

SEMI91410-2

1
STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS

COASTAL RESOURCES
MANAGEMENT COUNCIL

* * * * *
*

IN RE: SEMIMONTHLY MEETING

* * * * *
*

September 14, 2010

6:00 p.m.

Administration Building

Capitol Hill

Conference Room A

Providence, RI

Date:

Time:

Place:

One

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MEMBERS PRESENT

Michael Tikoian, Chairman
Paul E. Lemont, Esquire, Vice

Chairman

David Abedon
Michael Sullivan
Donald T. Gomez
Bruce Dawson
Robert Driscoll
Raymond Coia

Brian Goldman, Esquire, Legal

Counsel

STAFF PRESENT

Grover Fugate, Executive Director
Jeffrey Willis, CRMC Deputy

Director

IRONS &

ASSOCIATES

CERTIFIED PROFESSIONAL

STENOGRAPHERS

31 Harris

Avenue

Portsmouth, Rhode

Island 02831

683-1930

□

2

I N D E X

Approval of the Period 8 Progress
 Report of the Rhode Island Ocean
 SAMP..... 3

The Rhode Island Ocean Special
 Area Management Plan
 (Ocean SAMP) in its
 entirety.....23

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□

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3

1
6:00 P.M.)

(COMMENCED AT

2

CHAIRMAN

TIKOIAN: Can we bring the

3 Coastal Resources Management
meeting of Tuesday,

4 September 14th to order. The
first order of

5 business is approval of the
minutes.

6

So moved.

MR. LEMONT:

7

TIKOIAN: Is there a

CHAIRMAN

8

second?

9

Second.

MR. DAWSON:

10

TIKOIAN: Any comments or

CHAIRMAN

11

discussion on the minutes?
Hearing none, all in

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12 favor signify by saying aye?

13 (VOICE VOTE
TAKEN)

14 (UNANIMOUS)

15 CHAIRMAN
TIKOIAN: Opposed?

16 (NO
RESPONSE)

17 CHAIRMAN
TIKOIAN: So carried. Any

18 subcommittee reports? Any
staff reports?

19 MR. FUGATE:
No, Mr. Chairman.

20 we're here completely devoted
to the SAMP tonight.

21 CHAIRMAN
TIKOIAN: The first order

22 of business is the approval
of the Period 8 Progress

23 Report. Just for Council
members, in the past the

24 subcommittee has approved
those, but I thought it

□

4
1 would be best that you see it
this time and the full

2 Council approve it, as the
subcommittee kind of held

3 its last meeting. So, that
is before you for any

4 questions and ultimate motion
for approval so it can

5 be submitted to EDC.

6 Any questions on the --
unless, Jenn, do you

7 want to just highlight it?

8 MS. MCCANN:
Just that we dedicated

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9 a significant amount of time
during this time period

10 to writing the chapters, and
that the technical

11 researchers were really
dedicated to completing

12 their reports, so that they
could be incorporated in

13 the SAMP. That's it.

14 CHAIRMAN

TIKOIAN: Any questions?

15 MR. GOMEZ:

Yes. General comments.

16 I guess I have a couple of
questions. I read

17 through it, and, you know,
it's basically a 1 July

18 document, so, apparently,
we've done some work since

19 then, but there is an awful
lot of these things that

20 should have been done that
aren't done. There's

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21 even one example in here that
they started at 90

22 percent, by the time I read
the bottom of it they

23 shifted the number to 80
percent, and there is an

24 awful lot of areas in here
where data has been

□

5
1 gathered but not analyzed.
And, there's two or

2 three typos in here, but I
guess you're not

3 interested in that at this
point.

4 Right off the start, on
page, which would be

5 page six of our document,
Page 9

page five of their report,

6 and we get into the
engineering studies in support

7 of the Ocean SAMP, wave and
storm surge

8 characterization, and so we
have a paper that's

9 prepared, and I guess because
Massachusetts doesn't

10 want to release data, we
withdrew that paper, so the

11 question gets to be, you
know, where is it, is it

12 available to us, and who
decided to withdraw it?

13 So, there's a bunch of things
in there like that.

14 Draft report on number two,
Rhode Island Wind Farm

15 structures, foundation study,
draft report submitted

16 on June 20, 2010, you know,
where is it? And, who

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17 did it get submitted to?
Then we have a pretty good

18 section on electromagnetic
data collection and

19 effect on fish and things,
and that's good, but the

20 overall completion is 85
percent, and that's one of

21 the areas the fishermen have
been really concerned

22 about.

23 So, I guess my overall
question is, there is a

24 lot of these areas, when are
they going to, you

□

1 know, when are they really
going to be done, and

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2 have we progressed much since
1 July towards that?

3 There was one area
which is page -- there are

4 a number of areas, I won't go
through them all.

5 It's a kind of general
comments. But, on page 10,

6 we refer to a pending
approval by the management

7 committee, and we're
downloading data and maps and

8 things, and I guess I'm
confused on exactly who the

9 management committee is.
Maybe I shouldn't be.

10 The next page, page 11,
which is item number

11 10, "Overall completion
estimate 95 percent." The

12 last line of that says
revised overall completion

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13 estimate 80 percent, so you
drop down to 90/10

14 syndrome, which worries me a
lot from an engineering

15 standpoint because it is so
typical. You know, you

16 brush off and you say I am
done or I'm almost done

17 and it goes on and on and on.
So, I think there's

18 probably 40 percent of these
that aren't done yet.

19 MS. MCCANN:
Actually, may I

20 respond?

21 MR. GOMEZ:
Absolutely.

22 MS. MCCANN:
Absolute. As you

23 commented, this is from
6/30/2010. We have two

24 months, approximately, to
submit these progress

□

7
1 reports. So, we are a little
behind, but not that
2 bad.

3 Right now all the
technical reports, which are
4 on line, the majority are in
the final stages of
5 being peer reviewed, and
that's why it says 90

6 percent, because what we
wanted is the researchers

7 to go out, we actually
identified external reviewers

8 for each one of these
technical reports. The

9 majority of them, and we
haven't given anybody a

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10 penny to review these, so
sometimes it takes a while

11 to get their comments. Those
comments have then

12 been given to the
researchers, and then those

13 comments are, obviously,
incorporated into there.

14 So, as of 6/30 they were 95
percent completed,

15 however, by now we wanted to
put the five percent

16 because we wanted to make
sure the researchers knew

17 that we were expecting them
to incorporate the

18 comments from the peer
review.

19 MR. DAWSON:
A lot of areas, you

20 know, indicated that they
gathered lots of data and

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21 it hadn't been analyzed, so
that's a little bit more

22 than peer review.

23 MS. MCCANN:
Can you give me a

24 little bit of an example of
that so we can respond

□

1 8
more?

2 MR. GOMEZ:
We have several areas

3 where they did have draft
reports. Much data,

4 number eight, geo-spatial
data mapping support, much

5 data has been assembled in
support, a significant

6 amount of data still needed

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so they still want to

7 gather data.

8

MS. MCCANN:

This is the

9

Environmental Data Center,
and they're the ones who

10

produced all of the maps that
you see that reflect

11

the data. So, I think, you
know, even yesterday

12

they were creating maps for
us to help us understand

13

what percentage of the areas
are protected. For

14

example, 70 percent of the
areas are protected in

15

State waters, and what is it,
50 something are

16

presented in -- 51 percent in
the whole Federal

17

area. So, the Environmental
Data Center group are

18 still helping us to analyze
that data in response to

19 some of the public comments.
We've had comments

20 where the Ocean SAMP is not
protecting areas, so we

21 had to ask the Environmental
Data Center to do this

22 analysis with the existing
data.

23 When did you ask them to

MR. GOMEZ:

24 do that?

□

9
1 within the past few

MS. MCCANN:

2 weeks.

3

MR. GOMEZ:

Yes.

4
They've been very

MS. MCCANN:

5 responsive.

6
I think the comment is

MR. FUGATE:

7 referring to, is they're one
of the repositories of

8 the data. The data that's
being collected is still

9 streaming in to be added into
the repository, and

10 then all data will be stored
at the Pell Library and

11 available to the general
public at that point for

12 access. So, they will be
able to access the entire

13 data sets that are available.
So, the consolidation

14 of the data is what this is
referring to.

15
Is that wind data on

MR. GOMEZ:

16 page six, paper withdrawn, is
that available, and

17 when you say withdrawn?

18
Page six.

MS. MCCANN:

19
Page six, item A, the

MR. GOMEZ:

20 last sentence. Yes, it is,
it is. You know, we

21 withdrew a paper that's very
important to this

22 study. I'm not sure what
withdrawn means. And, I

23 think it gets back to the
issue of the Federal water

24 issue versus the State issue,
and later I guess when

□

10
1 we get into the comments that
people have sent in,

2 there's a lot of good
comments, which --

3 MR. SULLIVAN:
Something like that

4 probably, because most of my
life has been in the

5 academic world, I interpreted
that as withdrawn from

6 a scientific publication
process because a source of

7 the data said you can't use
it there, and which

8 means the paper still exists
but it can't go to

9 scientific press, and, so,
what I would urge you to

10 do, and I have some of those
same kinds of questions

11 you're raising, would be to

try and create an

12 orderly list, some of these
things, as Jenn has just

13 explained, if it's the 90
percent, it's in the final

14 report. Some of the data
that you speak to, at

15 least in terms of GIS, I
don't ever expect it to be

16 fully done, because each
year, as you learn, there

17 will be new data layers that
go into that general

18 database. So, I'm not, you
know.

19 MR. GOMEZ:
well, and I'm looking

20 through here, but there's
others that have been

21 waiting for the interns to
analyze the data.

22 MR. SULLIVAN:
Yes.

23
Then I'm seeing on this

MR. GOMEZ:

24 page 10, item number one in
the middle of the page,

□

11
1 "Prepare typographic products
and hard copy," but

2 documents provided, and we're
talking about ad hoc

3 maps. why are we using ad
hoc maps? Then I had to

4 question on the management
team, and then --

5
The management team is

MS. MCCANN:

6 made up of, Grover, is the
lead, and then myself --

7

MR. GOMEZ:

Are those the people

8 that are listed in the front?

9 MS. MCCANN:

And Sam Deveau, and

10 then we have two senior
advisors, one is Malcolm

11 Spaulding, so that's the
management team.

12 MR. FUGATE:

The ad hoc maps that

13 they're talking about is the
one that Jenn just

14 talked about, they're
preparing maps in response to

15 our requests that keep on
flowing in. We had to

16 prepare several maps for the
Massachusetts

17 presentations that we have
coming up, blowing out

18 the area, for instance, to
now take in Nantucket and

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19 Gay Head so they can see, the
Massachusetts

20 residents can see the
relationship between those

21 islands to the Ocean SAMP.
So, there are maps that

22 are constantly being prepared
by the Data Center to

23 deal with the needs that are
coming in from the SAMP

24 team on a daily basis.

□

12

1 MR. GOMEZ:
Okay. On page 11, the

2 wind farm stream study, and
we're noting that the

3 effort was extended into the
mapping areas in

4 Federal waters, overall
completion 80 percent?

5
That's right.

MR. FUGATE:

6
thought that was part

MR. GOMEZ: I

7 of the job from day one, all
of that mapping.

8
They are mapping

MR. FUGATE:

9 additional areas within the
Federal water areas that

10 we were asked to look at as
part of the RFI process,

11 coming out of the Governor's
office. So, there's

12 additional money that has
gone into that project to

13 map additional areas as part
of the RFI process, so.

14
The item number 12,

MR. GOMEZ:

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15 which is spatial distribution
and abundance, and

16 we're talking areas, that is
an example of an

17 overall completion estimate
of 95 percent, that's on

18 page 13 of our document, page
12 of the submission,

19 and item number 12 is, you
know, we have conducted a

20 preliminary analysis and now
we have a post doc

21 working on the data analysis,
and to me that's not a

22 review of the report. It
says 95 percent. It says

23 there is a significant amount
of work that still has

24 to be done. Collecting the
data is, you know,

□

13
1 that's fine, we went out and
did a lot of data
2 collection and that was all
great, and now we are
3 still just doing the analysis
on it. You know,
4 that's just kind of the play.
I get through here, I
5 get nervous. I see so many
that are not complete.

6 MR. FUGATE:
well, there are three
7 primary data sets that we've
been asked to look at
8 in terms of expanding their
coverage for the RFI
9 area. There's the
geophysical surveys, there are
10 abient studies, so, hence it
explains the additional

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11 birdcage study that's being
collected and the

12 fisheries study. Again,
there will be additional

13 fisheries work that's been
conducted as part of the

14 geophysical and the benthic
mapping that's going to

15 be occurring. So, that's \$2
million that was added

16 in, that's flowing through
those budgets.

17 MR. GOMEZ:
That's my question.

18 That's part of it. That was
one of my questions,

19 whether the two extra monies
that we picked up was

20 part of what I'm seeing
reflected here in some of

21 these.

22 MR. FUGATE:
It would appear that

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23 what they've done is adjusted
their targets, their

24 estimates to reflect 92
million. Those were the

□

14
1 three study areas that were
being hit with that.

2 MR. GOMEZ:
As we were going along,

3 it looks like we were getting
the data, that people

4 were out at sea and doing
paper research and all of

5 that, and then I --

6 MR. FUGATE:
We did that. There was

7 an area that was selected.
The geophysical surveys

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8 and the fisheries studies
were completed. We were

9 asked to look at additional
areas beyond that, and

10 for the RFI process to see if
there were additional

11 suitable areas.

12 MR. GOMEZ:
Is that the push that I

13 see mentioned, push into
Federal waters, because I

14 thought we were doing that
day one.

15 MR. FUGATE:
We are doing that, and

16 we have asked to look at
additional areas in

17 addition to the ones we've
identified. So, that's

18 what the extra money is for,
and the extra studies

19 is to look at these

additional areas.

20

MR. GOMEZ:

Are they still in the

21

areas, you know, we were
saying this is the SAMP

22

area?

23

MR. FUGATE:

It's within the SAMP

24

area and some of it has been
asked to extend beyond

□

15

1 the SAMP area with sort of
the geophysical work.

2

MR. GOMEZ:

That's fine. I'm just

3

expressing my concerns.

4

MS. MCCANN:

I also think it's you,

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5 and I know it is reflected in
this appendices, but

6 if you went to the technical
report that these

7 individuals produced on line,
they do have analysis

8 based on the staff
collection.

9 MR. GOMEZ:
I've gone through some

10 of them, and through the
process I've been

11 relatively happy with what
I'm seeing, and all of a

12 sudden I'm getting to the
point that this is

13 supposed to be wrapped up and
I still see a 90/10

14 analysis.

15 MR. FUGATE:
There will be studies

16 that will be ongoing well

into 2011 into the

17 beginning of 2012, so.

18 MR. GOMEZ:
That does or does not

19 fold back into our SAMP?

20 MR. FUGATE:
It will eventually fold

21 back in, but it wasn't
required for us to draft a

22 SAMP.

23 CHAIRMAN
TIKOIAN: Can I just ask.

24 This was a Period 8 report,
correct?

□

16
1 MS. MCCANN:
Correct.

2

CHAIRMAN

TIKOIAN: So, what do you

3 perceive to be the final, 9,
10, 11? 4 when do you

4 see the final?

5

MS. MCCANN:

I think we have one

6 more. We got -- no,
actually. 7 we did -- we got a

7 no cost extension. All the
researchers are

8 practically zeroed out on
their accounts for the

9 funding from the EDC.
Remember, we have DOE funds

10 as well, which are reflected
in this budget as well.

11 So, basically, all of the
researchers have very

12 little funds in their
accounts to finish it up,

13 because they're done with
those studies, the studies

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14 that they were committed to
doing. Again, it is

15 very confusing because
additional funds were added

16 to expand and enhance the
studies that they started

17 with. So, it is confusing.

18 Now, as you can see,
we're still here and it's

19 past August, and so we had
asked for a no cost

20 extension from EDC. So,
basically, we can spend our

21 funds out until the end of
December. So, really,

22 the final report will be
after December, once the

23 URI system allows us to, you
know.

24 CHAIRMAN
TIKOIAN: It will be after

□

17
1 December, or before the
period ending December 31.

2 So, you'll have to wait for
the period to end to

3 generate?

4 MS. MCCANN:
Correct.

5 CHAIRMAN
TIKOIAN: So, you see two

6 more?

7 MS. MCCANN:
Or less.

8 CHAIRMAN
TIKOIAN: Because it will

9 be by quarter?

10 MS. MCCANN:
Yes.

11 CHAIRMAN
TIKOIAN: So, you will have

12 another one coming 9/30.
December 31 will

13 technically be 100 percent
across the board?

14 MS. MCCANN:
Yes. Oh, for sure, for

15 sure.

16 MR. FUGATE:
Except for those

17 studies that the additional
areas that we've been

18 asked to look at. They will
be extending out into

19 the beginning of 2012.

20 CHAIRMAN
TIKOIAN: I guess the

21 concern in what I'm hearing
is, how are we going to

22 adopt a final plan if you
have studies continuing?

23

MR. FUGATE:

Because there will be

24 studies to feed the SAMP even
after the SAMP is

□

18
1 adopted. So, it is a process
that could actually,

2 continuing to gather
knowledge and add into the SAMP

3 itself. These were areas
that we were asked to look

4 at as part of the RFI
process, that the Governor's

5 office had been looking for
Federal leasing, and,

6 so, there were additional
areas to gather data on to

7 feed into a Federal process
at some point.

8

CHAIRMAN

TIKOIAN: Do you think it

9

would be appropriate perhaps
that by the next

10

meeting, when we ultimately
vote on this, you can

11

give us a list of those areas
that you deem to be

12

studied further, and how
those particular impacts,

13

obviously, depending on the
results of those

14

studies, may cause a change
in the SAMP, an

15

amendment to the SAMP down
the road, would that be

16

fair to say?

17

MR. FUGATE:

Okay.

18

CHAIRMAN

TIKOIAN: Would that be

19

fair to say?

20
I don't think it would

MR. FUGATE:

21 cause necessarily a change to
the SAMP, no. It may

22 refine some of the maps
within the SAMP, but it

23 shouldn't change the policies
of the SAMP.

24
TIKOIAN: Director.

CHAIRMAN

□

19
1
Thank you,

MR. SULLIVAN:

2 Mr. Chairman. Just to be
clear, Jenn, the way you

3 worded, and having been there
for a long time,

4 you've made it pretty clear
Page 41

that the research

5 community had exhausted their
funds.

6 MS. MCCANN:
We are getting close to

7 it. For the, excuse me, for
the EDC funds.

8 MR. SULLIVAN:
So, having said that,

9 can you also affirm, and I
think this goes somewhat

10 to the point I think most
raised by Mr. Gomez, if

11 we've drawn down all of the
funds, can we also

12 create a parallel accounting
for their tasks? Are

13 tasks done 95 percent, 100
percent? And, the way

14 this is written for me is
particularly hard to

15 reconcile it to the original
proposal and say, all

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16 right, the original work is
complete, the budget

17 account, the scientific
commitments met, and then

18 we've modified to add
additional in these areas, and

19 what would be most
particularly helpful to me would

20 be to see an accounting just
that way, that takes

21 the original task, the
original budget, then shows

22 modifications by work
product, so that we can judge,

23 you know, this Council is
obligated, we were all

24 obligated to have delivered a
product by now, then

□

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20
1 there was an extension, and
what I hear now causes
2 me to leap ahead and say,
well, you know, and
3 perhaps others to hear, well,
this damn thing will
4 never be done, and I think it
can be completed as a
5 document, but like any
strategic plan, shouldn't
6 ever be considered fixed
because you continue to
7 add, but, you know, for eight
million bucks, I want
8 to show people what they've
gotten, how we have
9 learned, what are the new
questions asked, how those
10 were funded and bring it to a
much clearer picture,
11 and for me perhaps, a lot of
times in an engineering

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12 world it's prepared and work
flow charts and a

13 comparable financial budget,
trying to find a way to

14 portray it like that would be
much more helpful to

15 me, because otherwise I'm
getting a sense of baffle

16 and snow and obstruficate, I
am not getting a clear

17 picture of where we are on
target, and I know my

18 colleagues at the university
are always willing to

19 accept more money, and
frequently prepared to say,

20 oh, I can't give you any more
than this because I

21 ran out of money, and the
State's put up with a lot

22 of money here, and they've
got products that should

23 be due and should be
completed for the money

24 granted.

□

21

1 MR. FUGATE:
Those projects, I

2 think, Director, are all
done, except we've been

3 continued to be asked to do
additional work beyond

4 the original document, so.

5 MS. MCCANN:
But we can --

6 MR. FUGATE:
We can prepare a budget

7 that shows that.

8 MR. SULLIVAN:
You know, it comes

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9 back to the conversation that
someone had last

10 month, where I continue to
believe one of our output

11 products was supposed to be a
SAMP plan that allowed

12 us to define State and
Federal waters, and so now I

13 grow more concerned about our
ability to deliver all

14 the products people were led
to believe were going

15 to be delivered in a
timeframe that was reasonable.

16 Grover, you're doing
this. I don't know

17 whether you're having a
tremor or whether you're

18 agreeing with me.

19 MR. FUGATE:
No. I understand what

20 you're saying, and I think

that everything that

21 we've said we were going to
deliver we are working

22 on delivering, so.

23 MR. SULLIVAN:
So, for our next

24 meeting could we -- that
would help me. I will turn

□

22
1 to the rest of the Council
members to see whether --

2 MR. FUGATE:
We can prepare that

3 budget document so you can
see the difference.

4 CHAIRMAN
TIKOIAN: Any other

5 questions?
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6

(NO RESPONSE)

7

CHAIRMAN

TIKOIAN: Motion to approve

8

this document.

9

MR. LEMONT:

So moved, Mr. Chairman.

10

CHAIRMAN

TIKOIAN: Is there a

11

second?

12

MR. COIA:

Second.

13

CHAIRMAN

TIKOIAN: Any questions or

14

comments on the motion?

15

(NO

RESPONSE)

16

CHAIRMAN

TIKOIAN: All in favor?

17

(VOICE VOTE

TAKEN)

18

(UNANIMOUS)

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19
TIKOIAN: Opposed?

CHAIRMAN

20
RESPONSE)

(NO

21
TIKOIAN: So carried.

CHAIRMAN

22
That was under the

MR. SULLIVAN:

23 assumption that we get this
revised accounting

24 system.

□

23
1
TIKOIAN: Yes.

CHAIRMAN

2
Thank you.

MR. SULLIVAN:

3
TIKOIAN: Today's hearing,
Page 50

CHAIRMAN

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4 obviously, opens up the SAMP
in total for questions

5 again, but before the Council
are a couple of

6 documents that I think we
also would like to have

7 public comment on.

8 First of all, there are
two documents from

9 URI, and I suspect from the
team, one is on

10 recommended changes for
substantive changes and

11 recommended changes for
technical changes. And, the

12 memo on technical changes,
correct me if I'm wrong,

13 team, is kind of grammar
changes or misspellings and

14 things of that nature, but
the substantive are more

15 a result of comments you

received and

16 recommendations made to the
body, is that correct?

17 MR. FUGATE:
That's correct. The

18 technical changes contain --
there are grammar

19 changes, those types of
things. There are changes

20 that are occurring because
the researchers have

21 corrected or updated
information as a result of

22 their research and are
updating the SAMP document as

23 a result of that, or there
are Federal entities that

24 better define what they see
as additional changes

□

24
1 that are necessary to reflect
Federal mandates.

2 CHAIRMAN
TIKOIAN: And the second

3 thing I'd like to mention,
and if discussions

4 necessary, with regards to, I
guess through counsel

5 we've given the Executive
Director a directive to

6 come up with some planning
process to educate staff

7 on the SAMP or come up with
some permitting process,

8 and I guess the question I
have is, all applications

9 with respect to renewable
energy or any Type 6

10 construction associated
within the SAMP area will

11 come to this Council for

public hearings, there will

12 be no administrative assents?

13
That's correct.

MR. FUGATE:

14
TIKOIAN: So, that will be

CHAIRMAN

15 100 percent, so as a result
of this hearing the

16 public will have input?

17
That's correct.

MR. FUGATE:

18
TIKOIAN: Did I leave

CHAIRMAN

19 anything out on that?

20
No. The only thing

MR. FUGATE:

21 that would still be eligible
are the Category A's

22 that are inside the 500 feet,
but that's not part of

23 the Ocean SAMP.

24

CHAIRMAN

TIKOIAN: what is an

□

25

1 example of that?

2

MR. FUGATE:

There might be, for

3

instance, an uploading application that's part of an

4

existing marina permit, that's coming in as part of

5

a Category A review, that's permitted under the

6

current program. It would still continue to be

7

permitted as a Category A.

8

CHAIRMAN

TIKOIAN: what will be

9

things that potential assents

that would be required

10 for testing for renewable
energy, what would happen

11 on that?

12 MR. FUGATE:
If there are structures

13 involved, those typically
come to the Council, but

14 if it is buoys and those
types of things that are

15 temporary placements, those
in the past have been

16 handled administratively.

17 CHAIRMAN
TIKOIAN: I mean, I have no

18 objection to that, but I
think, at a minimum, things

19 like that are done
administratively, at a minimum

20 can you brief the Council as
to those administrative

21 approvals that were taking
Page 56

place so that way the

22 Council is aware that those
administrative assents

23 were issued?

24 MR. FUGATE:
Sure.

□

26

1 MR. SULLIVAN:
If I may,

2 Mr. Chairman. It will be
helpful whether we did --

3 I'm not so interested in oral
briefing on each, but

4 if we had a, you know, each
packet the Executive

5 Director kind of monthly
report that just listed

6 those with the information,
Page 57

that would be of greater

7 value to me.

8 CHAIRMAN

TIKOIAN: Okay. Is

9 everybody okay with that?
Grover, are you okay with

10 that?

11 MR. FUGATE:

Yes.

12 CHAIRMAN

TIKOIAN: So, let's start

13 off with, Jenn, I think the
easiest way to start

14 here is to open up the floor
to your document dated

15 September 14th. Do I have
the right date?

16 MR. FUGATE:
Right.

17 CHAIRMAN

TIKOIAN: which is the

18 substantive change?

MR. FUGATE:

19
Right. Mr. Chairman,

20 as you indicated, there are
two documents. The one

21 thing that we should note is
that both of these

22 documents modify and
supersede the document that you

23 have on the 24th, and they
are essentially

24 comments that we received up
until that point in

□

27
1 time and changes that are
recommended based on those

2 comments that we received.
The comment period

3 closed here September 9th

formally, and we received

4 close to, if not, in excess
of 100 comments, 100

5 pages, 430 comments, that we
are now going through.

6 Those packets have been
distributed to the Council

7 members, in terms of the
comments, and we will be

8 preparing responses to that.

9 what we thought might
be useful for the

10 Council's deliberation on the
12th is continue to

11 have these two separate
formats of substantive

12 changes, or public comment
responses, I should put

13 it that way, and then
technical changes, and we will

14 just add into those documents
the comments that

SEMI91410-2

15 we've just received as a
result of the formal

16 comment period in the SAMP,
so that the Council

17 would still receive two memos
on October 12th, one

18 dedicated to changes that are
being proposed in

19 response to the public
comments, and then a

20 technical change document,
because we are still

21 receiving Federal comments,
and we will continue to

22 receive Federal comments
until the 12th.

23 CHAIRMAN
TIKOIAN: Let's be clear.

24 We are not going to vote on
anything tonight?

□

28

1 MR. FUGATE:
Right.

2 CHAIRMAN
TIKOIAN: This is all open,

3 so that way if there is any
confusion on something

4 or somebody wants to make a
comment, there will

5 still be another opportunity
to make some changes?

6 MR. FUGATE:
Right. It's your

7 intention to have both of
these memos prepared and

8 up on the website before the
Council vote on October

9 12th. So, both of those
memos will be modified and

10 available so that the people
who have commented will

11 see how we've responded to
them.

12 CHAIRMAN
TIKOIAN: what is your

13 cutoff, because we can't get
it on the 12th or the

14 10th?

15 MR. FUGATE:
Right.

16 CHAIRMAN
TIKOIAN: what would be

17 appropriate, two weeks
before?

18 MR. GOLDMAN:
Mr. Chairman, I met

19 with Grover and Jenn last
week to talk about that.

20 I think as soon as possible
is what the goal is.

21 MR. FUGATE:
We're shooting for next

22 Friday.

23
I keep trying to press

MR. GOLDMAN:

24 for next Friday.

□

29
1
We're trying for that.

MR. FUGATE:

2
Because we have to get

MR. GOLDMAN:

3 it out to the public domain
for them to have an

4 opportunity to review your
comments so that when we

5 have the hearing on the 12th
people can be

6 informed and prepared to
comment on your comments,

7 and the Council members need
to get it as well.

8

CHAIRMAN

TIKOIAN: what is that

9

date?

10

MS. MCCANN:

We are shooting for

11

finishing the new memos for
September 24th. We're

12

shooting for that. As Grover
said, we received 430

13

comments since September 9th,
and we actually have

14

a good handle on them
already. We're feeling

15

confident. However, as
Grover mentioned, we are

16

talking to some of the
Federal agencies to make sure

17

that our suggested changes
reflect what Rhode Island

18

wants and response to the
Federal agency as well.

19

MR. FUGATE:

And there are two

SEMI91410-2

20 divisions within NOAA that we
have not received

21 their comments and still
continue to come in.

22 CHAIRMAN
TIKOIAN: Okay. So, if

23 that's clear, so I guess at
this point is just open

24 this up, and we'll start,
unless the Council members

□

30
1 have questions. Director.

2 MR. SULLIVAN:
I have one. In that,

3 just so that we're all on the
same one, because I

4 had trouble following some of
Don's comments, the

SEMI91410-2

5 memo received to date, dated
today, that says

6 "Detailed Summary of Proposed
Changes," which are

7 responses to comments, there
were a number of them.

8 I just got it tonight, so
bear with me. You start

9 as with, we would usually,
you know, and like page

10 six, it's comments by Eugenia
Marks and responses,

11 and then we get into it, it
seems -- specifically

12 what caught me is the very
last one on page, it

13 starts on page 14, number 12,
in response to public

14 comments and input from the
full Council. Frankly,

15 I have no recollection of the
full Council talking

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16 about the AMI, the areas of
mutual interest, and it

17 would seem that this map
would conflict with what

18 was said last month on use of
the SAMP outside of

19 State waters. So, I need to
know what was the

20 source, as others are
identified, and reconcile this

21 with the statement that we
couldn't.

22 MR. FUGATE:
Director, this goes

23 back to the issue of the fact
that we had a

24 discussion at the last
meeting that the SAMP was

□

1 being done up for State
waters, and then it was a
2 discussion about we spent all
this for Federal
3 waters in addition, and there
was a discussion that
4 our policies are limited to
State waters and
5 enforceable policies. There
was an expression that
6 we at least recognize that
there is an interest in
7 the Federal waters, and in an
area that's been
8 identified between the two
states, of Massachusetts
9 and Rhode Island, has an area
of interest for
10 renewable energy development,
and there's that
11 document, that MOU that's
been signed between the

SEMI91410-2

12 two states exist out there
for people in that, and

13 it's been out in the public
realm for about a month.

14 As part of that we were asked
to have a look at is

15 whether we can incorporate
any reference to Federal

16 waters within the document.
We proposed some

17 language to NOAA. NOAA came
back with this

18 language. This is the only
language they will

19 accept relative to Federal
waters. And, as you can

20 see, it's got a lot of
caveats in it, but it does

21 show the --

22 It's all caveats.

MR. SULLIVAN:

23 TIKOIAN: while you are on

CHAIRMAN

24 this, Grover, you had
mentioned that you had e-mails

□

1 32
 from NOAA that said you
couldn't put this in. Do

2 you have those e-mails?

3 MR. FUGATE:
I have some of them

4 here, Mr. Chairman, yes.
There are several e-mails

5 here.

6 CHAIRMAN
TIKOIAN: I assume these

7 are dated prior to the last
meeting?

8 MR. FUGATE:
Yes. One is actually

SEMI91410-2

9 from back in November,
because Jenn -- I mean,

10 Allison indicated "happy
holidays" back at the end

11 of the memo. But, they say
for any policy that you

12 intend to be enforceable, you
also have to be clear

13 that will apply to State and
not Federal waters

14 within the SAMP area. And
then David Kaiser has

15 indicated in some of his
comments, "I deleted in

16 State waters because it is a
given that that is the

17 only authority that you
have."

18 TIKOIAN: Can we get copies

CHAIRMAN

19 of those? Are those copies?

20 I can get copies of

MR. FUGATE:

SEMI91410-2

21 these and send them to the
Council members.

22 CHAIRMAN
TIKOIAN: Can we see them?

23 MR. FUGATE:
Sure.

24 MR. SULLIVAN:
Instead of killing

□

33
1 trees, can I get them
electronically?

2 MR. FUGATE:
I was going to propose

3 that I have them scanned and
send them to everybody

4 electronically.

5 CHAIRMAN
TIKOIAN: Any other

SEMI91410-2

6 questions on this before I
open this up to the

7 public?

8 (NO RESPONSE)

9 CHAIRMAN

TIKOIAN: Hearing none, I

10 guess at this stage, I think
to keep this somewhat

11 organized, can we just start
off with this document

12 dated September 14th.
There's two of them dated

13 September 14th. The thinner
of the two is the one

14 that -- how can we -- I guess
this is the one that's

15 substantive changes. This
document is --

16 September 14th,

MR. SULLIVAN:

17 thin.

18 CHAIRMAN
TIKOIAN: One of 16 pages.

19 Does everybody have it?

20 MS. KARP:
No.

21 MR. SULLIVAN:
Yes.

22 CHAIRMAN
TIKOIAN: I got it e-mailed

23 to me about a week ago.

24 MS. MCCANN:
Yesterday we put it on

□

34
1 line. We also have copies
here.

2 CHAIRMAN
TIKOIAN: You put this on

3 line yesterday for tonight?

4
well, that's what we

MR. FUGATE:

5 got directions to do, Mr.
Chairman, so.

6
what do you mean

MR. GOLDMAN:

7 direction? we talked about
it.

8
we talked about it and

MR. FUGATE:

9 said that it would be best to
get it out to the

10 Council after we --

11
I didn't give you

MR. GOLDMAN:

12 direction. I said you should
get it out to them as

13 fast as we can.

14
So, it was indicated

MR. FUGATE:

15 that, rather than have the
September 24th memo as

SEMI91410-2

16 the basis, that it would be
these memos that reflect

17 the latest changes, and we
did not get those out

18 until the other -- completed
that draft out. It's

19 very similar. All the
information is contained from

20 the September 24th memo.
It's just been

21 reformatted. There are
technical and response

22 changes. So, this
information has been out since

23 the 24th.

24
You just said

MR. SULLIVAN:

□

1 September 24th?

2 MR. FUGATE:
Right. August 24th.

3 Sorry.

4 CHAIRMAN
TIKOIAN: I guess, there

5 are a lot of changes to this
only -- I didn't

6 compare the two. There are a
lot of changes. This

7 supersedes the 24th memo. Is
there a lot of

8 changes between this memo and
the 24th?

9 MS. SMYTHE:
Mr. Chairman, we took

10 the August 24th memo, we
divided it into two

11 memos, August 24th, the one
that contained

12 proposed changes, the thinner
one, and the one that

SEMI91410-2

13 contains technical, which is
the fatter one. There

14 are a few additional items
that are included here,

15 both in the proposed and in
the technical, mostly in

16 the technical.

17
Are we to assume that

MR. SULLIVAN:

18 the blue is the difference
between August 24th

19 and?

20
No. The blue is the

MR. FUGATE:

21 changes that would be
suggested to the existing

22 policies.

23
Are these a result of

MR. GOMEZ:

24 comments?

□

36

MR. FUGATE:

1
These are results of

2 comments that were received,
and then the other, for

3 instance, the AMI area was
something that was

4 requested at the last meeting
that we tried to

5 address, we put within the
memo. The other changes

6 within the technical
documents that reflect Federal

7 changes that have been
continuing to come in that

8 we've put into the documents.

9 MR. GOMEZ: I
think the problem is,

10 is, that I have -- you know,
Page 80

I understand the blue

11 and black and that type of
thing, but, you know,

12 trying to figure out where
that change resulted

13 from. I think the other
document that you had, not

14 the technical, the
substantive, had some of those

15 identified. This change is a
result of, you know,

16 somebody's input.

17 MS. MCCANN:
well, for example, if

18 you go to page two.

19 MR. GOMEZ:
On the thin document.

20 MS. MCCANN:
On the thin one,

21 Section 140 states that this
was in response to

22 comments from Ames Colt

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requesting the inclusion of

23 this. So, for every single
one we stated

24 specifically what it is for.
In addition, these are

□

37
1 suggested changes. We have
also responded to every

2 single comment we have
received, and those are on

3 line in our comments response
matrix. So, we have

4 put a lot of work into
looking at everybody's

5 comments and trying to get
them out on line as fast

6 as possible. And, as the
memo says, this is as of

SEMI91410-2
September 8th.

7

8
Yes, Mr. Chairman.

MR. SULLIVAN:

9

TIKOIAN: Director.

CHAIRMAN

10

Thank you. Page

MR. SULLIVAN:

11 nine, continuing to ten, and
this is adequate to

12 cross-reference back, and I
know Caroline had asked

13 some questions and comments
on the, you know, carbon

14 footprint, and one of the
things I don't recall in

15 the document as it exists --
and, again, I just got

16 it, I don't recall that we
ever defined carbon

17 footprint or a way to
calculate it, and it's, you

18 know, whether you are dealing
in, you know, in a DEM

SEMI91410-2

19 world, where you're trying to
establish standards

20 for low carbon fuels and
others, the biggest task is

21 defining the matrix, and so
on page 10, where you

22 use the term like carbon
footprint without a

23 cross-reference to how that
is established will

24 cause me some agita. I
understand, I think in kind

□

38
1 of the construct of
Caroline's remarks, how it might

2 have been used, but when you
begin to calculate

3 things, we need some specific
Page 84

language somewhere.

4
well, and as we

MR. FUGATE:

5 indicated here, the carbon
footprints, typically

6 they will vary project by
project, so there is no

7 way for us to calculate it,
unless the project is in

8 the door. So, we didn't
anticipate having to

9 calculate the thing, but just
acknowledge that there

10 are carbon footprints per se
and that they would

11 vary based on the project,
the technology. I mean,

12 there's so many variables
that go into it.

13
I know. And there

MR. SULLIVAN:

14 are some that would want to
limit the discussion,

SEMI91410-2

15 the carbon footprint of a
project as it works, but

16 then there are some like
myself who want the full

17 discussion of, you know, the
construction, the

18 disruption, the
transportation, the servicing, and

19 so, at a minimum, I think we
would need some

20 conditioning language that
describe what we were

21 factoring into it. So, the
Ethanol from corn in

22 Iowa is different from
Ethanol grown in Scituate,

23 and very different than
Ethanol produced in

24 Argentina, and, you know,
it's the same Ethanol, but

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11 everybody on August 24th,
including the public.

12 In addition, we had the
majority of these comments

13 up in the comment matrix
form, up by August 24th.

14 So, even though the memos are
in a different form,

15 these responses have been on
line based, you know,

16 organized by the person who
submitted them since

17 August 24th.

18 CHAIRMAN

TIKOIAN: There is no

19 question you worked hard at
this. There is no

20 question that you have a lot
of comments. I guess

21 what we're coming from is we
just want to totally

22 assure transparency. We want
to try to avoid

SEMI91410-2

23 confusion as best we can and
try to give the public

24 ample time to review the
comments. It is not a

□

40
1 criticism in any regard.
It's just, I guess that's

2 our concern. There is a lot
here. There's no

3 question there is a lot of
information here, and if

4 there is a lot for us, there
is a lot for them.

5
would it help to

MR. FUGATE:

6 indicate that there's many
ways to measure this

7 carbon footprint because we

really did not suggest

8 that we were going to
establish a matrix for carbon

9 footprint?

10 I think if we're

MR. SULLIVAN:

11 going to speak to it or refer
to it, we have to

12 provide some statement of
what we believe would

13 enter into the calculation,
preconstruction,

14 construction, transportation.

15 I understand that.

MR. FUGATE:

16 Associated, you know.

MR. SULLIVAN:

17 I don't think we need to
define it to the minutia,

18 but the categorical areas.

19 I understand. We can

MR. FUGATE:

SEMI91410-2

20 do that.

21 CHAIRMAN

TIKOIAN: Any other

22 questions from Council?

23 (NO

RESPONSE)

24 CHAIRMAN

TIKOIAN: If not, we will

□

41

1 open it up to the public.
There's been a hand

2 raised here.

3 MS. KARP: I

have a bureaucratic

4 scheduling question. I went
on line. I did a

5 Google on Ocean SAMP, and the
Page 91

first thing that came

6 up was Sea Grant, and I
looked at what was on line

7 for Sea Grant and downloaded
those chapters tonight

8 and they are all dated July
23, so I don't think I'm

9 looking at anything that you
are looking at for

10 tonight, which means that --
then I went to the CRMC

11 page, and it's the same
thing, it says, do you want

12 to see the full SAMP chapter
by chapter. They're

13 all dated July 23 at the
bottom. So, in terms of

14 public notice to the public,
and I'm one of those

15 people, I don't -- how do you
hold a public -- is

16 the public hearing on the
July 23 document or on

SEMI91410-2

17 this September 14th document
that you received

18 September 13? what are you
holding a hearing on

19 tonight?

20 CHAIRMAN
TIKOIAN: The whole

21 document is open. I think we
had said that earlier.

22 And, we had said that at the
last meeting actually.

23 MS. KARP:
The trouble is --

24 CHAIRMAN
TIKOIAN: Again, Mr.

□

42
1 Goldman will be a little more
detailed on that.

2
This is now part of that.

MS. KARP:

3
Ms. Karp, the chapters

MR. GOLDMAN:

4 that were out to public
notice were dated July 23rd,

5 and the agreement with the
team was that those

6 chapters, they would not
amend those chapters, other

7 than by presenting
recommendations to the full

8 Council, which are what these
memos are. These

9 memos are based upon the
comments that have come in

10 from yourselves and a number
of others, that they

11 have reviewed, and then once
-- the goal was, that

12 once the comment period
closed on September 9th,

SEMI91410-2

13 they would then respond to
all the comments that had

14 been submitted to the
Council, and that as soon as

15 they had gotten a chance to
respond to all of these

16 comments, they would post
their recommendations on

17 line, which is why I keep
pushing for the date of

18 next Friday, September 24th,
so you can all see what

19 their response is and what
their recommendation is

20 to the full Council, as to
how to deal with those

21 comments. The hope was that
they would get through

22 as many comments as they
could as they came in, and,

23 hence, you have the September
14th document, which

24 is their responses to the
Page 95

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comments that have come in

□

8th. 1 43
 as of, I believe September

 2
Could you help me?

MS. KARP:

 3
Could I just finish.

MR. GOLDMAN:

 4 Okay. And then they are
going to then make

 5 recommendations to the full
Council in terms of a

 6 memo as to which comments
should be incorporated,

 7 which comments should not be
incorporated, what

 8 changes should be made.
That's the document we're

SEMI91410-2

9 trying to get posted for
September 24th. So, you

10 will have September 24th
until the October 12th

11 hearing to review those
proposed changes, and at the

12 October 12th hearing, you,
the public, will be

13 able to respond to their
recommendations to the

14 Council as to what should be
changed and what

15 shouldn't be changed. Then
at the October 12th

16 hearing, after hearing the
public's comments and

17 considering the
recommendations made by the team,

18 the full Council will decide
which comments they are

19 going to incorporate, which
comments they're not

20 going to incorporate, what

changes to make and what

21 changes not to make.

22 MS. KARP: I understand that. But,

23 public hearings normally say here is the full

24 document, which is going out to public hearing, the

□

44
1 total consolidated text, which is going out to

2 public hearing, for the public to comment on. As I

3 understand the process -- and I would actually like

4 to you say how the public hearing process will go,

5 at what point could a member

of the public who has

6 not been here at all these
meetings see a draft

7 document that's the complete
document going out to

8 public hearing?

9 MR. GOLDMAN:
I think you

10 misunderstand the process.
The document that is out

11 to public notice were the
chapters that were adopted

12 by the subcommittee and put
out to public notice by

13 the full Council for the July
23rd hearing. That

14 was the document that the
Council set out and gave

15 notice that it intended to
promulgate as a rule. As

16 part of the rule making
process, there is public

SEMI91410-2

17 comment, and the document can
be changed during the

18 course of that public comment
period and amended

19 during that public comment
period and adopted by the

20 Council. So, I think where
you're mistaken is that

21 if the Council adopts certain
comments, or doesn't

22 adopt certain comments, they
do that as they vote on

23 it, that they then don't take
that, they don't take

24 that amended document and
then renotice it again and

□

1 45
have another hearing.

2
Then here is my comment

3 for tonight. I think that
frustrates the goal of

4 transparency and inviting
public comment, because,

5 as I understand it, there
will not, until perhaps

6 December, be a single,
consolidated document that a

7 random member of the public
could download from a

8 Sea Grant website or a CRMC
website and say, oh,

9 this is what the Council
proposes to adopt as the

10 new rule for the Ocean SAMP
area. I don't think we

11 should be going incrementally
on these little

12 pieces. I have a concern
about that. I think that

13 frustrates public notice.

14 CHAIRMAN
TIKOIAN: I think it

15 frustrates you. That exists
now. That document is

16 on the website now.

17 MS. KARP: It
was as of when,

18 yesterday?

19 CHAIRMAN
TIKOIAN: No. It was as

20 of, back to July 23rd.

21 MS. KARP:
July 23rd. I've got.

22 MR. GOLDMAN:
The changes are being

23 made as a result of the
public comment process, so

24 you're being heard and your
comments are being taken

□

46
1 into account and changes are
being made. I think,

2 however, there has to be an
end to the process, and

3 the end is, tonight you get
to comment on what's out

4 there, you get to comment on
the proposed changes

5 that the staff -- that the
team has made, and then

6 at the October 12th hearing
you get to comment on

7 the other changes, the
remaining changes that the

8 staff is proposing as a
result of your comments, and

9 then at that point the
Council, when it comes to the

10 Council to make a decision as
to which ones they

SEMI91410-2

11 want to incorporate and which
ones they don't want

12 to incorporate, and then the
Council votes on that

13 final document and that is
the final rule.

14 MS. KARP:
So, let me ask you this

15 and then I will be quiet.
This document, this is

16 the first time I've seen it,
so, and I understand

17 some of it, you may have
gotten it yesterday, and

18 I've been to the last three
meetings, so I'm curious

19 what the goal is of a hearing
tonight, since I'm

20 looking at this time for the
first time, which is to

21 say where is the notice to
people who have been

SEMI91410-2

22 attending this process that
there's something new to

23 look at it?

24
The document in front

MR. GOLDMAN:

□

47
1 of you today is September
14th is a continuation

2 of the document that was put
before the Council on

3 August 24th. There are some
additions. So, from

4 what I am understanding,
Jenn, correct me if I'm

5 wrong, the bulk of the
document is that same as you

6 had in front of you on August
24th. So, you had

SEMI91410-2
7 from August 24th until today
to review the
8 August 24th memo and
comments. The September 14th
9 memo, to the extent it has
new information, the
10 Council members are getting
it for the first time, I
11 am getting it for the first
time, you have from now
12 until October 12th to comment
on it. The
13 additional changes that, the
proposed changes that
14 may come in as a result of
comments that came in
15 late, after September 9th, or
they're trying to
16 get through, will be posted
on the CRMC website as
17 soon as possible, which is,
again, why I keep
18 pushing for September 24th,

SEMI91410-2

next Friday. You will

19 then have from September 24th
until October 12th

20 to review that, and then come
here on October 12th

21 and say, I agree with this
change the staff is

22 proposing, I disagree with
the change that the staff

23 is proposing, I agree with
part of it, I disagree

24 with part of it. So, you
will have at least two or

□

48
1 three weeks to review all of
the proposed changes,

2 and that's the process that's
been setup.

3
TIKOIAN: The goal was

4 that -- the problem that we
had before, was that,

5 the Council recognized, was
that the staff is coming

6 in with a new chapter,
amendment to chapters and you

7 were working off an old
chapter and they had a new

8 chapter here and that was
confusing to the Council

9 and to the public. So then
what we came up with

10 was, they wouldn't amend,
they wouldn't change the

11 existing chapter that were
put out to public notice,

12 but they would make their
proposed changes to the

13 document as a result of the
public comment period in

14 a separate memo.

15 MS. KARP: I
see that. But, I am a

16 teacher and I have a lot of
students that want to

17 work on renewable energy, and
if I wanted my

18 students to understand what
the Council is thinking

19 about with respect to
renewable energy, they have to

20 read a July 23 memo, August
24th memo,

21 September 13 memo, September
24 memo and an

22 October 12 memo. That
doesn't help the public.

23 That doesn't help a newcomer
to the process who

24 wants to know what is the
Coastal Council thinking

□

1 49 with respect to any one of
these areas. At some

2 point there needs to be a
single document that goes

3 out to public notice, in my
opinion.

4 CHAIRMAN
TIKOIAN: You have to be

5 fair to them. I mean, they
have over 400 comments.

6 MS. KARP:
I'm not talking to them.

7 I'm actually talking to the
heads of the Council and

8 say, how are you going to
conduct a public process

9 here?

10 MR. SULLIVAN:
I think we have a

11 difference of opinions, we
won't resolve it, and it

12 would be my intention to
leave at 7:45 so I can

13 exercise my right to vote.

14 CHAIRMAN
TIKOIAN: Trish.

15 MS. JEDELE:
Trish Jedele,

16 Conservation Law Foundation.
I'm not going to dwell

17 on what Caroline said,
although I think the point is

18 just that with the next round
that will be

19 responsive to comments
received on September 9th,

20 we will have about, it will
be what, the 24th,

21 we'll have about 18 days to
look at how they're

22 treating our comments, and I
am looking at the

SEMI91410-2

23 documents now to see how
they've treated the August

24 6th and August 12th comments
that we filed on

□

50
1 chapters, if they've treated
those comments

2 additionally to what they did
in the August 24th

3 memo, and I can't tell the
difference between how

4 they treated the August 24th
-- how they treated

5 the comments in the August
24th memo, between that

6 memo and this memo because
it's not -- there aren't

7 different colors or anything,
Page 112

so I scanned through

8 as quickly as I could try to
figure out if they have

9 addressed anything
differently between now and then,

10 and I am assuming that they
haven't yet looked at

11 CLF's September 9th comments.
I think I am

12 correct in that, that those
are not addressed in

13 this.

14 MS. MCCANN:
Correct, you are

15 correct.

16 MS. JEDELE:
So, what I would like

17 to do tonight is just address
several aspects of the

18 comments we filled on August
6th and August 12th

19 that remain unaddressed at

this time, in the hopes

20 that in the memo that comes
out on September 24th,

21 the points that CLF raised
previously will, in fact,

22 be addressed.

23 so, the first big
concern that we raised was

24 not understanding how the
SAMP team was drawing a

□

51
1 distinction between areas
identified as areas of

2 particular concern and then
areas designated for

3 preservation. It does look
like, in this document,

4 that there was an effort to
Page 114

kind of add some text to

5 the SAMP memo that says,
well, we looked at habitat,

6 and we looked at, you know,
other values when

7 drawing this distinction, but
it doesn't address

8 really what the criteria are
between why one area

9 would be an area of
particular concern that is not

10 entitled to heightened
protections in the SAMP and

11 another area would be
designated for preservation

12 and is, in fact, entitled to
these heightened

13 protections in the SAMP, and
the reason that's

14 problematic is because the
SAMP does an excellent

15 job at explaining how
important areas, like glacial

SEMI91410-2

16 moraines are and fishing
nurseries for fisheries,

17 but they do not receive the
same protective status

18 as the diving duck habitat,
which are set aside as

19 areas designated for
preservation, and there's no

20 criteria in this document
that helps us understand

21 why the diving duck habitat
received that status,

22 and the glacial moraines
don't, except from what I

23 can tell in tonight's
document, is just that a large

24 scale offshore development
sited in a diving duck

□

SEMI91410-2

52
1 habitat would destroy it, but
if that were really

2 true, I would suspect for a
large scale, or certain

3 kinds of large scale
development cited in glacial

4 moraine or other types of
human activity, like hefty

5 trawling or trawling with
certain bottom tending

6 trawling gear in those
glacial moraine habitats.

7 So, I think it is important.
CLF will continue to

8 press the SAMP team to really
spell out some

9 criteria, not just so we can
understand right now

10 how you're drawing that
distinction, but so that the

11 Council in the future, when
this particular team

SEMI91410-2

12 goes away, has some
methodology for identifying new

13 areas that we would like to
designate for

14 preservation based on new
data coming in. We have

15 some consistent evaluative
process for that, which

16 doesn't seem to exist right
now anywhere in the

17 SAMP. We continue to press
this point, and it is

18 out of the utmost respect
actually for the fishing

19 community, and not contrary
to that that we don't

20 think that the document
should seek only to protect

21 fishing opportunity as
opposed to address the need

22 for management of sustainable
fisheries, and that

SEMI91410-2

23 there needs to be a better
process spelled out in

24 here about the relationship
that CRMC and DEM will

□

53
1 have with respect to that
critical issue in terms of

2 just good marine spatial
planning, and we think that

3 at this point that's still
lacking.

4 The last point that
I'll make just for

5 tonight, and I don't want to
take up too much time,

6 but, I do think it's
important when we're talking

7 about needing the SAMP for
legal reasons to have

SEMI91410-2

8 enforceable policies so that
we can attain that

9 Federal consistency, that I
continue to express

10 concern over, what I refer to
as the avoidance

11 doctrine that is set out in
the -- let's see if I

12 can give you a specific
reference here. It is in

13 the policies of the Ocean
SAMP, Chapter 11, Section

14 1160.2, sub 2, page 21, and
so the definition that

15 you have right now is,
"Avoidance shall be the

16 primary goal for these areas
for any large scale

17 project. Small scale or
other offshore development

18 may also be required to avoid
these areas. where

SEMI91410-2

19 these areas of particular
concern cannot be avoided,

20 the applicant shall be
required to minimize, to the

21 greatest extent possible, any
impact, and, as

22 necessary, mitigate any
significant impact to these

23 resources, and the applicant
shall be required to

24 demonstrate why these areas
cannot be avoided or why

□

54

1 no other alternatives exist."
we think that this

2 standard is fairly ambiguous,
and we've proposed an

3 alternative to that, so that
the avoidance doctrine

4 be coupled with a citing
standard that establishes a

5 rebuttable presumption, that
less damaging,

6 practicable alternatives
exist for a particular

7 proposed activity or use,
unless clearly

8 demonstrated otherwise, and
these are similar

9 recommendations that we made
for the Mass ocean

10 plan, and that a performance
standard, that any

11 project that's proposed for
an area of particular

12 concern must demonstrate that
the public benefits

13 associated with the proposed
project clearly

14 outweigh the public
detriments to the area of

SEMI91410-2
particular concern.

15
16 of other And, there are a couple

17 recommendations that we made
with respect to

18 strengthening the criteria
that will be used by the

19 Council now and in the future
to determine whether

20 activities and uses will be
allowed within those

21 areas of particular concern.

22 And then, I guess I
lied, there is one other

23 thing, the Fisherman's
Advisory Board, which is

24 important, and we need the
insight and the

□

1 recommendations and the
guidance of those who use

2 the fisheries, and CLF
certainly recognizes that.

3 But, we say in these
comments, and our previous

4 comments, that the role of
that board is very

5 significant. The policies
chapter is infused with a

6 role of this particular
board, in developing

7 negotiated mitigation, in the
context of this

8 avoidance doctrine, which is
concerning, because

9 there are other users of this
ecosystem and there

10 are other values associated
with it in addition to

11 protecting the fisheries and
managing the fisheries,

SEMI91410-2

12 now and in the future;
namely, habitat and ecosystem

13 protection. So, we would
urge the team to consider

14 our recommendation, that some
form of habitat

15 advisory board or seats
within the fisheries

16 advisory board be considered,
because we think

17 that's important and will
help to inform the SAMP as

18 it develops over time. Thank
you.

19 CHAIRMAN
TIKOIAN: Yes, sir.

20 MR.
ESSINGTON: Good evening,

21 Mr. Chairman, members of the
Council. My name is

22 Kevin Essington. I'm
representing the Nature

SEMI91410-2
Conservancy in Rhode Island.

23

24 First of all, I want to
commend you for

□

56
1 getting this so far, Director
Fugate and his team,

2 who have done a really
impressive job of pulling

3 together an incredible array
of information. You

4 all are to be commended in
putting ecosystem-based

5 management as a first foot
forward in this plan.

6 It's something that's been
talked about and talked

7 about for marine planning for
a decade or more now,

SEMI91410-2

8 and it's very encouraging to
see Rhode Island kind

9 of put this in practice. So,
the Nature

10 Conservancy's comments are
made in the spirit of

11 doing the ecosystem-based
management as well as

12 adaptive management where we
act, learn, react and

13 have continuous cycle of
better managing this system

14 for all the uses that are out
there as well as all

15 the other values. So, I'm
not going to go into any

16 great length about the Nature
Conservancy comments

17 that were submitted in
writing on September 9th, but

18 in sort of a parallel to
Tricia's comments, I would

19 like to reiterate what we had

SEMI91410-2

said earlier in our

20 July comments, particularly
about the renewable

21 energy chapter, and
reiterates Tricia's final point,

22 that we strongly encourage
CRMC and the Director and

23 his team to consider some
sort of habitat science

24 advisory board that would
assist with adaptive

□

57
1 management, would assist with
developing the

2 environmental criteria, some
of these performance

3 standards, and many of these
more technical ideas

SEMI91410-2

4 that are being proposed in
the document and probably

5 in many of the comments
letters that you're getting

6 from many dozens of
organizations around the area.

7 So, the Nature Conservancy is
working with Grover's

8 team in trying to get some of
the best data out

9 there, but, as you know, this
is the marine

10 environment, very difficult
to quantify, we're

11 always learning more, and
part of the comments to

12 our original proposal to have
this kind of an

13 habitat advisory board, and
one of these matrixes

14 that have been passed around
is that the joint

15 agency working group would

fulfill that function,

16 and we recognize that the job
would fulfill an

17 important function in many
ways, and some of the

18 best experts on the systems
are in these Federal and

19 State agencies, but we also
recognize that probably

20 a lot of the work of the job
is going to be dealt

21 with managing the dozens of
permitting authorities

22 and other pieces of
legislation that need to happen

23 in order for offshore
development to happen, and,

24 furthermore, some sort of
advisory board that

□

58
1 includes academics and
non-governmental
2 organizations is, essentially
what the Nature
3 Conservancy is proposing, is
very similar to what
4 you see in many of the other
agencies that manage
5 Narragansett Bay, for
example, whether it's the
6 estuary program, estuary
reserve, Bay Commission,
7 they all have very similar,
multi-disciplinary,
8 multi-agency advisory boards
that helps them tackle
9 the dozens of issues that are
going to come up, and
10 they're going to come fast,
as you all know.

11 So, I would leave that
Page 131

on the table, and I

12 would ask you to consider
this other avenue for

13 stakeholder involvement,
because so far the

14 stakeholder involvement in
developing the plan has

15 been be terrific, so it would
be great to carry it

16 forward.

17 CHAIRMAN
TIKOIAN: Thank you. Yes,

18 sir.

19 MR. STONE:
I'm Jonathan Stone

20 representing Save the Bay.

21 Mr. Chairman, thank you
for the opportunity to

22 speak before the Council.
And, the Council, thank

23 you for conducting this. We
also submitted written

24 comments last week. They're
extensive. A number of

□

59
1 them echo what Trish spoke to
and what Kevin spoke

2 to. In particular, the need
to clarify how we

3 designate protected areas,
how we distinguish

4 between one area and next,
and what scientific basis

5 for establishing protection
for some areas and not

6 others. So, rather than
reiterate a couple of other

7 comments made here, I do
think there are ample

8 opportunities for the Council
Page 133

and the team to

9 clarify for the general
public how the SAMP document

10 will be used going forward,
and I would like to just

11 point to a couple of ideas
that we and others have

12 put forth that I think will
generally enhance the

13 public acceptance of the
process, and, also, clarify

14 for developers, any developer
for any type of

15 project, whether it's an
offshore wind farm or an

16 aquaculture project or an
energy infrastructure

17 siting, that there are
opportunities to clarify

18 several things with the SAMP
process. For example,

19 clarify that the SAMP does
not supplant existing

SEMI91410-2

20 Federal and State regulations
and permits. Make

21 that explicit so that the
public has confidence that

22 this is not some sort of end
run or it does not

23 create a separate and
redundant set of permitting

24 steps.

□

60

1 I think that another
one is to make it

2 explicit that the study area
boundary does not and

3 should not limit the zoning
for Federal consistency.

4 This is important because
it's clear from the Nature

5 Conservancy's work, which is
extensive and extremely

6 valuable, that there are
important areas in Federal

7 waters that may be
appropriate for Rhode Island to

8 assert consistency over, that
extend beyond the SAMP

9 area, so making that, don't
get beyond the by SAMP

10 boundary, the study area
boundary, I think that

11 would be a constructive
change.

12 There are a couple of
other items related to

13 the science research agenda,
the publication of

14 data, how the new data is
incorporated in the SAMP,

15 just clarifying how that
process would work going

16 forward, because we all
understand this is a living,

17 breathing process, it doesn't
end at any point in

18 time, and that the
incorporation and public

19 availability of the new data
is going to be

20 important.

21 On one final note, I
guess, in terms of

22 transparency, it gets to
Director Sullivan's

23 comments. There are numerous
examples here where a

24 definition or a glossary or a
flow chart of process

□

1 would be helpful to the
general public. If there is
2 a definition that is referred
to, let's make it
3 explicit, where does that
definition reside? Is it
4 at the Department of
Environmental Management? Is
5 it with some of their State
agency or Federal agency
6 that the SAMP document can
refer to? A permitting
7 flow chart would be very
helpful for the general
8 public. What are the steps
that a developer must go
9 through? Where are the
public opportunities for
10 comment? Where are the
opportunities for written
11 comment and so forth? These
are a couple of the
12 ideas that we and others have

SEMI91410-2

put forward. We

13 certainly put these forth in
our comments last week.

14 I would just, finally,
like to commend the

15 team for an extraordinary
job. It is clear that

16 Rhode Island has established
an exceptional process

17 here and the Council should
be commended for moving

18 the process forward. And all
of our comments, I

19 think it was certainly others
who have spoken

20 tonight, offer our comments
in the spirit of

21 improving what we think is
already a good starting

22 point.

23
TIKOIAN: Anyone else?

CHAIRMAN

24

SEMI91410-2
Yes.

□

62

1 MS. MARKS:
Eugenia marks. Audubon
2 Society. Again, thank you to
the Council and to the
3 staff and to the researchers
for the work that has
4 brought us to this point. I
have written comments
5 with detail, but I will just
highlight some of the
6 ideas here.
7 We're very pleased to
see the ecology-based
8 management, but there's some
concern about how it's
9 defined here, as in a
Page 140

healthy, productive, resilient

10 condition, it provides
services that humans want and

11 need. We think that there's
the need to change that

12 so that it reflects the
ecosystem integrity of

13 itself, or at least to
recognize that there are

14 other users besides human
users.

15 Also, in response to
some of the discussion

16 earlier about the dynamic
quality of this document,

17 the need to have continuous
funding, so we're

18 suggesting that in the goals
area there would be a

19 statement of that fact, that
one of the goals would

20 be to assure funding for the
continuation of this

SEMI91410-2

21 project. I have some
comments that reflect those of

22 Ms. Jedele and Mr. Stone, on
what we mean by

23 mitigation in the whole
process of avoidable impact.

24 I think that section can be
better worded to reflect

□

63
1 current legal applications as
well as to clarify the

2 process.

3 I noted that the
ecology section did not have

4 a paragraph talking about the
Federal agencies that

5 would be worked with on
ecology reviews, and I think

SEMI91410-2

6 that could be a good addition
to the document.

7 We're asking that
dumping be added to the list

8 in development. So, while
development -- dumping

9 sounds contrary to
development, you know, there is a

10 use of this area, there has
been a use for dumping

11 and we think that it should
be recognized and

12 managed. We're asking that
areas of particular

13 concern be included, expanded
to include foraging

14 for seabirds and mammals in a
section here. I know

15 it's noted in other sections,
but I think that it

16 needs to be repeated in this
particular section.

17 We also think that the
definition of a

18 certified agent could be
reworded to better qualify

19 the expertise of the agent.
It now says that this

20 person will use good
engineering judgment, and I

21 don't think that language is
tight enough to really

22 be verifiable, but perhaps
the agent should be a

23 registered engineer or under
the employ - a

24 registered engineer with
appropriate recognized

□

64
1 professional degree and
experience.

SEMI91410-2

2 We also noted that
marine mammals, sea

3 turtles, coastal and marine
birds and recreational

4 birding were among the items
in the checklist and we

5 appreciate that, and we
appreciate the opportunity

6 to comment. Thank you.

7 CHAIRMAN

TIKOIAN: Just, I guess to

8 clarify, I thought we had
tightened up some of the

9 engineering issues that come
of that out of the MMS

10 regs, is that why it was
worded that way?

11 MR. FUGATE:
Yes.

12 CHAIRMAN
TIKOIAN: Some of that

13 language comes out of the
Page 145

Federal regulation, that

14 we mimic in ours, so our
hands are tied on some that

15 language that we use in the
regs.

16 MR. SULLIVAN:
Are we being more

17 restricted or better defined?
I know we cannot be

18 less restrictive.

19 CHAIRMAN
TIKOIAN: That's a good

20 question.

21 MR. FUGATE:
I think we can

22 accommodate Eugenia's request
to the provide for

23 PE's. That is not an issue.

24 CHAIRMAN
TIKOIAN: Yes, sir.

□

65

1 MR.
MATARONAS: Yes. Gary

2 Mataronas, Sakonnet Point
Fisherman's Association.

3 I spoke on Fisherman's
Advisory board. It is my

4 understanding that RIMFC
wants to control that board

5 or be part of that board.
Just some thoughts. We

6 feel that fishermen --

7 CHAIRMAN
TIKOIAN: Is that correct?

8 Let's make sure that's not
correct.

9 MR. SULLIVAN:
You mean Rhode Island

10 Marine Fisheries?

11 MR.
MATARONAS: Right.

12 MR. SULLIVAN:
The two are

13 disconnected.

14 MR.
MATARONAS: Well, anyways, I'm

15 going to read what I have got
anyways. I drove an

16 hour to be here.

17 We feel the Fisheries
Advisory Board should be

18 made up of fishermen and the
Fisheries Advisory

19 Board would be able to
communicate with developers

20 in the SAMP area for much of
the types of projects.

21 The fishing industry knows
the location of fishing

22 activities. Other groups
have no clue about

SEMI91410-2

23 specific areas and times of
fishing activities, and

24 it is timely knowledge about
that. The RIMFC has

□

66
1 very few people that want to
venture out into the

2 SAMP area. It is entirely
appropriate for that

3 group to advise anyone about
the time and location

4 of fishing activity.

5 Now, can I still put a
written comment in on

6 this or?

7 So, this is from the
Sakonnet Point Fisherman

8 Association.

SEMI91410-2

9 It is my understanding
that we, the fishermen,

10 want this board to sit down
with people on certain

11 aspects of the installation
of the towers, to

12 minimize impacts on both
sides. We also will be on

13 site every day. We will be
able to communicate with

14 Deepwater directly with any
problems that may arise.

15 We will also be better suited
for any mitigation

16 that may arise. As everyone
knows, there is always

17 something lost between
communications when it goes

18 through a third party. I
don't believe that RIMFC

19 will have the fishermen's
best interest at heart nor

20 will we be able to respond in
a timely fashion.

21 Thank you.

22 CHAIRMAN
TIKOIAN: If you want, you

23 can give a copy for the
transcript. Actually, give

24 it to the team there so that
way they can have it.

□

67

1 MR. SULLIVAN:
I have a question of

2 Mr. Mataronas. Gary.

3 MR.
MATARONAS: Yes.

4 MR. SULLIVAN:
Just last month I

5 know there was some banter,

if you wish, not

6 conversation, about, and
you've heard tonight

7 Ms. Jedele's and other
comments about the structure

8 of the fisheries advisory. I
would tell you from my

9 view the interest of the
Marine Fisheries Council

10 and this are very different.

11 MR.
MATARONAS: Uh-hum.

12 MR. SULLIVAN:
But, there was some

13 discussion, and I'm receptive
to this, to expand

14 that Fisheries Advisory to
include some of the

15 energy, or some of the other
allied agencies so that

16 it might be more
appropriately named fisheries and

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17 habitat advisory. I thought
you were here for that

18 conversation. So, if my
memory is correct, that you

19 were here, is your statement
tonight indicating that

20 you would reject or oppose
that kind of

21 reconfiguring?

22 MR.
MATARONAS: I don't think I

23 would oppose it, but, as
everybody knows, sometimes

24 it's the CLF and other
environmental organizations

□

68
1 do have conflicts with
fishermen, and on this

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2 proposal they are behind the
fishermen, I understand

3 that, but in order for us to
be prompt in any

4 situation that happens out
there, the fishermen are

5 there all the time, we want
to be able to sit down

6 with Deepwater wind, or
whoever controls the

7 operation out there, in a
timely fashion. Now,

8 whether it would be to get
these bodies together to

9 sit down with us in that
timely fashion or not I'm

10 not sure, but it would
certainly behoove the

11 fishermen to sit with these
and see what the

12 thoughts are and see if we
can come up with a board.

13 That's my personal feeling.

So, we certainly want

14 to work with them.

15
Five of you and four

MR. SULLIVAN:

16 of them.

17
MATARONAS: well, it is better

MR.

18 than five of them and four of
us, that's for sure.

19
I figured you would

MR. SULLIVAN:

20 have objection to that. I
just wanted to test the

21 edges.

22
MATARONAS: I think we can

MR.

23 certainly sit down with the
team and approach that

24 situation.

□

69

MR. SULLIVAN:

1 If I may, given we
2 have the other fisheries, is
my recollection,
3 gentlemen, correct, in that
you are somewhat
4 agreeable to that addition?

MR.

5 DELLINGER: I think we would
6 have to sit down and talk
with the whole group,
7 Director.

MR. GOLDMAN:

8 Can you identify
9 yourself for the record?

MR. SULLIVAN:

10 Lanny Dellinger,
11 Rhode Island Lobsterman's
Association.

12 MR.
DELLINGER: I think we would to

13 sit down with the group, all
of the people that took

14 part in the last two weeks
working with that, get

15 their sense. I wouldn't feel
comfortable to speak

16 on behalf about any changes
to the proposed

17 document.

18 MR. SULLIVAN:
well, I would make

19 the request then, Lanny, that
you have that

20 conversation at the Fisheries
Research Center, and

21 perhaps reach out to Ms.
Jedele and Kevin Essington

22 and Jonathan Stone and others
and see that amongst

23 yourselves you might suggest

a format for that

24 advisory panel, rather than
to have the Council sit

□

70
1 here in some poor pretense or
solinnic wisdom and

2 divide it. So, I would make
that request.

3 CHAIRMAN
TIKOIAN: Yes, sir.

4 MR. SULLIVAN:
Thank you,

5 Mr. Chairman.

6 MR. MCELROY:
Yes. Thank you,

7 Mr. Chairman. My name is
Bill McElroy. I am one of

8 the local fishermen. I spoke

to you, Mike, at the

9 last meeting and expressed
some initial interest in

10 a mixed board, as you
described, but after thinking

11 about it a little more
seriously and hearing some

12 comments back from some of
the fishermen and

13 fishermen groups, and we've
even had an outreach

14 group from some of the
Massachusetts fishermen that

15 would be interested in
joining this board, we think

16 that the function that we see
for the board is not

17 really related to other
interests. The primary

18 concern, as Gary spoke about,
is, you know, concern

19 with fisheries interactions,
including siting of the

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20 location, and the siting that
we're referring to

21 isn't, you know, picking out
a new spot in the

22 ocean, but we think we have
expertise to offer, and

23 we think we've already
offered some of that

24 expertise, in a sense that
the developer and the

□

71
1 builders had suggested that
they need certain

2 characteristics of bottom
composition to be able to

3 have an efficient assembly
process, driving the

4 piles and what have you, so
Page 160

we wanted to be able to

5 sit with them and say, well,
okay, we know that

6 power number 11, if you move
it over, you know,

7 100 yards, you are going to
be in a nice pile of mud

8 and sand, the pile will drive
in easily, and if you

9 don't, you will be driving
into a big rock pile.

10 Those are the kinds of things
that we think that

11 this board can bring to this
process, and while we

12 think that the interest of
the NGO's and all these

13 other organizations should be
represented, we just

14 don't think that the
Fishermen's Advisory Board is

15 the proper board for that.

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16 I think the gentleman
from Save the Bay made a

17 recommendation that there
would be, you know, some

18 sort of a habitat, you know,
committee setup that

19 would probably represent
those interests a little,

20 you know, more clearly, and a
little more

21 forcefully. So, my opinion
is that the Fisheries

22 Advisory Board should stay a
Fisheries Advisory

23 Board. Thank you, Mr.
Chairman.

24 CHAIRMAN
TIKOIAN: Thank you.

□

1 Anyone else? Trish.

2 MS. JEDELE:
I just want to, for

3 clarification, I don't think
it's -- it's not CLF's

4 position that we should be
advising CRMC or the SAMP

5 team on how development
impacts fisheries or that

6 the fishermen are not the
primary contact for that

7 particular point. I think
the point is that these

8 large scale developments have
impact on habitat, in

9 addition to how fishermen
interact with particular

10 development, and the only
role in determining -- and

11 it's not just -- you know,
I'm not just talking

12 about an area, you know, the

appropriate renewable

13 energy zone. I'm talking
about that section.

14 There's sections in the
policy section that refer to

15 areas of particular concern.
So, when a development

16 project is proposed in an
area of particular

17 concern, and according to
this ambiguous standard

18 that now exists it
demonstrates that impacts cannot

19 be avoided and that there is
no other alternative,

20 so they're going to go ahead
and permit it. The

21 only group, according to the
SAMP, that has any

22 input at that point is in
Fisheries Advisory Board,

23 and they have a role in that
respect to determine

24 whether the mitigation plan
that's submitted is

□

73
1 appropriate. And, all I am
suggesting is that areas
2 of particular concern include
habitat areas, include
3 other areas that aren't now
listed in the SAMP that
4 may be brought in, that
aren't simply, or only
5 related to fisheries, they
are also related to the
6 intrinsic value of those
habitat areas, both as
7 spawning and nursery areas
for fisheries, but, also,
8 just as important, habitat

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for the overall health of

9 the ecosystem, and it's CLF's
position that when

10 we're looking at that
negotiated mitigation plan for

11 these particular areas, that
it shouldn't simply be

12 the Fisherman's Advisory
Board that has a role in

13 discussing and considering
whether that plan is

14 appropriate.

15 CHAIRMAN
TIKOIAN: Thank you.

16 Anyone else? Yes, sir.

17 MR. PLATTS:
Ted Platts, Rhode

18 Island Fisherman's
Association.

19 CHAIRMAN
TIKOIAN: I am sorry, can

20 you say your name again?

21
Ted Platts, Rhode

MR. PLATTS:

22 Island Fisherman's
Association. I think there is a

23 duality purpose of the board,
and maybe we're kind

24 of confusing the respective
roles. I agree with

□

74
1 Gary, I think there is a
place for the environmental

2 community on the Fisherman's
Board, the Fisherman's

3 advisory panel to discuss
these issues. Clearly, we

4 need to discuss the fisheries
center before we can

5 take an official stance.

This is my personal

6 opinion. In fact, I welcome
the environmental

7 community's participation,
particularly CLF, because

8 at the Federal fisheries
management level I'm not

9 aware of CLF participating on
any committees, and

10 they've been highly
litigious. So, I would hope

11 that participation would
reduce your litigious

12 behavior. Litigious conduct
isn't generally be

13 conducive to good management
and forward motion of

14 your kind of processes, as we
well know in Federal

15 processes.

16 I think that there are
issues where fishermen

SEMI91410-2

17 are particularly well
situated to offer advice, and

18 that kind of plays preemptly
on the Fishermen's

19 Advisory Board. At the same
time at the New England

20 Council level we have a
habitat committee, we do

21 look at special habitat
environments, and the

22 distinctions you make I think
are well founded, and

23 I think fishermen would also
have a role on the

24 Advisory Board for habitat.
Whether you want to

□

75
1 have two groups, you know,
made up of members from

SEMI91410-2

2 each party, or one big group
with a dual purpose, I

3 think it is up to you all to
decide and consider,

4 but I think there are these
two aspects, and I think

5 there is this mutual
interest, and I welcome

6 cooperation and
participation, because my experience

7 has been in Federal fisheries
management, that we

8 have not had that, and it's
been highly destructive

9 to the process in managing
fisheries at the Federal

10 level. So, that's my
personal opinion.

11 CHAIRMAN
TIKOIAN: Thank you.

12 Anyone else?

13 MS. KARP:

Caroline Karp. I have

14 tried to get in these
materials, and I guess I will

15 start by saying, the staff
has done an amazing job

16 pulling all of this together,
and I don't envy them

17 having to answer comments in
an incremental fashion.

18 I do have a comment about
this Advisory Board and I

19 do want to draw the Council's
attention to language

20 that's in the policy section
where I have the most

21 trouble at the moment, and it
talks about

22 aquaculture leases, and it
says, "Aquacultural

23 leases shall be considered if
the Council is

24 satisfied there will be no
significant adverse

□

76
fishery," and to me that impacts on the traditional
2 one line suggests it's worth editing the entire
3 document to make sure it's consistent with
4 ecosystem-based management principles.
5 As part of the concern with this is to make
6 sure that, whether it is an aquaculture application
7 or renewable energy application, that the applicant
8 is paying attention to ecosystem-based issues, which
9 includes the human

totalitarian, but it includes the

10 ecosystem part as well. It
includes the spawning

11 nursery, pure habitat-based
interest, and that

12 language with respect to
aquaculture I think

13 captures some of these
concerns. In a related

14 matter, I would say that is
the reason I think they

15 should have a joint committee
here, so that it is an

16 ecosystem-based committee
rather than just a

17 fisheries committee, because
I think the kind of

18 problems that are going to be
triggered by these

19 off-shore developments will
effect fishermen, but

20 they will effect the
ecosystem as well, so you might

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21 as well do the ecosystem
based research right up

22 front, and that is to say to
the staff and also to

23 the Council, you can't just
focus on those fisheries

24 that are currently
commercially important,

□

77
1 especially if commercially
important species decline

2 and we start to moving to
other underutilized

3 species, you have to be able
to address

4 noncommercial important
species as well as in this

5 document. Along those lines,
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I don't see this in

6 the policies section, I don't
see the change being

7 made, although the comment
was made, I don't see how

8 the SAMP plan is being
coordinated with the State

9 Guide Plan or other State
documents. So, there is a

10 key example in here where it
says CRMC, all

11 biological assessments shall
be conducted in

12 accordance with CRMC Section
such and such, and it

13 will seem to me that the
State has a lot of

14 experience conducting
biological assessments for

15 major projects, and I think
it's prudent and in the

16 State's best interest to have
the SAMP reference

SEMI91410-2

17 existing policies that would
govern biological

18 assessments instead of
starting them from scratch.

19 One example is the
project that Peter August

20 and Art Gold ran from DEM and
through URI to set up

21 principles, a process by
which protected areas would

22 be identified as areas of
natural resource concern.

23 I don't see a good reason to
have an ad hoc decision

24 made of the process in the
SAMP. I think you should

□

processes that were vetted by

2 multiple agencies, multiple
players, and use those

3 processes as much as possible
to identify protected

4 areas, instead of saying as
new data become

5 available we will identify a
new area. It's much

6 more important to have a
process than details.

7 CHAIRMAN
TIKOIAN: Thank you.

8 Anyone else?

9 MS. KARP:
These are all unique

10 comments actually. Okay.

11 CHAIRMAN
TIKOIAN: Okay. Anyone

12 else? Any questions?

13 MS. KARP: I
have another comment.

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14 Also, in the stuff that was
produced tonight, I

15 don't see any changes with
respect to the

16 technology, the technological
issues that I raised

17 last time with respect to the
submarine cabling

18 issues, for example, and
that's relevant in terms of

19 one item I did see in these
corrections, which say,

20 certain people will be
notified if there is going to

21 be offshore activities. That
list does not include

22 any reference, any kind of
sonic testing of bedrock

23 or anything of the sort. I
think, again, maybe it

24 will be in the next section,
but I think there needs

□

79
1 to be more effort paid to the
engineering aspect of

2 this right up front, or at
least anticipating that

3 there might be open
engineering questions to be

4 addressed. Thank you, Mr.
Chairman.

5 CHAIRMAN
TIKOIAN: Thank you. I

6 guess that's it for comments.
I just, from all my

7 colleagues up here, I really
appreciate and thank

8 all of you for your comments.
It's really nice to

9 see everybody is putting
their best foot forward to

SEMI91410-2

10 make this document the best.
The comments were very

11 productive. I urge the SAMP
team to really look at

12 them in detail and give us
your best recommendation

13 at the next meeting relative
to these comments.

14 If I may just highlight
a couple of comments

15 that Jonathan Stone had
mentioned. I like the idea

16 of a glossary to assure that
there is transparency.

17 I think we did discuss that
once at the subcommittee

18 meeting. I think you brought
that up, David.

19 MR. ABEDON:
Yes.

20 CHAIRMAN
TIKOIAN: There is the flow

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21 chart on permitting, I
thought was good. They are

22 all important, but those kind
of stuck out. I know

23 that transparency is big with
me and I want to

24 assure that happens.
Anything else from anyone?

□

80

1
Mr. Chairman, just, I

MR. GOMEZ:

2 don't know, I'm just a little
bit confused, or maybe

3 not, but Gary's comments
referred to Deepwater and

4 the fishermen wanting to work
with Deepwater.

5 That's a little bit premature
at this point I think.

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6 OSAMP that we're putting
together had a firewall

7 that will keep the generation
of this document

8 separate from potential
contractors, and I think

9 that the permitting process,
where somebody comes in

10 and wants to build a wind
farm, that's where we

11 will -- part of this document
will help guide us

12 through that process, as the
flow chart and things

13 that you're talking about.
So, I am just informing

14 Gary that there is a
firewall. We're not picking a

15 contractor at this time.
We're just trying to

16 figure out what the process
is going to be.

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17 I do like the idea of
the Advisory Board. I

18 think that they're good. I
think maybe two,

19 personally two would be
better than one, just

20 because it will be smaller
and easier to manage. I

21 just wanted to make a point
on the firewall and

22 Deepwater.

23 CHAIRMAN
TIKOIAN: You're correct

24 about that, Council member.
I know that we've

□

81
1 testified before, we set an
oversight committee on

SEMI91410-2

2 this, I made mention to it
publicly, you repeated

3 it. As far as this Council
is concerned, the

4 firewall is extremely
important, and we as Council

5 members will maintain it and
we will have it and we

6 will continue to. I think
that's very important.

7 Your comments are
appropriate.

8 Anything else?

9 (NO
RESPONSE)

10 CHAIRMAN
TIKOIAN: Any questions of

11 Category A or the Enforcement
List?

12 (NO
RESPONSE)

13 CHAIRMAN
TIKOIAN: If not, the next

SEMI91410-2

14 meeting is set -- well, our
next meeting is the

15 28th, the regular Council
meeting, and the next

16 meeting relative to this SAMP
is October 12th.

17 Motion to adjourn.

18 MR. GOMEZ:
So moved.

19 MR. DRISCOLL:
Second.

20 (VOICE VOTE
TAKEN)

21 (UNANIMOUS)

22 (HEARING ADJOURNED AT
7:38 P.M.)

23

24

□

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C E R T I F I C

A T E

I, Rebecca J. Forte, a
Notary Public in and for the

State of Rhode Island, hereby
certify that the foregoing

pages are a true and accurate
record of my stenographic

notes that were reduced to print
through computer-aided

transcription.

In witness whereof, I
hereunto set my hand this

day of Month , 2010.

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REBECCA J. FORTE,

NOTARY PUBLIC

7/15/13

My Commission (RI) Expires on

2/18/11

My Commission (MA) Expires on

□