

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	Sapowet Cove, Sakonnet River		B	<input type="checkbox"/>	<input type="checkbox"/>
		Plat	NA			
		Owner Name and Address				
Date Accepted	04-13-2020	John Bowen & Patrick Bowen		Work at or Below MHW	<input checked="" type="checkbox"/>	
Date Completed	07-10-2023	79 Shaw Road		Lease Required	<input checked="" type="checkbox"/>	
		Little Compton, RI 02831				

PROJECT DESCRIPTION

0.97 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)

Specific Staff Stipulations (beyond Standard stipulations) should the application be approved:

- No future expansion of the lease site allowed.
- Use of the DEM Sapowet Marsh Management Area in support of any farm operations is prohibited.
- Winter work hours (Dec. 1 to Jan. 31): no work before 11:00am to minimize any potential conflict with waterfowl hunting.
- \$5,000.00 performance bond

STAFF RECOMMENDATION(S)

Aquaculture Coordinator:

Recommendation:

No technical objections from Staff, defer to Council on Substantive Objections

BJG

Executive Director Sign-Off

date

Aquaculture Coordinator

date



11 July 23



7-11-23



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

DATE: July 10, 2023
TO: Jeffrey M. Willis, Executive Director
FROM: Benjamin Goetsch, Aquaculture Coordinator
SUBJECT: CRMC File No.: 2020-04-037

Applicant's Name: John Bowen & Patrick Bowen
Project: 0.97 acre Oyster farm using submerged bottom cages
Location: Sapowet Cove, Sakonnet River, Tiverton
Water Type/Name: Type 1, Conservation Areas
Coastal Feature: Submerged land

STAFF REPORT

1. Introduction

This application is for a 0.97 acre oyster farm using up to 200 bottom cages in a nearshore area on the eastern side of the Sakonnet River, known as Sapowet Cove, off the shores of Tiverton. Sapowet Cove is southeast of Sapowet Point and southwest of Sapowet Marsh. The marsh is connected to the cove via Sapowet Creek which runs under the bridge on Seapowet Avenue in Tiverton. South of the bridge, the tidal creek flows in and out of the cove along a deeper channel which is flanked by rocky sandy shallows to the southeast and a beach with a sandbar spit to the northwest. Also, along the northern shore of the channel is the DEM Sapowet Marsh Management Area (SMMA) which offers free public parking and shore access for recreational activities, including but not limited to recreational fishing and hunting, see Attachment 29. The shoreline south of the bridge is largely residential with several homes facing the river. The applicants are two brothers with previous experience and training in aquaculture who desire to start a small family run oyster farm that would be accessible by wading from the shore and worked primarily at low tide in a manner they describe as low-impact. The original version of this application (publicly noticed on April 17, 2020) was not supported by staff, see Attachment 3. The modified application and plans addressed in this report (referred to here as Alt. 1) were sent to a thirty-day public re-notice on May 9, 2023, in anticipation of review at a CRMC semimonthly meeting before the full Council, see Attachment 8. Based on the publicly re-noticed application and review of the record, Staff has no objections to the Alt 1 application.

The details of the proposed aquaculture site are as follows. The site is in Type 1 waters, approximately 400 feet southwest of the Seapowet Bridge near the end of the creek channel on the side opposite the DEM SMMA. The proposal includes 200 top loading wire bottom cages (2' wide, 4' long and 14" tall) with 2" runners to keep them elevated from the bottom (total cage height is 16" tall) in approximate water depths of 2'- 4' Mean Low Water (MLW).

There will be twenty “trawls”, or sets of ten cages, arranged in five rows of four trawls, running north/south, with approximately 20 ft. between rows. 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.

2. History

This application was first heard by the full Council at the May 11, 2021 CRMC semi-monthly meeting and was continued by unanimous vote of the Council for the Rhode Island Marine Fisheries Council (MFC) to review a modified version of the application. As discussed in the May 4, 2021 staff report (the original staff report), this application has a complicated history with different versions of the site location developed by the applicants in response to stakeholder input, see Attachment 1. While the applicants have focused all the versions of the application in the roughly the same nearshore area of Sapowet Cove, there are minor differences in the location and local conditions which may be relevant to the council’s determination of compatibility of the operation with other uses of these waters, particularly with regards to recreational fin fishing while wading from shore. The applicants’ preferred modified version of the original application (known as Alt. 1) seeks to reduce potential conflict with recreational fishing from the shores of the SMMA. This report focuses only on the Alt 1 modified application which was sent out to a 30 Day Public Notice on May 9, 2023. However, all public comments received since the first public notice dated April 17, 2020 are considered here by Staff and all have been catalogued chronologically in Appendix A for the Council’s reference.

2.1 *Timeline*

Staff will briefly summarize the development of Alt. 1 in the timeline of events below before addressing the relevant programmatic requirements of the RI Coastal Resource Management Plan (RICRMP) and the public comments received on this application:

- December 9, 2019: Applicants submit a Preliminary Determination (PD) application to CRMC.
- February 17, 2020: PD meeting with Tiverton Harbor Commission (THC)
 - The PD site was south of the bridge, close to the shore, and east of the creek channel in very shallow water (approximately 8” to 36” deep). See Attachment 2.
 - The PD site was wholly within the DEM recreational shellfish data layer. Concerns for impacts to recreational shellfishing were raised at the PD level by THC, DEM and one member of the public, though no concerns regarding recreational fin-fishing were brought forth by the THC, DEM, or the public.
 - Applicants proposed using the SMMA as an access point for operational support and build out.
 - DEM did not support the use of the SMMA for operations and/or access to the site.
 - THC voted to recommend application be approved pending review of subsequent public notice for a full Category B application. See Attachment 9 for THC meeting minutes of the PD meeting.
 - Staff PD report recommended that the SMMA should not be used for access or operations and this shallow site should not be pursued. Staff recommended moving the site to deeper water and accessing it by boat, though Staff recognized this “does not meet the applicants’ concept of the location”, see Attachment 2.
- April 17, 2020: First public notice (PN). See Attachment 3.

- The new proposed site is moved southwest from PD site and elongated to fit into the deeper water of the creek channel while being just outside of the DEM recreational shellfishing data layer.
- Applicants state that the SMMA will not be used for build out of operation, access is proposed by boat or from private property. The location or availability of such private property was not specified in the application materials.
- Staff concern for potential conflict with recreational fin-fishing in the channel waters prompts staff discussion with applicants before the close of the PN comment period regarding modifying site location to minimize concerns.
- May 1, 2020: Modified site (Alt. 1 map only) submitted by applicants.
 - CRMC Aquaculture Coordinator, David Buetel, sends the Alt 1 amp to all stakeholders on the email list used for the original PN notification with the following statement: “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.” See Attachment 4.
- November 9, 2020: Alt 1 modified application submitted by applicants.
 - Applicants submit the required supporting plans and materials to CRMC for the Alt 1 modified location. This is the same modified application package that was reviewed by the THC in March of 2021, the DEM and MFC in June of 2021, and subsequently re-noticed on May 9, 2023.
- May 11, 2021: CRMC Semi-monthly meeting, see Attachment 5 for meeting notice.
 - Staff report does not recommend approval of the original application as publicly noticed on April 17, 2020. Staff recommends for approval for Alt 1 modified application submitted in November of 2020.
 - Meeting is continued and sent back to the MFC for clarification on a recommendation consistent with RI Gen Law 20-10-5. The MFC had previously reviewed and issued a letter to CRMC on this application but given the MFC proceedings had resulted in a tie vote, no recommendation was given.
- June 2, 2021: DEM (DMF/DFW) letter of no objection to the Alt 1 application given their belief that “the adverse impacts to marine fisheries and their habit would be minimal”, see Attachment 26.
- June 7, 2021: MFC recommends by a narrow vote that Alt 1 application is consistent with the competing uses engaged in the exploitation of the marine fisheries, see Attachment 27 for MFC letter of recommendation.
- June 10, 2021: Application is scheduled for the June 22, 2021 CRMC semi-monthly meeting, see Attachment 5.
- June 17, 2021: Continuation of meeting granted at the request of objectors, Kenneth and Elizabeth Mendez, see Attachment 6.
- May 9, 2023: 30 Day Public Re-Notice of the modified Alt 1 application, with comment period ending June 8, 2023, see Attachment 8.

2.2 Development and Subsequent Withdrawal of Alt. 2 by Applicants

While the summary of the timeline above represents the general arc of this application over the last three years, there are additional events and details Staff believes the Council will find informative in understanding the context of some of the issues presented by the public comments this application has received. Before the completion of the first May 4, 2021, Staff Report (the original Staff report), the application had received three objections and eight letters of support. The positive comments spoke to the good character of the applicants, their ability to adapt the project to accommodate concerns raised during the PD (see Appendix A-1), and the benefits of the type of shellfish aquaculture described in the application, both environmentally and economically. Two of the objections concerned impacts to recreational fin-fishing, specifically while wading in the deeper water of the outflow of Sapowet Creek. The third letter of objection was from the THC which requested that CRMC deny the application, see Attachment 10. That THC objection was unanimously withdrawn at the THC meeting of March 1, 2021, when the applicants appeared to discuss the modified Alt 1 application, see Attachment 11 and original staff report for more details.

As mentioned above, the full Council first heard this application at the CRMC semi-monthly meeting of May 11th, 2021. At the time, the application had undergone the standard review process and had 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 PN version over PD 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

At the May 11th meeting, the Council voted unanimously to continue the application to another date to be determined for the Rhode Island Marine Fisheries Council (MFC) to review an alternate version (Alt. 2) of the application given the first MFC review in November of 2020 resulted in a tie vote with no recommendation rendered to the CRMC. Staff will now briefly address the development of Alt. 2, which was not part of the original Staff report.

On May 10, 2021, several days after the completion of the Staff report and just one day before the May 11th meeting, Staff was contacted by the objector, Kenneth Mendez, regarding his outstanding concerns with the application's impact to recreational fishing, see Attachment 12. Mr. Mendez had originally objected to the site during the Public Comment period in an email dated May 19, 2020, after learning about the application from the CRMC Public Notice posted on the homepage of the Town of Tiverton's website, see appendix A-7. Based on Staff discussion with Mr. Mendez, the Alt 1 site plans still presented concerns for him with regards to being able to fish in and around the outflow of the creek while wading in the water during a falling or low tide and fishing at night. Mr. Mendez also submitted various materials in support of his objections, including a power point presentation he wished to present to the Council, see Attachment 12. The Rhode Island Saltwater Anglers' Association (RISAA) subsequently submitted an objection to CRMC via an email chain with Mr. Mendez also on May 10, 2021, see Appendix A-11. Staff would like to note that RISAA was notified of the applicants' Preliminary Determination (PD) application and PD meeting before the Tiverton Harbor Commission in February of 2020 and Staff received no comments from RISAA at that time. And again, RISAA was notified of the original application's Public Notice and the proposed Alt. 1 site map via email in April and May respectively of 2020, and again Staff received no comments from RISAA, see Attachment 19.

Staff communicated the concerns of Mr. Mendez and RISAA to the applicants the day before the May 11th meeting. In response, the applicants proposed another slightly modified location (Alt 2) which was closer to shore but also further removed from the depths of the creek channel, see Attachment 13. However, this modification was within even more of the shallow water area of the PD site and the DEM recreational shellfishing data layer. The applicants believed this further modification would address or lessen the concerns of Mr. Mendez and other anglers. Staff notified Mr. Mendez of the proposed Alt 2 modification ahead of the meeting as well for his feedback. Based on communications with both parties at the time, Staff was optimistic that a mutually agreeable solution might be at hand and expected further discussion of the alternatives before the Council by all parties at the semi-monthly meeting.

At the CRMC May, 11, 2021 semi-monthly meeting, Staff informed the Council that the applicants had proposed a last-minute modification (Alt 2) based on the concerns of Mr. Mendez and RISAA which they hoped the Council would consider at the meeting. However, before the applicants could present Alt 2, which was not addressed in the original Staff Report due to its late nature, the Council voted to continue the application and to send the Alt. 2 revision back to the MFC for a recommendation to CRMC consistent with RI Gen Laws 20-10-5(d). It should be noted that the original MFC review of the application in November of 2020 resulted in a tie vote with no recommendation given to the CRMC, see Attachment 21. Past aquaculture applications have occasionally resulted in tie votes from the MFC. In these instances, a letter from the MFC chair is sent to CRMC outlining the discussion and results of the meeting, as was the case here, see Attachment 22. However, the Council reasoned that sending the application back to the MFC would allow the additional opportunity for the MFC to clarify their recommendation to the CRMC based on the review of the new Alternative 2 site modification. Staff would like to note that the Council did not review the proposed Alt 2 site plan at the May 11, 2021 meeting.

The May 11, 2021 meeting was held virtually via Zoom due to ongoing COVID protocols. Neither the applicants, nor any members of the public, were given the opportunity to speak on the application as the vote to continue the application occurred before any of the parties were formally recognized or allowed to appear on-screen. In the days following the meeting, Staff made multiple attempts through phone calls and emails to bring the parties together to discuss potential alternative locations, including the Alt 2 version, see Attachment 17. Though both sides appeared willing to meet, neither expressed this interest at the exact same time, leading to a breakdown in communications between the parties. At this point, Mr. Mendez indicated to Staff that he would continue to object to the Alt 2 proposal or any other version of the site in that area of Sapowet Cove. The applicants then told Staff that they wanted to withdraw the Alternative 2 revision as part of their application and wished to proceed back to the MFC with only the Alt 1 version. The applicants restated this sentiment to Staff in an email dated June 16, 2021, see Attachment 18.

2.3 2nd MFC Meeting, June 7, 2021 and DEM Recommendation

Given the applicants' decision to withdraw the proposed Alt 2 site as part of their application, the MFC met virtually on June 7, 2021 to review only the Alt 1 modified application. After lengthy deliberations and public comments offered by Mr. Mendez, the MFC returned a recommendation to the CRMC on a narrow vote of 4-3 that the aquaculture activities proposed in the modified Alt 1 application were consistent with competing uses engaged in the exploitation of the marine fisheries, see Attachment 27. The MFC Chair's letter, dated June 14, 2021, outlines the deliberations and happenings of the meeting, and highlights that the recommendation "was one of the most challenging recommendations rendered by the RIMFC in recent memory" and is given with "full recognition of the closeness of the call". Staff would like to note that, while the MFC meetings are open to the public and may provide an opportunity for public involvement (such as the opportunity provided to Mr. Mendez by the MFC Chair to comment and submit materials in advance in support of his position, see attachment 15) these meetings are for panel decisions and generally not an opportunity for formal public comment, see Attachment 28 for an article co-authored by DEM and CRMC staff on public fisheries engagement in the aquaculture permitting process .

Additionally, the revised Alt 1 application was also shared with DEM staff for a recommendation consistent with RI Gen Laws 20-10-5 and Redbook 1.3.1(K)(2)(a) on whether the activities proposed application are: (1) Not likely to cause an adverse effect on the marine life adjacent to the area to be subject to the permit and the waters of the state; and (2) Not likely to have an adverse effect on the continued vitality of indigenous fisheries of the state. The DEM Division of Marine Fisheries (DMF) and Division of Fish and Wildlife (DFW) reviewed the Alt 1 modified application on behalf of their director. On June 2, 2021, Staff received a joint letter from the Divisions stating "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." See Attachment 26 for the DEM letter of recommendation on the Alt 1 modified application.

3. Applicable Sections of the RICRMP Polices and Standards

Below is a table of applicable Red Book Sections and Staff analysis.

Section title	650-RICR-20-00-1: Redbook Section number	<i>Policy/ Standard/Prohibition</i> and Discussion
Applications for Category A and Category B Council Assents	1.1.6(B) and 1.1.6(D)(5)	<p><i>“Through the adoption and implementation of the Marine Resources Development Plan by the Council on January 10, 2006, permit applications which meet the thresholds below ..., have received no objections, and are consistent with the goals and policies of the coastal resources management program will be reviewed and acted upon administratively by the executive director...”</i> This application is for a 0.97 acre marine aquaculture site in Type 1 waters in the lower Narragansett Bay/Sakonnet River (see discussion of 1.3.1(K)(5)(a)(12) below). This proposed activity is a Category B application according to the Activity Matrix for Type 1 waters found in the section 1.1.5. According to section 1.1.6(D)(5), the threshold for administrative approval of a Category B application for aquaculture includes <i>“sites up to three acres in the salt ponds or upper Narragansett Bay and less than ten acres elsewhere”</i>, but only if the application has <i>“received no objections”</i>. All other applications will require review by the full Council. This application has received objections and is therefore not eligible for administrative approval and must be reviewed by the full council.</p>
Substantive Objections	1.1.6(G)	A discussion of the objections received follows this table.
Category B Requirements	1.3.1(A)	The applicants have provided written responses to all of the 11 required elements for a Category B application, please see Attachment 8 for details. It is the opinion of Staff that the material provided in the application meets the written requirements of this section of the Red Book.
Type 1 Conservation Areas	1.2.1(B)(2)	<p><i>“The proposed aquaculture site is in Type 1 waters. It is the Council’s policy that the mooring of houseboats and floating businesses, the construction of recreational boating facilities, filling below mean high water, point discharge of substances other than properly treated runoff water (see § 1.3.1(F) of this Part), and the placement of industrial or commercial structures or operations (excluding fishing and aquaculture) are all</i></p>

		<i>prohibited in Type 1 waters.</i> ” Aquaculture structures, like those proposed in this application, are not prohibited in Type 1 waters and therefore the application is consistent with this policy.
Aquaculture Policies	1.3.1(K)(1)(a)	“ <i>The CRMC recognizes that commercial aquaculture is a viable means for supplementing the yields of marine fish and shellfish food products, and shall support commercial aquaculture in those locations where it can be accommodated among other uses of Rhode Island waters. The CRMC recognizes that responsible shellfish aquaculture has a net positive effect on the environment, and therefore it is permissible in all water types. As any human activity can have adverse environmental effects, the Council recognizes the possibility of setting scientifically defensible limits on aquaculture leasing in any particular water body</i> ”, This application is in lower Narragansett Bay/Sakonnet River and therefore is not subject to specific limits on aquaculture leasing.
Aquaculture Policies	1.3.1(K)(1)(b)	“ <i>The Council may grant aquaculture activities by permit only. The CRMC may grant aquaculture applicants exclusive use of the submerged lands and water column, including the surface of the water, when the Council finds such exclusive use is necessary to the effective conduct of the permitted aquaculture activities. Except to the extent necessary to permit the effective development of the species of animal or plant life being cultivated by the Permittee, the public shall be provided with means of reasonable ingress and egress to and from the area subject to an aquaculture lease for traditional water activities such as boating, swimming, and fishing.</i> ” The applicants have not applied for exclusive use of the area and they assert they have chosen a site and provided a gear layout with 20ft wide lanes that will allow the public the ability to walk, wade or kayak through the site.
Aquaculture Policies	1.3.1(K)(1)(h)	“ <i>It is the Council’s policy to prohibit private aquaculture activities in not-approved areas as defined by the National Shellfish Sanitation Program (NSSP) that contain significant shellfish stocks potentially available for relay into approved areas for free and common fishery.</i> ” This application is in waters classified as approved for

		the consumption of shellfish according to the NSSP and is consistent with the policy.
Aquaculture Policies	1.3.1(K)(1)(i)	<p><i>“When the Council issues an authorization for aquaculture all wild shellfish stock, crustaceans, seaweed, and whelks existing within the authorized area shall remain the property of the state.”</i> See also Aquaculture Prohibitions 1.3.1(K)(4)(e): <i>“The harvest of wild bivalve molluscan shellfish, other than spat collection, naturally occurring in a CRMC permitted lease is prohibited. All wild shellfish within a lease area will remain the property of the State of Rhode Island and remain in place for the benefit of the public resource. This resource is not to be harvested by any person for commercial or recreational purposes. Any incidental catch by the lease holder within an aquaculture lease shall be returned immediately to the same waters.”</i> The applicants have not proposed any activities inconsistent with this policy or prohibition. Given the proposed operation using submerged cages does not involve harvest directly off the bottom, incidental bycatch of naturally occurring shellfish is unlikely.</p>
Aquaculture Prerequisites	1.3.1(K)(2)(a)	<p><i>“Prior to issuing a permit for marine aquaculture within tidal waters, the Council shall obtain and give appropriate consideration to written recommendations from the Director or his or her designee of the Department of Environmental Management and the chairman of the Marine Fisheries Council, as required by R.I. Gen. Laws § 20-10-5. The director or his or her designee of the Department of Environmental Management shall review the application to determine that the proposed aquaculture activity will not adversely affect including, but not limited to: (1) Marine life adjacent to the proposed area and the waters of the state, and (2) The continued vitality of indigenous fisheries. (AA) The chairman of the Marine Fisheries Council shall review the application to determine that it is consistent with competing uses involved with the exploitation of marine fisheries.”</i></p> <p>The modified Alt. 1 application has received the written recommendations from DEM and the MFC, see Attachments 26 and 27 respectively. DEM has “no objections” to the modified Alt 1 application and the MFC found it to be consistent with the exploitation of the marine fisheries. It is Staff opinion that this prerequisite has been met.</p>

Aquaculture Prerequisites	1.3.1(K)(2)(b)	<p><i>“Prior to submitting a formal Category B application to CRMC for aquaculture activities within tidal waters, applicants must first submit a Preliminary Determination application for the proposed project. A formal Category B application may be submitted only after the completed Preliminary Determination report has been issued by CRMC.”</i> The applicants submitted a complete PD application on December 9, 2019. The PD meeting was held locally in Tiverton on February 17, 2020 with the THC, DEM, members of the public, and the previous Aquaculture Coordinator, David Buetel. After having received the PD report from Mr. Buetel (see Attachment 2) the applicants submitted their formal Category B application on April 14, 2020, see Attachment 3. It is Staff opinion that this prerequisite has been met.</p>
Additional Category B Requirements	1.3.1(K)(3)(a)(4)	<p><i>“(a) Applicants proposing to undertake any aquaculture project shall:</i></p> <p><i>(4) Provide such other information as may be necessary for the Council to determine:</i></p> <p><i>(AA) The compatibility of the proposal with other existing and potential uses of the area and areas contiguous to it, including navigation, recreation, and fisheries;”</i> The applicants assert that the area is extremely shallow and cannot be safely navigated at low tides and that the area presents dangerous swimming conditions (the applicants cite Tiverton ordinances and Harbor Management Plan in support of these assertions). In addition, the applicants assert that fishermen, shellfishermen and bathers typically use the area north of Seapowet Creek and “the lease site would still be possible for people to walk or wade through, or kayak through.”</p> <p><i>“(BB) The degree of exclusivity required for aquacultural activities on the proposed site, The applicants assert the lease site would still be possible for people to walk or wade through, or kayak through. Exclusive use is not requested.</i></p> <p><i>“(CC) The safety and security of equipment, including appropriate marking of the equipment and/or lease area;”</i> 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,</p>

		<p>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 rigid mesh plastic bags will be secured directly to the cages using heavy-duty clips. It is Staff opinion that the methods described in the application are likely sufficient to ensure safety and security of the gear in adverse weather or other conditions. Each of the four corners of the farm will be marked with standard 11" pot buoys.</p> <p><i>“(DD) The projected per unit area yield of harvestable product;”</i> Applicants propose deploying 25,000 oyster seed on the 0.97 acre lease in the first year with an approximate time to harvest of 18-24 months. Projections beyond the first year of planting are not included in the application.</p> <p><i>“(EE) The cumulative impact of a particular aquaculture proposal in an area, in addition to other aquaculture operations already in place;”</i> The applicants provide no direct information in response to the above but staff recognizes there are no other aquaculture operations in this immediate area. The closest aquaculture farm is north of Sapowet Point, approximately ¾ of mile away, and is the only farm in state waters adjacent to the town of Tiverton.</p> <p><i>“(FF) The capability of the applicant to carry out the proposed activities;”</i> The applicants state that they 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 a RI oyster farm, dating back to the 1980s. Additionally, John Bowen has a Bachelor’s degree in Environmental Science, with emphasis in Aquaculture from Unity College in Maine.</p> <p><i>“(GG) The impact of the proposed activities on the scenic qualities of the area.”</i> The applicants assert that the gear on the farm will not be visible, even at low tide, and the only thing visible will be the 4 corner buoys, as required by CRMC.</p>
Aquaculture Prohibitions	1.3.1(K)(4)(g)	<i>“Proposed aquaculture leases may not be sited where eelgrass (Zostera marina) or widgeon grass</i>

		<i>(Ruppia maritima) exists.</i> ” Eelgrass and widgeon grass does not currently exist in this area, see Attachment 30, nor has previous routine eelgrass surveys found this to be an area of historic eelgrass habitat. This prohibition does not apply.
Aquaculture Standards	1.3.1(K)(5)(a)(12)	“ <i>For the area known as upper Narragansett Bay defined as the area north of latitude of 41 degrees 35 minutes, proposed aquaculture farms shall be limited to a maximum size of three (3) acres. Leases may be granted by authorizing an initial two (2) acre lease. Subsequently, the third acre may be granted when the Permittee demonstrates that the initial two (2) acre lease is being fully utilized.</i> ” The application for a 0.97 acre aquaculture farm is south of the area known as upper Narragansett Bay and therefore this standard does not apply.
Aquaculture Standards	1.3.1(K)(5)(a)(16)	“ <i>Aquaculture operations shall be located at sites and operated in such a manner as to not obstruct public access to and from tidal waters.</i> ” The proposed aquaculture site is not in an intertidal area and will therefore not restrict public access to and from tidal waters.

4. Public Comments

After Staff had received the MFC and DEM recommendations on the Alt 1 version of the application, CRMC scheduled the matter to return before the Council at the June 22nd, 2021, Semi-Monthly meeting. On June 17th, 2021, the CRMC granted a continuance at the request of Marisa Desautel, Esq., attorney for objectors Kenneth and Elizabeth Mendez, see Attachment 33. Mr. Mendez has since submitted to Staff various letters and exhibits in support of his objection through his attorney, see Appendix A-94, A-112, and A-166. Three other attorneys have filed entries of appearance on this application, see Attachments 34, 35, and 36. Attorney Dean Wagner has also submitted comments on behalf of his clients (Mr. /Mrs. Fulton, Mr. /Mrs. Metcalf, and Cynthia Aber), see Appendix A-163.

Since the May 11, 2021 semi-monthly meeting and before the May 9, 2023 re-notice, Staff had received one-hundred and two comments pertaining to this application, see Appendix A-12 to A-114. Of the 102 comments, four were in support of the application. Many of the comments refer to the “Save Seapowet” group which organized over social media and other platforms in opposition to the application, see <https://www.saveseapowet.org/> and Attachment 39. Additionally, there have been at least thirty-seven articles published in local and regional media on the topic of this application, many of which were shared with Staff in comments received. The Council may find the review of all these news and opinion pieces informative regarding the wide-ranging public debate which has played out in response to this application over the last several years, see Appendix B.

An additional 58 comments were received after the May 9, 2023, 30 Day Public Re-Notice of the Alt 1 modified application. Ten were in support of the application. The letters of support cite the applicant’s good character and stewardship, and the benefits of shellfish aquaculture to the environment, community, and economy. The town of Tiverton strongly objected to the application through the THC and Tiverton Town Council, see Appendix A-123 and A-

136 respectively, citing conflicts with local zoning, riparian moorings, fishing and other types of recreational use at the SMMA. In the following section, Staff will briefly summarize and address the public commentary that has been received since the original staff report.

- Public Trust- Many comments contend that leasing the waters of the state to private individuals for purposes of commercial aquaculture is contradictory to the Public Trust and the Rhode Island Constitution. It is the opinion of Staff that the matter has been addressed at the state level by the legislature in RI Gen Laws 20-10-1. The Redbook section 1.3.1(K) addresses the standards and policies for permitting marine aquaculture in State waters.
- Public Access- Many comments contend that any reduction in the public's ability to access and use the waters of the State would be contrary to the Public Trust and the Rhode Island Constitution. This application is for use of submerged land and therefore would not impede public access to and from or along the shore. This application does not seek exclusive use of the area and the applicants assert that public access to and from the area is possible given the depth and gear layout. The public is allowed to be in the lease area as long as they are not willfully or maliciously disrupting the operation of the farm or the farmer's personal property, i.e. the gear and cultivated animals, see Redbook Section 1.3.1(K)(5)(a)(2).
- Recreational fin-fishing - Many comments state the proposed operation will present a conflict with recreational fin-fishing, particularly while wading and fishing for striped bass and blue fish in the creek channel during a falling tide and/or fishing in the area at night. The applicants contend, and Staff agrees, that most fishing in the general area of this application occurs north of Sapowet Creek from the SMMA shoreline. Staff also recognizes that DEM documents supplied by objectors pertaining to the State's purchase of the SMMA list the SMMA fishing area as consisting of "26 acres of beach, marsh, and tidal creeks abutting the Sapowet Management Area", see Appendix A-166 and A-170. Furthermore, the document goes on to say that "shore fishing is available from the from over 2,000 ft. of natural beach facing the Sakonnet River and pier fishing is possible from the tidal creek bridge.", see again Appendix A-166. Other fishing opportunities in the SMMA area are described in a recent article in RISAA's June 2023 monthly newsletter which describes fishing opportunities from shore at falling tides and also within the Sapowet March during incoming tides, see Attachment 32. The intensity of fishing use at the SMMA appears to be less than other popular fishing sites in the State. RISAA's July 2023 monthly newsletter mentions the SMMA in an article on fishing opportunities in RI while wading from shore which states that the SMMA "beach access is extensive and not a lot of people hit that spot so you can get a lot of exploring in as well", see Attachment 40. Mr. Mendez's power point presentation also includes a quote from the fishing guidebook "Striper Moon", which states Sapowet is "a very fertile estuary which is just far enough out of the way to be underfished.", see Attachment 12. However, based on the comments and communications with objectors, staff recognizes that some anglers do fish near or within the proposed lease area, particularly on falling tides for striped bass and bluefish in the creek channel, and that this activity may also occur at night. Staff believes some fin-fishing activities within or near the leased area would likely be impacted by the lease site, though fishermen would not be entirely prohibited from fishing within or around lease area or the SMMA. Given the presence of gear within the lease, some types of fishing activity might not be prudent within the lease depending on the conditions, such as wading at night when extra caution would be required. Staff recognizes that some fishermen might also have to adapt their methods and/or tackle for fishing in or near the lease to account for the potential snags the gear may create to tackle and/or the landing or releasing of fish. As stated above, the public comments at the June 2021 MFC meeting focused on the application's impact to recreational fishing, and likewise the MFC members also focused their discussion primarily on the proposal's impact to recreational fishing. During deliberations, all MFC members, including those MFC members that supported the application, recognized the potential for this conflict. On balance, the MFC still found that the aquaculture activities proposed in the modified Alt 1 application were consistent with competing uses engaged in the exploitation of the marine fisheries. Staff agrees, there will be some impact to the fishermen that wade out and target fish in the lower reaches of the creek channel, but fishing will not be

prohibited and the majority of fishing activities around the 26 acres of beach, marsh, and tidal creeks that make up the SMMA fishing area are likely to be unaffected or only minimally impacted by the proposed farm.

- Recreational Shellfishing- The area was found to have a very low abundance of quahogs and other recreationally important shellfish species, see Attachment 30. While the area is shallow enough to support recreational shellfishing activities given its wadable depth, Staff believes that it is unlikely that the proposed site would have much impact on recreational shellfishing in the area given there are other nearby spots that are much more productive. The applicants contend that more shellfish can be found on the north side of the creek than in the proposed lease area. Staff agrees, based on comments and experience, that recreational shellfishing is more productive in areas north of the creek. One objector, who identified as a recreational quahogger and user of the SMMA area, also noted in his comment that there is currently a low abundance of shellfish in the lease area and that there are more shellfish to be found on the north side of the creek, see Appendix A-161. The objector also notes that quahog abundance may increase in the lease area in the future. Staff agrees quahog abundance is variable and can change over time if conditions are favorable for recruitment and survival. If approved, any naturally occurring shellfish on the lease site would remain the property of the state for the benefit of the resource and would be off limits to harvest by the public and the applicants. Many other comments contend that there will be a conflict with shellfishing given that approximately forty percent of the Alt 1 lease area is within the DEM Recreational Shellfish data layer, see Attachment 31. The recreational shellfish data layer is not a regulatory tool and was developed as part of the Rhode Island Shellfish Management Plan of 2014 through surveying the general shellfishing public with paper maps and markers to indicate where they believe important recreational shellfishing areas were located throughout state waters. The information contained in this data layer is unvetted and its accuracy is sometimes questionable as to the recreational value of some of the areas that have been marked. For instance some areas depicted in the data layer are on dry land or in waters prohibited to shellfishing by DEM. DEM and CRMC still continue to use the data layer as a preliminary screening tool for aquaculture applications for potential conflicts with recreational shellfishing, though it is not determinative. It is Staff opinion that it is unlikely there will be significant conflict with recreational shellfishing activities in this area given the low abundance of shellfish in the area and the proximity of other more productive areas to the north.
- Recreation, such as swimming, kayaking, paddle boarding, para sailing, wind surfing, and kite surfing- Many comments contend that some recreational activities will be impacted by the lease area due to the shallow depth and height of the proposed gear which creates a safety concern for some recreational users. Staff agrees that some activities like parasailing, wind surfing, and kite surfing would not be prudent in the lease area, but staff also recognizes that this is not a common use of the lease area due to its shallow depth and proximity to shore and moorings. The proposed site would be marked accordingly and can be avoided. Swimming and bathing does occur from SMMA beach. It is Staff opinion that swimming is less likely to occur in the lease area given the distance from that shore, but swimming would be possible within the lease using the 20 ft. wide lanes between the gear. The applicants contend that the public can still kayak, walk or wade through the lease. Staff agrees that kayaking, paddle boarding, and other similar small-craft paddle sports can occur within and through the lease area. The gear spacing allows small paddle craft to transit between the rows of trawls in a north/south direction, or potentially over the gear in any direction depending on the height of the tide. Traversing the site from east to west would be more challenging at low tide given the layout of the trawl lines. It is Staff opinion that the small size of the lease area leaves enough space surrounding it that small craft or other recreational users can navigate around the lease area if need be.
- Riparian rights and moorings- Many comments state that the lease area conflicts with riparian rights and riparian moorings of nearby properties. Riparian rights in Rhode Island guarantee access to tidal waters to property owners whose properties abut such waters. This application will not prevent any property owners from accessing the tidal waters adjacent to their properties given its distance offshore on submerged land. It is

possible that some riparian mooring owners may have to navigate through or around the farm to reach their moorings, but access would still be possible.

- Use of residential property for commercial purposes- This is a discreet issue from Staff's review of the application itself, but it is a common basis for objection in many of the comments received, including from the Town of Tiverton, see Appendix A-136. In June of 2021, Staff became aware through various comments received and newspaper articles that the applicants had purchased a small piece of waterfront property (approximately 0.125 acre) near the proposed site on Seapowet Ave, see map Attachment 38. The application does not mention this property specifically nor its potential use in service to the oyster farm. The application does state: "Installation (placement) and removal of the cages will be conducted by boat and /or private access to the shore" and "'farm work will take place predominantly at low tide...accessing the site using waders (or shorts during the summer months)". Staff believes that this property may afford such private access to the applicants for the operational related purposes. Objectors, including the Town of Tiverton, contend that any commercial use of this property would violate local zoning, see Appendix A-135. Staff would like to note that the Rhode Island Right to Farm Act includes aquaculture within its definition of "agricultural operations", see R.I. Gen. Laws § 2-23-4. The applicability of local zoning ordinances in this instance is a local matter and outside of Staff's review of the current application. Staff recognizes it is the applicants' responsibility to conduct all related operations in accordance with the relevant local ordinances and laws of the State.
- Visual/scenic impact- Many comments contend that the site will have a scenic impact. Staff agrees the four required corner markers (11" standard pot buoys marked with CRMC assent number in 3" letters) will be visible at all tides, though the scenic impact of those markers would likely be minimal. The applicants contend that they have minimized the scenic impact given all the gear will remain submerged even at low tide and will not be visible above the water. Staff agrees that on most low tides the gear should not be visible above the water. However, on some extreme tides, such as a moon low tide, gear may be partially exposed particularly in the northeast portion of the site where the depths are shallowest. This scenic impact would be intermittent and dependent on the tidal range that particular day or night and other conditions such as wave height. Staff believes the scenic impact would likely be minimal but recognizes that there are ways to further minimize the possibility of exposed gear on certain low tides, such as reducing the overall height of some of the cages in the shallower area to ensure that they always remain submerged. However, such action would reduce the overall capacity of the farm's production, albeit by only a marginal amount in Staff's opinion.
- Notice- Many comments contend that there was insufficient notice of this application to abutters by CRMC. All standard notification procedures were followed at the time this application was submitted to CRMC. There are no abutters to this application given that the lease area is wholly within tidal waters on submerged land and does not share a boundary line with any private property. In 2021, CRMC began making changes to the aquaculture notification process to include properties within 1000' of an aquaculture proposal. During the second public notice for this application in May of 2023, CRMC notified properties within 1000' of the application (in addition to the standard notification procedures) using the mailing addresses on file at the Tiverton Town Clerk's office for the relevant properties, see Attachment 37.
- Economic value- Many comments contend that the farm would be too small to be financially viable. This proposed farm is relatively small compared to most oyster farms in RI. Only 16% of all farm sites in RI are one acre or less. The majority of those one-acre-or-less sites are part of larger operations with other leases and/or are used for specific purposes, such as nursery areas or winter storage. Small one-acre farms can still be viable as a part time endeavor though owners will often have to work it by themselves with no hired labor or with the unpaid help of friends and family. The applicants intend this small operation to be a part-time family run business and Staff believes the applicants are capable of carrying out the proposed activities based on their knowledge and background. Staff believes that many of the potential conflicts with a farm in this location have been minimized by the applicants due to the relatively small footprint of the proposal.

- Need- Many comments contend that the applicants have not demonstrated a need for this proposed activity as required by 1.3.1(A). Please see the applicants' response to this Category B requirement in the application materials, Attachment 8. The goals and policies of the State of Rhode with regard to aquaculture development are laid out in RI Gen Laws 20-10-1 and further expressed in the statement of policy found in the CRMC Redbook section 1.3.1(K)(1)(a): "the CRMC recognizes that commercial aquaculture is a viable means for supplementing the yields of marine fish and shellfish food products, and shall support commercial aquaculture in those locations where it can be accommodated."
- Impact to the environment and habitat value of the area- Many comments contend that the proposed activities would have a negative impact on the environment and habitat of the SMMA and Sapowet Cove. The DEM recommendation regarding this topic was that "the adverse impacts to marine fisheries and their habitat from this prospective site would be minimal". Staff agrees with DEM in this regard but also recognizes that responsible shellfish aquaculture has a net positive effect on the environment (Redbook section 1.3.1(K)(1)(a)). The applicants contend that the proposed activities will have a positive effect on the environment through nutrient removal and enhanced habitat value given that aquaculture gear has been shown to have similar benefits to artificial reefs, see Attachment 8. Some objectors recognize this potential positive impact to the environment and habitat but dismiss the need for any such improvement to an area that they consider to be an already pristine environment and productive habitat. Staff's opinion is that, if responsibly operated, the operation would likely have a net positive effect on the environment and habitat and any negative effect would likely be minimal.
- Pollution- Some comments assert that the operation, if approved, would lead to more plastic pollution and debris in the waters of the Sakonnet River. Staff believes that any human activity in tidal waters has the potential for generating pollution, including recreational and commercial fishing. Responsible shellfish aquaculture practices require farmers to be aware and vigilant in the prevention of creating potential debris and pollution as a result of farm operations. The design of the proposed farm includes the anchoring of cages to the seafloor in order to ensure that gear does not become potential debris in the event of a storm or other adverse weather conditions. Staff believes this is a sufficient system for ensuring the safety and security of the equipment. Additionally, a standard stipulation for CRMC aquaculture assents requires assent holders to clean up any debris from the farm within thirty days or sooner, or risk lease revocation if they do not. The applicants also describe their proposed method of operation as low impact and environmentally sustainable given that they will primarily work the site at low tide in waders without the use of a gas powered vessel.
- Reduction in Property Value- Some comments contend that the operation, if approved, would lead to a decline in nearby property values. Staff does not find this type of objection relevant to the review of this application under the CRMP.
- Applicants are not from Tiverton- Many comments point out that the applicants are residents of the neighboring town of Little Compton and therefore should be ineligible to apply for an aquaculture lease in state waters adjacent to the town of Tiverton. The legislature has addressed this issue in RI Gen Laws 20-10-3: "The CRMC may grant permits for the conduct of aquaculture to any person, corporation, or business entity, chartered under the laws of this state..." Thus, the applicant may be granted an aquaculture permit according to the laws of the state.
- Hunting- Some comments contend there will be a conflict with hunting from the SMMA property. Staff recognizes that hunting is permitted within certain areas of the SMMA and hunting opportunities are enhanced through the DEM pheasant stocking program, see Attachment 29. Staff believes that hunting in the upland areas of the SMMA will likely not be affected by this application. Waterfowl hunting may also occur on certain shoreline areas of the SMMA, but some areas are off limits due to the proximity of residences within 500'. The proposed site is also within 500' such residential properties and staff does not believe that hunting

would be occurring within the proposed site whether the farm was there or not. However, there is no prohibition from hunting within or near an aquaculture lease at any distance as long as there is no one present on the farm. It is possible hunters may shoot toward or over parts of the proposed site, assuming the 500' distance is maintained from homes. When the council has reviewed past applications that present a potential conflict with hunting activity, DEM DFW often requests an additional stipulation that imposes restrictions on winter working hours during the waterfowl hunting season. This would prohibit operations on the farm from occurring before 11:00am during the month of December to January 31st each year. DEM DFW has not requested such a stipulation based on a review of the application. Staff opinion is that such a stipulation may still likely reduce the potential for conflict with waterfowl hunting if hunting is occurring near farm, but Staff believes that such activity appears unlikely.

- Intent of the DEM SMMA's acquisition and use – Many of the most recent comments point to the conditions and intent of the State's acquisition of the private properties that now composes the SMMA. The conditions of the many federal grants and programs that have benefited the State in its acquisition of these properties prohibit the commercial use of said properties, though the State still appears to lease at least some of the parcels for private commercial agricultural production. Staff agrees that the use of the SMMA by the applicants for access, or otherwise in support of the aquaculture operation, would not be appropriate. Staff has maintained this position since the PD review in February of 2021, see Attachment 2 for PD report. The farm itself is on submerged land, several hundred feet from the SMMA property and is not located within the areas purchased by the State of Rhode Island with federal funds. The application's potential effects to the recreational activities supported by the SMMA (such as fishing, shellfishing, and hunting) are addressed in the relevant sections above.

5. Staff Comments and Recommendation

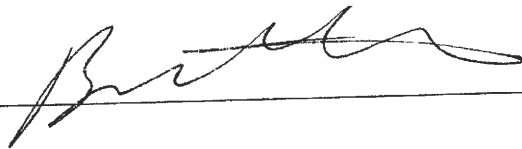
Staff believes that many of the potential or perceived conflicts presented by this application stem from the applicants' concept of a nearshore operation in this location being serviced by wading from the shoreline. As such, some of the criteria the applicants used for the site's selection were proximity to shore and shallow depth of water. The applicants state that the site location was chosen for its "lack of shellfish resources" and "its proximity to the nutrient rich Seapowet Creek tidal flow". Staff's agrees that there appears to be a lack of wild shellfish resource in this specific area and that the tidal flow of the creek channel is very likely beneficial to the cultivation of oysters. However, Staff is also of the opinion that it appears the applicants also chose this location due to the potential free access from the DEM Seapowet Management Area (which Staff had not supported) and/or the availability of a small parcel of waterfront land adjacent to the site which the applicants did in fact purchase under an LLC on June 17, 2021, see Tiverton Town Council comment at Appendix A-135 and map Attachment 38. Almost all aquaculture operations in Rhode Island, particularly in Narragansett Bay and the Sakonnet River, are serviced by boats either trailered or berthed at a marina. Aquaculture sites with wading access from private land are exceedingly rare in Rhode Island waters, though Staff recognizes that in these instances such access can be beneficial to an operation by reducing costs and increasing efficiency, particularly for a smaller operation. The applicants assert that this manner of farming is environmentally sustainable and a "low profile approach" to shellfish aquaculture. Staff agrees that there will be less noise, visual impact, and emissions working the site using these methods. However, the applicants' pursuit of a location with these qualities in this particular location had resulted in an application that was in need of modification to reduce the potential conflict with wading fishermen. The subsequent modification, Alt 1, is not perfect in this regard, but it is Staff opinion that Alt 1 meets the programmatic requirements of the CRMP, particularly in light of the second MFC letter. Staff did attempt to bring some of the parties together after the May 2021 semi-monthly meeting to discuss other possible locations or modifications to this application that may have further minimized impacts to recreational fishing (such as the short-lived Alt 2 modification), but Staff's best efforts were not successful. Since that time, Staff has also shared with the applicants (and many of the objectors) materials regarding the RI Agricultural Mediation Program offered through the USDA, see Attachment 20. This USDA sponsored mediation service has been successful in mediating disputes between the public and Rhode Island aquaculturists in the past, but unfortunately none of the parties involved in this matter appeared interested or willing to engage in that free service.

The Chair of the MFC rendered the positive recommendation on this application to CRMC with full recognition of the complexity of the decision. Giving due consideration to the MFC recommendation in accordance with 1.3.1(K)(2)(a), Staff agrees that this location can coexist with the competing uses engaged in the exploitation of the marine fisheries, though it will clearly have an impact on some of those uses. That impact is very likely to be more than minor to some user groups, such as wading fishermen targeting species like striped bass and bluefish on falling tides within the channel. However, based on the MFC recommendation, Staff believes that the impact to fishing in this area is also likely to be less than significant, particularly when considering all the fishing opportunities surrounding the SMMA. It is Staff opinion that if there are fish to catch in this area, anglers will continue to target them and they will likely adapt to the presence of the farm in the pursuit of their sport. Adaptation is possible given the small size of the proposed farm, the modification in location based on the Alt 1 plans, and the fact that the applicants are not requesting the exclusive use of the area. Likewise, most other recreational activities are likely to be minimally affected given the site can be navigated through, or navigated around if necessary, by the types of small craft that can use this shallow area. It is Staff's opinion that most of the recreational activities occur to the north of this site and closer to the SMMA beach access areas. Given the distance of the SMMA beach from the proposed lease area (approximately 400 feet), those activities are less likely to be affected by the presence of the relatively small 0.97 acre submerged aquaculture site.

It is Staff opinion that the Alt 1 modified application, as publicly noticed on May 9, 2023, is complete and has met the technical requirements of 650-RICR-20-001.3.1(K) and the policies and standards of the RICRMP. As such, Staff believes that the proposed 0.97 acre oyster farm can be accommodated amongst the other uses of the area. Staff has no objections to the approval of the Alt 1 modified application. However, given the objections received to date and likelihood of additional testimony before the Council on this matter, Staff defers to the Council on the objections as they relate to the policies and standards of the RICRMP. If the council finds the application can be approved, Staff includes the following stipulations for the assent, in addition to the standard aquaculture stipulations, for the Council's consideration when balancing all the interests involved with this application:

- No future expansion of the lease site allowed.
- Use of the DEM Sapowet Marsh Management Area in support of any farm operations is prohibited.
- Winter work hours (Dec. 1 to Jan. 31): no work before 11:00am to minimize any potential conflict with waterfowl hunting.
- \$5,000.00 performance bond.

Aquaculture Coordinator Signature: _____



Staff Report Attachments: CRMC File# 2020-04-037 (Bowen and Bowen)

Attachment	Description
1	Staff map of PD, original, Alt 1 and Alt 2 sites
2	PD Staff report and PD application
3	Original CRMC Public Notice and copy of application: April 17, 2020
4	Email to Public Notice list of modified (Alt 1) location (map only): May 1, 2020
5	CRMC Semi-monthly meeting notice for May 11, 2021
6	CRMC Semi-monthly meeting notice for June 22, 2021
7	CRMC notice of continuation of meeting notice
8	CRMC Public Re-Notice and copy of modified application (Alt 1): May 9, 2023
9	Tiverton Harbor Commission Feb. 17, 2020, meeting minutes from PD
10	Tiverton Harbor Commission Letter of Objection to original Public Notice and meeting minutes from June 2, 20220
11	Tiverton Harbor Commission meeting minutes of March 1, 2021, review of Alt 1 modified application
12	Emails between Staff and Mendez, power point presentation for Council
13	Emails, Bowen Alt 2 map and coordinates; Email to Mendez
14	Emails to Mendez regarding MFC, Aquaculture permitting, and Bay SAMP
15	Mendez email to Staff with his letter to MFC
16	Bowen email to MFC with letters to objectors
17	Emails with Mendez regarding meeting with applicants
18	Bowen email to Staff confirming the withdrawal of Alt 2
19	Staff email with RISAA leadership regarding aquaculture notification and communications
20	Email to Bowen with attachment, RI Agricultural Mediation Program (USDA)
21	First DEM letter of recommendation: June 25, 2020
22	First MFC letter of recommendation: November 16, 2020
23	DEM Office of Water Resources, no RIPDES of Water Quality Certificate needed
24	RI HPHC, letter of no effect on significant cultural resources
25	USACOE authorization under General Permit #16
26	Second DEM letter of recommendation: June 2, 2021
27	Second MFC letter of recommendation: June 14, 2021
28	Article: "Public Fisheries Engagement in the CRMC Aquaculture Permitting Process" 2022 RI Recreational Saltwater Fishing, DEM/DMF
29	Sapowet Marsh Management Area, DEM Hunting Map
30	CRMC Aquaculture Site Evaluation
31	DEM map of original and Alt 1 sites with Recreational Shellfish Area
32	Article: "Sixteen Shore Fishing Spots of the Sakonnet River" by Fred Definis, Rhode Island Saltwater Anglers; June 2023, Issue 290
33	Marisa Desautel, Esq., entry of appearance on behalf of Mendez and request for continuation
34	Dean Wagner, Esq., entry of appearance on behalf of Souza, Metcalf, Aber, and Fulton
35	Steven H. Surdut Esq., entry of appearance on behalf of Clemens
36	Melissa L. Curley, entry of appearance on behalf of Rose
37	Mailing list for properties within 1000' of proposed Alt 1 site.

Staff Report Attachments: CRMC File# 2020-04-037 (Bowen and Bowen)

38	Map of parcel 105, purchased by applicants	
39	Save Seapowet online fundraiser organized on behalf of Kenneth Mendez	
40	Article: "Wading from Shore for Saltwater Fishing Success" by Scott Travers, Rhode Island Saltwater Anglers, July 2023, Issue 291	