm looking through my
9 calendar right now.

10 CHAIRWOMAN CERVENKA: Okay.

11 MR. WILLIS: But it is in early June to be
12 that first large-scale working group meeting.

13 CHAIRWOMAN CERVENKA: And that will be
14 posted on our website.

15 MR. WILLIS: Absolutely.

16 MS. PURDIE: Oh, okay. So, at this point,
17 I guess, you don't have a way of saying what we
18 would like to hear, which is that Dutch Harbor will
19 be one of those exclusionary areas?

20 MR. WILLIS: Dutch Harbor will certainly
21 be looked at in the planning process, given its
22 current capacity, future capacity, current uses,
23 existing uses, natural resources in there, the
24 physical resources, all those things will be

1 considered.

2 MS. PURDIE: And future capacity is
3 something to be determined, or you already know
4 what that is?

5 MR. WILLIS: No. To have a comprehensive
6 planning process, you have to look at all those
7 issues objectively.

8 MR. GOETSCH: I would say that, you know,
9 the average review time for an application, you
10 know, is nine months to a year often. And beyond a
11 small half-acre expansion that's pending, I have no
12 other applications in Dutch Island Harbor. And if
13 I did receive one, I certainly would make the
14 applicant aware that we are doing a planning
15 exercise there that might have some bearing on the
16 outcome of his application.

17 MS. PURDIE: And do you have any, you
18 know, goal for when the SAMP will actually be
19 finished and approved?

20 MR. WILLIS: Madam Chair, if I may?

21 CHAIRWOMAN CERVENKA: Please, Mr. Willis.

22 MR. WILLIS: It will be an iterative
23 process. It will be a typical planning process
24 that we expect to occur throughout the summer into

1 the fall. It's envisioned to be fairly a year-long
2 process. But, again, given the working group
3 issues that come up and the types of research and
4 planning exercises that we have to perform given
5 those issues that may present themselves during the
6 process that we haven't foreseen yet, it may take
7 longer. But I think a fair and honest answer would
8 be upwards of a year for sure.

9 MS. PURDIE: Yeah. Okay.

10 CHAIRWOMAN CERVENKA: And this application
11 we're considering tonight, this came in in 2019; is
12 that right? So it is consistent, Mr. Goetsch, with
13 what you said as far as these applications have a
14 long lead time.

15 MR. GOETSCH: Oh, yes, certainly. They
16 certainly do.

17 CHAIRWOMAN CERVENKA: Okay. So new ones
18 that would be coming in, if they would come in in
19 this area, would be caught up in that planning
20 process and be running parallel with it?

21 MR. GOETSCH: Yeah, I would also add -- as
22 I mentioned, I've been talking with Jamestown quite
23 a bit. They were the first town we reached out to
24 in our scoping process. We really wanted to make

1 sure we reached out to them first as this is kind
2 of -- you know, I guess you can call it the ground
3 zero for where the SAMP kind of began. And I've
4 also talked with the town administrator at length
5 about the process that the town chooses to use for
6 the preliminary determination meeting.

7 Now, the preliminary determination meeting is
8 a CRMC administrative meeting. It's not
9 necessarily a public hearing of any sort. But the
10 town is notified of it, and the town provides the
11 forum for the meeting. So, previously, the Town of
12 Jamestown would provide the forum for the meeting
13 with the town administrator, the town planner, and
14 then we would have our invited, cooperating
15 agencies present as well, DEM, Army Corps if
16 necessary, or others.

17 What I recommended to the town was that they
18 don't do that the same way. That they actually
19 provide the forum for the PD at the
20 Harbor Management Commission meeting. I think this
21 provides a different level of review early on.
22 Particularly now that, should I say, the areas that
23 have appeared to be least conflicted are kind of
24 now taken up, and if you were to expand aquaculture

1 here more, you certainly would want to have a close
2 eye on it from the Harbor Commission and those on
3 it who are, of course, knowledgeable of the waters
4 and its uses. So the town had agreed to do that.

5 So if I do get a future application, it will
6 be publicly notified through our own standard CRMC
7 procedure, but the meeting would also be notified
8 on the agenda of the Harbor Commission and would be
9 there under the minutes of the meetings. And
10 would -- you know, therefore, it would also be --
11 that information would be available to any
12 interested parties. So it was a procedural
13 suggestion that I think would serve the town
14 better, and that's how I'm going to proceed now
15 with the Town of Jamestown for any future
16 application.

17 CHAIRWOMAN CERVENKA: Is there anything
18 more you'd like to add, Ms. Purdie?

19 MS. PURDIE: No, those were -- those were
20 just my concerns.

21 CHAIRWOMAN CERVENKA: Yeah. Thank you for
22 voicing them. Okay. I think we'll move on now.
23 We have two more hands. There's a Jamestown Zoom
24 host.

1 MR. HAINSWORTH: Yes, Madam Chair, and
2 members of the Council. My name is
3 Jamie Hainsworth. I'm the town administrator in
4 Jamestown, and we've talked before at your
5 meetings. And I won't repeat what Sharon Purdie
6 said, but she covered most points. But one point I
7 do want to expand upon, if I could, to the Council,
8 is the idea of a moratorium. And I would urge you
9 to institute that moratorium right away and not
10 wait for the SAMP, not wait for the global picture
11 to be formed. Because as she has already
12 suggested, it's a little late to shut the door
13 after the cat's already left the barn.

14 So with that -- and I would urge this Board to
15 institute a moratorium beginning tonight, if you
16 could. Thank you for your time.

17 CHAIRWOMAN CERVENKA: Thank you,
18 administrator. We have talked about a moratorium.
19 It is a drastic action, and it's certainly -- you
20 know, we couldn't do anything with that tonight.
21 It hasn't been noticed for public comment. It
22 hasn't been vetted.

23 I understand your concerns; it makes sense to
24 me. But I also think that, as Mr. Goetsch pointed

1 out, as applications are going to be coming in now,
2 they're going to be running alongside of our SAMP
3 planning process, which might have the same effect.
4 But we'll certainly -- I remember you. I
5 remember your comments that you made previously.
6 I know this is an important point for the
7 Town of Jamestown, and we're aware of it, and we're
8 working as quickly as possible.

9 MR. HAINSWORTH: Thank you.

10 CHAIRWOMAN CERVENKA: Anything more,
11 Mr. Willis or Mr. Goetsch, you want to add to what
12 the town administrator just --

13 MR. WILLIS: No, Madam Chair.

14 CHAIRWOMAN CERVENKA: All right. Next is
15 Kenny Mendez.

16 MR. GOETSCH: I believe Mr. Mendez was
17 here for the previous application.

18 CHAIRWOMAN CERVENKA: Okay. I can't hear
19 you. We can't hear you.

20 MR. MENDEZ: Can you hear me now?

21 CHAIRWOMAN CERVENKA: We can. Are you
22 here for this application, which is Seakist?

23 MR. MENDEZ: I'm actually listening as a
24 public participant.

1 CHAIRWOMAN CERVENKA: Okay.

2 MR. MENDEZ: And would like to comment and
3 add to what I've heard here.

4 CHAIRWOMAN CERVENKA: Sure.

5 MR. MENDEZ: I have a home in Tiverton,
6 and I was here for the first hearing. But in
7 hearing the great work that you're all doing,
8 Madam Chair, and your concern about the
9 proliferation oyster farms and the parallel track
10 you'd like to set, I am just wondering whether it's
11 possible if you approve farms in the future, not a
12 moratorium, but just possibly a position where you
13 could say, should your findings in this parallel
14 track come out to be that this area is
15 concentrated -- is overconcentrated, that ones that
16 you're approving now don't get grandfathered, and
17 that, if you're approving them now, it's subject to
18 a review over time. So at least the applicant
19 knows when it's approved that they might have to
20 retract it if this parallel track and all the
21 stakeholder input happens to say this area is
22 overcrowded.

23 So I just provide that comment here as an
24 interested resident who has one coming in here as

1 well, and try to -- I will definitely engage in
2 this going forward. Thank you, Madam Chair.

3 CHAIRWOMAN CERVENKA: Thank you. Just to
4 address that point -- and I might let Mr. Longo
5 comment on this -- I don't believe, legally, we
6 could take away anything that we would provide to
7 current applicants and particularly tonight based
8 on subsequent planning. So I just -- Mr. Longo, if
9 you want to comment on that. I don't think that's
10 a possibility.

11 MR. LONGO: Yeah, once we give a permit,
12 the applicant gets certain vested rights. The regs
13 do say if the circumstances in the area change, the
14 water quality or something changes, we can review
15 it for something like that, an environmental
16 reason, but that's a pretty high hurdle they'd have
17 to get over -- we'd have to get over.

18 CHAIRWOMAN CERVENKA: So that the point
19 is, it's just -- it would apply to future or the
20 parallel-track applications, not this application
21 or ones that have already been approved in this
22 area unless --

23 MR. LONGO: Yeah, correct, because the
24 applicant -- the regulations that apply are the

1 ones that are in force when the applicant submits
2 his application. That's what we can hold him to.
3 And then we grant him the permit, and we -- it's
4 very difficult to roll it back, rollback a permit.
5 And we couldn't -- certainly couldn't subject this
6 applicant to anything like that tonight.

7 CHAIRWOMAN CERVENKA: Okay. Thank you,
8 Mr. Longo. Is there anything else, Mr. Mendez,
9 you'd like to add?

10 MR. MENDEZ: No. Thank you. I just
11 thought I'd offer that, given -- hearing the
12 discussion, as possibly a compromise. Thank you.

13 CHAIRWOMAN CERVENKA: Thank you. I see
14 another hand with the name of Alan.

15 MR. KATZ: Hello, can you hear me?

16 CHAIRWOMAN CERVENKA: We can hear you. We
17 can't see you, but we can hear you.

18 MR. KATZ: Okay. My name's Alan Katz. I
19 live next to Sharon Purdie on West Wind, and I just
20 want to reiterate what she had said. She brought
21 up a lot of good points. And one of the main
22 things is that three or four years ago there were
23 no oyster cages or maybe a hundred or so oyster
24 cages in Dutch Harbor, and with the approval of

1 this application, there's going to be 22,000. So I
2 just -- once again, the big picture is that, in a
3 very short amount of time, the amount of cages that
4 are in Dutch Harbor has just skyrocketed. And it's
5 unfortunate that the SAMP wasn't done sooner so the
6 big picture could have been looked at instead of
7 each one individually.

8 CHAIRWOMAN CERVENKA: Yeah. You heard the
9 testimony about the number of cages or the ultra
10 low profile compared to the high profile, that it's
11 like a 6 to 1. I think I got that right, a 6 to 1.
12 So you're gaining lower profile, but you have more
13 cages. So that -- I just, you know, add that it's
14 the equivalent of -- six ultra low profile are the
15 equivalent of one high profile. Do I have that
16 right, Mr. Goetsch?

17 MR. GOETSCH: Yes, that is correct. And I
18 would also note that, you know, for instance, you
19 know, for comparison, the Walrus & Carpenter new
20 site was recently approved for 2,000 high-profile
21 cages, which the residents of West Wind Drive, due
22 to their agreement with the applicant, did not
23 object to. This is for a similar capacity of --
24 but in a much lower profile. And I would mention

1 roughly within the same acreage as well, so roughly
2 the same footprint. But it is a 6 to 1 ratio
3 because the high-profile cage holds six bags, and
4 these ultra low-profile systems are essentially a
5 single bag and a single float capacity. It's more
6 like a tubular basket, though, instead of a bag.

7 CHAIRWOMAN CERVENKA: Okay. Thank you.

8 Mr. Katz, anything further you'd like to add?

9 MR. KATZ: No, no. That's basically what
10 I wanted to say. But even with the smaller profile
11 and low-profile cages, it's still from just about
12 zero to -- even if it was say 2,000, that's still
13 12,000 cages in Dutch Harbor, where three years ago
14 there were none. That's pretty much what I wanted
15 to say. I appreciate your time.

16 CHAIRWOMAN CERVENKA: Thank you. Is there
17 anyone else who would like to speak on this topic?
18 Raise your hand if you would like to.

19 (NO RESPONSE)

20 CHAIRWOMAN CERVENKA: All right. I don't
21 see anyone else. Mr. Papa, I'll come back to you
22 to see if you want to address any of the comments
23 before we close the public hearing.

24 MR. PAPA: Yes. I have a few of those

1 points that -- I appreciate all the feedback, first
2 of all, but as far as Sharon Purdie had some -- had
3 some concerns, that I just wanted to address.

4 The first one was that we were going to be
5 moving closer to shore making it more difficult for
6 recreational kayakers, but we're actually not
7 moving any closer to shore. Walrus & Carpenter
8 actually moved closer to shore with his late
9 innings change of his coordinates. So if there's
10 any obstruction, it's going to be to the north of
11 us at the Walrus & Carpenter lease.

12 And the baskets, you keep calling them cages,
13 which I guess technically they could be considered
14 cages, but they're pretty small baskets. So the
15 ratio of 6 to 1, it's actually less visually
16 obstructive. Each six baskets is much less surface
17 area and visual obstruction than one larger -- of
18 the larger oyster grow cages. Legitimate concerns,
19 and I appreciate you bringing them up, for sure.

20 And then -- I guess, those were the main two,
21 and then the basket being small, it also -- from
22 our standpoint, the number of oysters that we can
23 grow is -- is what we're looking at when we ask for
24 the 12,000. To be sustainable and be able to be

1 successful enough to keep employees and keep the
2 operation moving, we thought that was the
3 appropriate number.

4 CHAIRWOMAN CERVENKA: Thank you. Any
5 other further questions for Mr. Papa before we
6 close the public hearing?

7 (NO RESPONSE)

8 CHAIRWOMAN CERVENKA: Okay. Thank you,
9 Mr. Papa. I'm going to close the public hearing.
10 And I first ask if we want to have any further
11 discussion on issues, and seeing no hands, then I
12 would ask for a motion.

13 MR. GAGNON: I was going to ask one
14 question, if that's okay.

15 CHAIRWOMAN CERVENKA: Go ahead,
16 Mr. Gagnon.

17 MR. GAGNON: I understand a moratorium is
18 difficult, but I guess my question would be, if a
19 new application came into Dutch Harbor within the
20 next month or so, would we be able to at least wait
21 until the SAMP is completed to make a decision on
22 it, or would they be running at parallel tracks,
23 such that we could at least use the results of the
24 SAMP to make a decision on any new applications?

1 CHAIRWOMAN CERVENKA: That's a good
2 question. Mr. Willis.

3 MR. WILLIS: I think I can answer that,
4 Madam Chair. Technically, Mr. Gagnon, like
5 Mr. Longo has mentioned, if an application comes
6 in, we look at it under the regulations at the time
7 of its application. Given the uses that occur in
8 the area, if an application came in right now, we
9 would have to balance what was being asked for
10 relative to what's already there and the other uses
11 that are competing for that same area.

12 So I suspect, as you see this area have more
13 aquaculture farms in it and a new one comes --
14 seeks to site itself in that area, it's competing
15 for an area that may have found the other uses have
16 established themselves there ahead of time.

17 So those are the types of questions that we're
18 going to look at for any application that comes
19 along, in addition to what we're going to look at
20 bay-wide. What other uses exist, what are the
21 competing uses for the same area, and does
22 aquaculture make sense given those other competing
23 uses? On top of the typical question we ask, can
24 the natural resources support it? Yes, it would be

1 on a parallel track, but again, what are the
2 competing uses that are already there is going to
3 be a significant question that would have to be
4 asked.

5 CHAIRWOMAN CERVENKA: And sounds like,
6 because of the working group process, you're going
7 to have -- the agency will have a lot more of that
8 information on balance and competing uses when that
9 application comes in if that's going to start next
10 month, you know, different than before. There's
11 going to be, you know, 30 people working on it and
12 providing input.

13 MR. WILLIS: If I may, Madam Chair?
14 That's an excellent point, because whenever we have
15 new information, we use that information in our
16 reviews. So a working group will be helpful in
17 having a better understanding of the various areas
18 of the bay.

19 CHAIRWOMAN CERVENKA: Thank you. Is that
20 it, Mr. Gagnon?

21 MR. GAGNON: Yes. Thank you.

22 CHAIRWOMAN CERVENKA: Great. Thank you
23 for that question. So I'll just go back and ask if
24 there is a motion that someone would like to put on

1 the table on this application? Anybody?

2 MR. GAGNON: Madam Chair, I'll make the
3 motion that the application be approved with the
4 conditions and stipulations prepared by staff.

5 CHAIRWOMAN CERVENKA: Okay. Mr. Gomez?

6 MR. GOMEZ: I had to unmute. Second, I'll
7 second that motion.

8 CHAIRWOMAN CERVENKA: Thank you. Any
9 discussion? As far as the stipulations go, we
10 talked earlier about the -- you know, the full
11 conversion of, you know, there's the existing and
12 the expanded, and the representation is that it
13 will all turn over to this ultra-low profile, and
14 then there will be 12,000 of them, right? So is
15 one of the stipulations that that full conversion
16 be required? And I'm just asking. I don't know
17 that.

18 MR. GAGNON: I think you brought that up
19 during our discussions, and Mr. Papa agreed to
20 that, but I'm not sure of what the best time frame
21 is for that.

22 CHAIRWOMAN CERVENKA: Mr. Goetsch.

23 MR. GOETSCH: Well, I would say that --
24 you know, the application that we received includes

1 an operational plan and site plans, gear layouts as
2 required. That's all been approved also by the
3 Army Corps of Engineers in a very detailed letter
4 that goes to the exact number of lines, units,
5 anchors, and the like. This is -- so the details
6 of the operation are tied to the application as
7 proposed.

8 If we approve the application and the
9 operation plan, we are essentially holding the
10 applicant to carrying with those plans in that
11 operation. But I would not be adverse to a
12 stipulation that you would have to, you know,
13 convert over the existing farm to this -- to this
14 system within a reasonable time frame.

15 CHAIRWOMAN CERVENKA: And what is that
16 reasonable time frame? Is it just to say
17 reasonable time frame, or is it -- is it a number
18 of years?

19 MR. GOETSCH: I think that the wild card
20 there is the availability of the gear and the
21 disruption of the supply chain that the world has
22 experienced in the last year. I think it would be
23 hard to say -- I wouldn't want to hold them to
24 something that might end, you know, being unduly

1 delayed through no fault of his own.

2 MR. LONGO: Might I suggest we require the
3 applicant to use all reasonable efforts to
4 convert -- do the full conversion, and then if, you
5 know, it's not done in a while, we can go back to
6 him and he can justify why it hasn't been. And if
7 it's tied to shipping or something, that would be
8 excusable, but if it wasn't, you can revoke his
9 permit for not complying with that stipulation.

10 MR. GOETSCH: Yes. And I've also been in
11 contact with the other applicant who is approved
12 for this gear. They're, likewise, I think, trying
13 to, you know, acquire the gear. So I'll be
14 somewhat aware of when this gear will be available
15 to this part of the United States. And I have no
16 problem following up with the applicants and the
17 stipulation that Mr. Longo suggested.

18 CHAIRWOMAN CERVENKA: Okay. So,
19 Mr. Gagnon, it's your motion; is that acceptable to
20 you?

21 MR. GAGNON: Yeah. I will amend the
22 motion to incorporate Mr. Longo's suggestion on the
23 timing.

24 CHAIRWOMAN CERVENKA: And, Mr. Gomez, will

1 you still second that?

2 MR. GOMEZ: I will.

3 CHAIRWOMAN CERVENKA: Okay. Any further
4 discussion?

5 (NO RESPONSE)

6 CHAIRWOMAN CERVENKA: Okay. I'm going to
7 do a roll call on the pending motion.

8 Vice Chair Ray Coia?

9 VICE CHAIRMAN COIA: Ray Coia votes aye.

10 CHAIRWOMAN CERVENKA: Don Gomez?

11 MR. GOMEZ: Don Gomez votes aye.

12 CHAIRWOMAN CERVENKA: Ron Gagnon?

13 MR. GAGNON: Ron Gagnon, aye.

14 CHAIRWOMAN CERVENKA: Joy Montanaro?

15 MS. MONTANARO: Joy Montanaro votes aye.

16 CHAIRWOMAN CERVENKA: Patricia Reynolds?

17 MS. REYNOLDS: Patricia Reynolds votes
18 aye.

19 CHAIRWOMAN CERVENKA: And myself,
20 Jennifer Cervenka, votes aye. The motion to
21 approve with the stated stipulations carries.
22 Thank you, Mr. Papa, and good luck with your
23 project. Okay. That brings us to the end of our
24 agenda. So I will move to adjourn. All those in

1 favor say "aye."

2 (WHEREUPON, A VOICE VOTE WAS TAKEN/
3 MOTION PASSED)

4 CHAIRWOMAN CERVENKA: Thank you everyone.

5 (MEETING CONCLUDED AT 8:05 P.M.)

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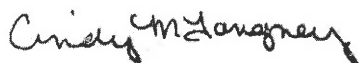
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C E R T I F I C A T E

I, Cindy M. Tangney, a Commissioner 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 30th day of May, 2021.



CINDY M. TANGNEY, RMR

My Commission (RI) Expires on 06/30/2025

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