



# Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

(401) 423-1920 Fax: (401) 423-1925

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

## MEETING NOTICE RI MARINE FISHERIES COUNCIL

November 2, 2020 – 6:00 PM

Virtual public meeting only

Zoom webinar:

<https://us02web.zoom.us/j/81446055312>

Meeting ID: 814 4605 5312

Dial in: 1-929-205-6099

### AGENDA

Agenda item	Recommended action(s)	ePacket Attachment(s)
<b>1. Tonight's agenda</b>	Approval of agenda	• Tonight's meeting agenda
<b>2. Meeting minutes from last meeting (6/1/2020)</b>	Approval of meeting minutes	• Draft meeting minutes
<b>3. Public comment on any matters not on the agenda</b>	Discussion and/or recommendations for future action.	N/A
<b>4. <u>Horseshoe Crab Assessment - update:</u> C. <i>McManus, N. Ameral</i></b>	FYI, discussion and/or recommendations for future action.	N/A

<p><b>5. <u>Proposed regulation amendments:</u></b> <i>J. Lake</i></p>	<p>Provide recommendations to the Director regarding proposed regulations</p>	<ul style="list-style-type: none"> <li>• <b>Part 2 – Commercial Licensing:</b> <ul style="list-style-type: none"> <li>○ <a href="#">Public notice and proposed rule</a></li> <li>○ Correction to section 2.7.5(D)(1)(b)(2) re: incapacity v. medical hardship (section 2.7.5(D)(1)(b)(2))</li> <li>○ Amend activity standard criteria for the issuance of new licenses in instances of incapacity (section 2.7.5(D)(1)(b)(2))</li> <li>○ Clarify activity standard eligibility consistent or the issuance of a new license upon sale of vessel/gear (section 2.7.5(E)(5)(a))</li> <li>○ Add provision for active military for prioritization criteria (section 2.7.5(G)(1)(f))</li> <li>○ Direct Sale Dealer License (section 2.7.9(F))</li> <li>○ Public comments received (re: Direct Sale Dealer license)</li> </ul> </li> </ul>
<p><b>6. <u>Shellfish Advisory Panel meeting minutes (9/2/20):</u></b> <i>K. Eagan</i></p>	<p>Approval of minutes</p>	<ul style="list-style-type: none"> <li>• Meeting agenda/ePacket</li> <li>• Meeting presentation</li> <li>• Draft meeting minutes</li> </ul>
<p><b>7. <u>Aquaculture lease application review (John &amp; Patrick Bowen):</u></b> <i>K. Eagan</i></p>	<p>Provide recommendation to the CRMC</p>	<ul style="list-style-type: none"> <li>• 9/2 SAP ePacket</li> <li>• 9/2 SAP draft meeting minutes</li> <li>• <a href="#">CRMC Public notice 2020-04-037</a></li> <li>• DEM review letter</li> </ul>
<p><b>8. <u>Shellfish harvest schedules in winter management areas:</u></b> <i>K. Eagan</i></p>	<p>Provide recommendation to the Director for proposed changes to schedules</p>	<ul style="list-style-type: none"> <li>• Proposed rule (Greenwich Bay)</li> <li>• Proposed rule (Bissel Cove/Fox Is.)</li> <li>• 9/2 SAP draft meeting minutes</li> </ul>
<p><b>9. <u>SAP Scientific Advisor position:</u></b> <i>C. McManus</i></p>	<p>Determination to fill position and process for seeking candidates</p>	<p>N/A</p>
<p><b>10. Any other matters</b></p>		
<p><b>11. Adjourn</b></p>		

**All RIMFC Meetings are open to the public**

Posted to Sec. of State Open Meetings pursuant to R.I. Gen. Laws § 42-46-6 on October 20, 2020



# Rhode Island Marine Fisheries Council

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## MEETING SUMMARY

June 1, 2020

Zoom webinar virtual meeting

Chairperson: *B. Ballou*

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

Director's office: *J. McNamee*

Division: *C. McManus, S. Olszewski, J. Lake, J. Livermore, N. Costa, C. Parkins, K. Rodrigue, P. Duhamel*

DEM Legal: *J. LoBianco*

Public: Approximately 15 persons a dozen persons in attendance (Zoom webinar).

1. **Approval of the Agenda:** The Chair inquired to any proposed modifications to the agenda. *K. Eagan* asked for a modification to provide for a discussion regarding the Council review process for aquaculture lease applications, to which *B. Ballou* offered to add to the end of the agenda. He then asked for any other modifications or objections to approving the agenda; hearing none the agenda was approved as modified by consent.
2. **Approval of minutes from meeting on March 2, 2020:** Motion made by *M. Rice* to recommend adoption of minutes as drafted; 2<sup>nd</sup> by *D. Monti*. The motion passed 7-0.
3. **Public comments regarding any other matters not on agenda:** The new CRMC aquaculture coordinator, *Ben Goetsch*, introduced himself as *Dave Beutel's* replacement, who is retiring next week.
4. **Responses to public comments made last meeting:** *J. Lake* offered that the Division is currently collecting information to conduct a statewide Horseshoe Crab stock assessment. Once completed, the Division will entertain management proposals on horseshoe crab management.
5. **Noticed regulation amendments:**
  - **Control date(s) for commercial Summer flounder (section 3.10.2(G)), Horseshoe Crab (section 5.10(I)), and Atlantic Rock Crab (section 5.12(A)):** Motion made by *C. Rein* to recommend adoption of the rule as noticed; 2<sup>nd</sup> by *T. Barao*. The motion passed 7-0.

- **Recreational Cod minimum size and possession limit (section 3.20.1(A) & (B)):** Motion made by D. Monti to recommend adoption of the rule as noticed; 2<sup>nd</sup> by M. Rice. The motion passed 7-0.
  - **Recreational possession limit for American plaice, Haddock, Pollock, Yellowtail flounder, and Witch flounder:** Motion made by J. Jarvis to recommend adoption of the rules as noticed; 2<sup>nd</sup> by K. Eagan. The motion passed 7-0.
  - **Sub-period dates for commercial Bluefish possession limit (section 3.18.2(B)):** Motion made by C. Rein to recommend adoption of the rule as noticed; 2<sup>nd</sup> by A. Dangelo. The motion passed 7-0.
  - **Remove circle hook definition from coastal shark section (section 3.19.1):** Motion made by D. Monti to recommend adoption of the rule as noticed; 2<sup>nd</sup> by T. Barao. Dangelo. The motion passed 7-0.
  - **Change “bycatch” to “incidental catch” for Weakfish, Sakonnet River bay quahaug possession limit, and American lobster:** Motion made by M. Rice to recommend adoption of the rule as noticed; 2<sup>nd</sup> by C. Rein. The motion passed 7-0.
  - **Whelk Minimum Size Measurement:** Motion made by M. Rice to recommend adoption of the proposed rules to remove both length and width as minimum size measurement metrics for whelk and replace with a minimum shell height of 2¼”; 2<sup>nd</sup> by A. Dangelo. The motion passed 7-0.
  - **Proposed changes to area descriptions of Shellfish Mgmt. Areas:** Motion made by A. Dangelo to recommend adoption of the rule as noticed; 2<sup>nd</sup> by D. Monti. The motion passed 7-0.
  - **Correct rules for Commercial Jonah Crab consistent with the FMP (section 5.11(B)(1) & (5)):** Motion made by D. Monti to recommend adoption of the rule as noticed; 2<sup>nd</sup> by M. Rice. The motion passed 7-0.
  - **Summer Flounder Exemption Certificate Program:** Motion made by D. Monti to recommend adoption of the rule as noticed; 2<sup>nd</sup> by A. Dangelo. The motion passed 7-0.
6. **Membership application to Shellfish Advisory Panel:** Motion made by M. Rice to recommend approval of Brennan Bica to the SAP; 2<sup>nd</sup> by K. Eagan. The motion passed 7-0.
7. **Shellfish Advisory Panel meeting minutes (meetings on April 29 and May 27, 2020):** Motion made by K. Eagan to approve the minutes of the SAP meetings on April 29 and May 27 as drafted; 2<sup>nd</sup> by D. Monti. The motion passed 7-0.

8. **Aquaculture application 2019-05-061, MacAndrew Napatree Point, Block Island Sound:** Motion made by A. Dangelo to recommend to the CRMC that this aquaculture lease application is not consistent with competing uses engaged in the exploitation of the marine fisheries; 2<sup>nd</sup> by K. Eagan. The motion passed 5-0-2 (C. Rein and M. Rice abstained).
9. **Foster Cove Northern and Eastern Oyster Reserve closures:** Motion made by K. Eagan to recommend to the Director that rules be amended to re-establish the expired closures until January 1, 2025, with ongoing oyster disease testing; 2<sup>nd</sup> by C. Rein. The motion passed 7-0.
10. **Bissel/Fox Island Shellfish Management Area oyster harvest moratorium:** Motion made by K. Eagan to recommend to the Director that rules be amended to maintain the current moratorium until November 15, 2025, with ongoing oyster disease testing; 2<sup>nd</sup> by D. Monti. The motion passed 7-0.
11. **Covid-19 Fisheries Responses:** B. Ballou provided a brief overview of the several initiatives that have been underway since mid-March since the coronavirus crisis began. He offered that efforts have been coordinated with the DEM Division of Agriculture and Department of Health, as well as federal partners and RI's congressional delegation. He offered that conference calls have been held regularly with members of the fishing industry, including recreational, commercial, For-hire, aquaculture, and dealers, to address priority needs and interest, including:
  - Development of safety protocols for the commercial sector in coordination with the Commercial Fisheries Center of RI;
  - Deferment of quarterly payments for berth holders in Galilee;
  - Adjustments to the commercial Summer flounder Aggregate program during the Winter I sub-period;
  - Adoption of emergency regulations for the direct sale of seafood products from fishermen to consumers;
  - Development of guidance for the direct sale of shellfish;
  - Development of guidance to the For-hire industry;
  - Development of an initiative to facilitate seafood donations in coordination with Commercial Fisheries Center of Rhode Island and the Rhode Island Food Policy Council;
  - Coordination on a variety of federal assistance programs in coordination with the Small Business Administration and Unemployment Insurance program of the RI Department of Labor and Training.
  - J. McNamee provided an overview of the NOAA Fisheries Disaster Assistance program and the funds available to Rhode Island. He offered that reporting compliance for the Direct Sale Dealer emergency rules has been very poor and that the program may be jeopardized because of this. Cameron Ennis, Executive Director of the Ocean State Aquaculture Association, offered that the aquaculture industry is in need of funds for seed. Josiah Dodge, commercial fisherman, inquired if funds could be used to assist the commercial fishing port in Westerly.

12. **FYI:**

- **Tautog Conservation Equivalency Proposal:** J. McNamee offered that the ASMFC did not approve the Tautog CE proposal submitted by the Division, and that the matter would not be re-visited this year.
- **Commercial Licensing Legislation:** J. McNamee informed that Council that he has not been informed of any developments in regard to the legislation, and is currently unaware if the legislation would move forward this year. He offered that the Council would be notified of any developments.

13. **Other:**

- Josiah Dodge asked that the issue of history attached to the commercial fishing license be addressed. J. McNamee offered that the matter was in the Division's regulatory queue for consideration. Motion made by M. Rice that to recommend to the Division that a mechanism to attach history to the license be explored, that that a proposal is brought before the Council for consideration; 2<sup>nd</sup> by J. Jarvis. The motion passed 7-0.
- K. Eagan expressed concern raised in recent meetings of the SAP regarding the growing number of aquaculture farms in the state and the increasing size and scope of these farms, and that members of the SAP have expressed concern regarding public notification and the information they are provided, which is comprising their ability to provide an informed recommendation. She offered that fishing grounds are being displaced from lease sites and conflicts are continuing which is resulting in distrust in the process. She offered that she would like to facilitate a discussion to consider improvements to the process at the next SAP with the CRMC aquaculture coordinator in attendance. SAP member J. Gardner offered support for K. Eagan's suggested action. D. Monti offered support and inquired about the status of the Narragansett Bay Special Area Management Plan (SAMP) as a means to guide aquaculture siting in the bay. He offered that recreational anglers have expressed concern and offered support for completion of the plan. B. Ballou noted that Jody King (public) expressed similar interest at the last Council meeting. Cameron Ennis (public) offered support of the Ocean State Aquaculture Association.

14. **Adjournment:** The meeting was adjourned by consent at @ 8:42pm.

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

**250-RICR-90-00-2**

**TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

**CHAPTER 90 – MARINE FISHERIES**

**SUBCHAPTER 00 – N/A**

**PART 2 – Commercial and Recreational Saltwater Fishing Licensing Regulations**

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## **2.1 Purpose**

The purpose of these Regulations is to establish a process for managing marine fisheries, through the development of management plans and programs, licensing protocols, and data collection systems.

## **2.2 Authority**

These ~~Rules and~~ Regulations are promulgated pursuant to R.I. Gen. Laws Chapters 42-17.1, 20-2.1, and 20-2.2, R.I. Gen. Laws § 20-1-4 and in accordance with R.I. Gen. Laws Chapter 42-35.

## **2.3 Application**

The terms and provisions of these Regulations shall be liberally construed to permit the Department to effectuate the purposes of State law, goals, and policies.

## **2.4 Severability**

If any provision of these Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Regulations shall not be affected thereby.

## **2.5 Superseded Rules and Regulations**

On the effective date of this Part, all previous Regulations, and any policies regarding the administration and enforcement of R.I. Gen. Laws Chapters 20-2 ("Licensing"), 20-2.1 ("Commercial Fishing Licenses"), and 20-3.1 ("Marine Fisheries Management Modernization"), shall be superseded, provided that Regulations promulgated by the Director or the Rhode Island Marine Fisheries Council pursuant to R.I. Gen. Laws Chapter 20-3 ("Marine Fisheries Council"), will remain in effect until amended or replaced. Provided, furthermore, that any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Regulations shall be governed by the Regulations in effect at the time the enforcement action was taken or application was filed.

## **2.6 Definitions**

See Part [1](#) of this Subchapter.

## **2.7 General Management and Licensing Regulations**

### **2.7.1 Management Controls**

A. Fishery endorsements:

1. Fishery endorsement categories shall include:
  - a. Lobster;
  - b. Non-Lobster Crustacean: all crustacean species, as well as horseshoe crabs, available for commercial harvest, except lobster;
  - c. Quahaug;
  - d. Soft-shell Clam;  
(1) — Control date: A control date of December 31, 2007 is established for the soft-shell clam fishery in Rhode Island. This control date has been established by the Department for potential future use in establishing eligibility criteria for future access to the fishery.
  - e. Shellfish Other: all shellfish species available for commercial harvest, except quahaug and soft-shell clams;
  - f. Restricted Finfish: scup (only from May 1 through October 31; scup shall be considered non-restricted from January 1 through April 30, and from November 1 through December 31), summer flounder, tautog, striped bass, and black sea bass;
  - g. Non-Restricted Finfish: all species of finfish and squid available for commercial harvest except the five (5) species specified in the Restricted Finfish Endorsement category; and
  - h. Whelk: all whelk species available for commercial harvest.

~~2. — The Department may add, eliminate, or modify fishery endorsement categories; in doing so, the Department will consider the status of each fishery, levels of participation by existing license holders, and fisheries management plans and programs.~~

B. Limits on entry: The Department may establish entrance/exit ratios, lotteries, waiting lists, or other allocation measures as a means for limiting entry consistent with fisheries management plans.

~~C. — Control dates~~

~~1. — The Department may establish control dates, which shall serve as cut-off dates for potential use in establishing eligibility criteria for future access to a fishery.~~

- ~~2. Eligibility criteria may include, but are not limited to, historic participation and/or gear levels as documented by transaction records and official state or federal logbooks.~~
- ~~3. The establishment of a control date is intended to promote awareness of the potential establishment of eligibility criteria for future access to a fishery and to discourage speculative shifting of effort into that fishery. To this end, the Department may give various weighted considerations to those active in the fishery before and after the control date.~~
- ~~4. Establishing a control date does not commit the Department to any particular management regime or criteria for limiting future access to a fishery; however, once enacted, control dates may only be used to limit future access to a fishery in accordance with a fisheries management plan.~~
- ~~5. Control dates may only be established prospectively, unless a retroactive control date is expressly required by federal law, regulation or court decision.~~
- ~~6. A control date of December 31, 2007 is established for the soft-shell clam fishery in Rhode Island.~~
- ~~7. A control date of December 31, 2007 is established for the purse seine and mid-water/pair trawl fisheries in Rhode Island.~~

DC. Exit/entry ratios:

1. Restricted Finfish Endorsement: For every one (1) license, eligible to harvest restricted finfish, namely, Multi-Purpose Licenses and Principal Effort Licenses with a Restricted Finfish Endorsement, that are not renewed, one (1) new Principal Effort License with Restricted Finfish Endorsement will be made available; provided, that if the application of the exit/entry ratio yields a value less than a multiple of three (3) endorsements, the number of endorsements will be rounded up to yield a multiple of three (3) endorsements.
2. Quahaug Endorsement: For every one (1) license eligible to harvest quahaug, namely, Multi-Purpose Licenses and Principal Effort Licenses with a Quahaug Endorsement, that are not renewed, one (1) new Commercial Fishing License with Quahaug Endorsement will be made available; provided, that if the application of the exit/entry ratio yields one (1) or two (2) licenses/endorsements, three (3) licenses/endorsements will be made available.
3. Soft-Shell Clam Endorsement: For every five (5) licenses, eligible to harvest soft shell clam, namely, Multi-Purpose Licenses, Principal Effort Licenses with a Soft-Shell Clam Endorsement, and Commercial Fishing

Licenses with a Soft-Shell Clam Endorsement, that are not renewed, one (1) new Commercial Fishing License with Soft-Shell Clam Endorsement will be made available; provided, that if the application of the exit/entry ratio yields one (1) or two (2) licenses/endorsements, three (3) licenses/endorsements will be made available.

~~E. Annual promulgation of rules:~~

- ~~1. Availability of new licenses and endorsements, harvest and gear levels, regulations affecting gear, times and seasons, area closures and restrictions, quotas and catch or landings limits, limits on entry, control dates and data reporting shall be established by rule as hereinafter described on an annual basis, no later than December 1 for the following year, provided that said regulations may run for longer periods where management conditions permit, or may be adjusted more frequently where such conditions require.~~

### 2.7.2 Management Plans

- A. The management controls set forth in these Regulations shall be consistent with fisheries management plans adopted by the Department pursuant to R.I. Gen. Laws § 20-2.1-9(5). Such plans shall be updated annually, with the draft plan made available for public review a minimum of thirty (30) days prior to any public hearing that addresses commercial licensing.
- B. The management controls set forth in these Regulations shall also be consistent with fisheries management plans adopted by a federal agency or regional body of competent jurisdiction.

### 2.7.3 Emergencies

The Director may promulgate ~~marine fisheries management rules~~Regulations with less than thirty (30) days' notice to RIMFC if and to the extent necessary to comply with federal or regional requirements or to respond to sudden and/or imminent peril or unanticipated developments where delay would likely cause immediate harm to fishery resources or fishers pursuant to R.I. Gen. Laws § 42-35-2.10.

### 2.7.4 Data Reporting Required for Commercial Fishing Licenses

- A. The holder of any type of commercial fishing license or landing license shall be deemed to have consented to providing such fishery-related information as the Director may require. Reporting shall be required on forms or in a format as prescribed by the Director (R.I. Gen. Laws §§ 20-1-20 and 20-4-5).
- B. The Department will provide applicants with applicable reporting methods at the time of license issuance or renewal.

- C. Commercial trips shall be accurately logged in the Paper Catch and Effort Harvester Logbook or entered in an electronic device, prior to offloading. Minimum trip elements shall include, but is not limited to:
1. Trip date
  2. Area fished
  3. Vessel State Registration or USCG Documentation number
  4. Gear type(s) fished
  5. Quantity of gear fished
  6. Fishing time
  7. Species
  8. Pounds or count of species caught
  9. Disposition
- D. Accurately completed copies of the federal Vessel Trip Reports or State reporting forms shall be kept in numerical order on board the vessel dating back to January 1 of the current year and furnished upon request. A vessel shall be exempt from this requirement if the captain of said vessel is currently enrolled in an electronic logbook program. Instead, the vessel must have all records dating back to January 1 of the current year entered electronically.
- E. Due dates for the submittal of paper reports to DMF:
1. For fishing activity occurring in the months of January, February, and March: April 15.
  2. For fishing activity occurring in the months of April, May, and June: July 15.
  3. For fishing activity occurring in the months of July, August, and September: October 15.
  4. For fishing activity occurring in the months of October, November, and December: January 15.
  5. To renew prior to January 15, harvester reports must be submitted for all of December if renewing in January and up to date in December if renewing in December.
- F. Captains enrolled in an electronic logbook program shall submit trip reports not later than forty-eight (48) hours after the end of the trip.

G. Collection and use of data:

1. Data will be collected, managed and disseminated according to the coastwide minimum protocols of the Atlantic Coastal Cooperative Statistics Program (ACCSP).
2. Reported data may be used for management purposes by any properly designated State or Federal agency. Reported data may only be used for enforcement purposes by a properly designated State or Federal agency if specifically authorized by rule.
3. Any data that are released or reported to the public shall be aggregated so as to not identify individual fishers, vessels or dealers.

**2.7.5 Commercial Licensing**

A. Application required: Applications for any license or permit issued under these Regulations shall contain the following information:

1. Full name;
2. Age;
3. Occupation;
4. Residence address;
5. Mailing address;
6. Weight;
7. Height;
8. Hair color;
9. Eye color;
10. The name of any State or jurisdiction in which the applicant's commercial fishing license and/or permit is currently revoked or suspended; and
11. Driver's License number and State of issuance, or other State-issued photo identification card.
12. Applications must be notarized.
13. Reporting method: Paper Catch and Effort Harvester logbook; or, federal Vessel Trip Report (VTR), or e-TRIPS. The Paper Catch and Effort Harvester logbook and e-TRIPS reporting methods cannot be declared together.

B. Other requirements:

1. A license ~~or permit~~ must be signed ~~and sworn to~~ by the party to whom it is issued in order to be valid.
2. Licenses and permits are valid only for the signed holder and may not be transferred.
3. All fees must have been paid for a license or permit to be valid.
4. A lost or accidentally destroyed license or permit will be replaced for a fee of ten dollars (\$10.00), provided that the applicant submits an affidavit to the Department explaining the circumstances of the loss.
- ~~5. A lost or accidentally destroyed Certificate of Exemption or permit issued by the Department for harvest of commercial or recreational marine species shall also be replaced for a fee of ten dollars (\$10.00), provided that the applicant submits an affidavit to the Department explaining the circumstances of the loss, and provided that the holder notifies the Department within seven (7) days of discovery of the loss.~~
- ~~65.~~ Notice of change of address. Whenever any person holding any commercial fishing license shall move from the address named in his or her last application, that person shall, within ten (10) days subsequent to moving, notify the Office of Boat Registration and Licensing of his or her former and current address.
- ~~76.~~ Expiration. Unless otherwise specified ~~in this Title~~, all licenses issued ~~under this Chapter pursuant to this Part~~ shall ~~be annual and shall~~ expire on December 31 annually. It shall be unlawful for any person to fish commercially in the marine waters of Rhode Island ~~waters~~ on an expired license ~~application~~. The grace period set forth in § 2.7.5(C)(5) of this Part shall not extend the validity of any expired license.
- ~~7.~~ Every license and permit holder shall have their license and/or permit in possession at all times while engaged in the licensed activity and shall present the license and/or permit for inspection on demand by the Director. Any person who shall refuse to present a license and/or permit on demand shall be liable to the same punishment as if that person were fishing without a license and/or permit.

C. Application deadlines:

1. The Department will notify all license and permit holders in writing by November 1 that said license or permit, as well as all vessel declarations, expire on December 31 of that year. The Department will also notify all holders of Sixty-Five (65) and Over Shellfish, Commercial Fishing, Principal Effort, and Multi-Purpose Licenses in writing by November 1 that

said licenses, along with any and all applicable endorsements, must be renewed by February 28 of the following year in order to remain valid. Holders of a Student Shellfish License (if renewable) will be notified by November 1 and the license must be renewed by June 30 of the following year in order to remain valid.

2. All notices will be sent by regular mail to the mailing address given on the license or permit holders last license application or change of address form.
3. All applications for Sixty-Five (65) and Over Shellfish, Commercial Fishing, Principal Effort, and Multi-Purpose Licenses, along with any and all applicable endorsements, whether renewals or new issues, must be made in person by 4:00 PM on February 28, or on the first business day following February 28 if that day falls on a Saturday or Sunday or holiday. Applications for a Student Shellfish license, whether renewal or new issue, must be made in person by 4:00 PM on June 30, or on the first business day following June 30 if that day falls on a Saturday, Sunday, or holiday. All license applications shall be made at the Department of Environmental Management, Office of Boat Registration and Licensing, 235 Promenade Street, Providence, 02908. Alternatively, applications must be posted to the same address with a postmark no later than the above-referenced deadline date. Alternatively, renewals must be made electronically, via the Department's online renewal service at <https://www.ri.gov/DEM/commercialmarine/>, by midnight on the above-referenced deadline date. In order to be eligible to apply for a license, an application must be received, postmarked, or electronically filed by the above-referenced deadline date.
4. No Sixty-Five (65) and Over Shellfish, Commercial Fishing, Principal Effort or Multi-Purpose License or applicable endorsement will be issued or renewed after the close of business on February 28, or on the first day following February 28 if that day falls on a Saturday or Sunday or holiday, unless said license or endorsement was applied for consistent with the requirements of §§ 2.7.5(C)(3) or (5) of this Part, or §§ 2.7.5(E)(3) or 2.7.5(F) of this Part. No Student Shellfish License will be issued or renewed after the close of business on February 28, or on the first day following June 30 if that day falls on a Saturday or Sunday or holiday, unless said license or endorsement was applied for consistent with the requirements of §§ 2.7.5(C)(3) or (5), or §§ 2.7.5(E)(3) or 2.7.5(F) of this Part.
5. With the exception of Student Shellfish License applications, applications for renewal of licenses referenced in §§ 2.7.5(C)(3) and (4) of this Part above that are received by the Department or postmarked after February 28 or after the first day following February 28 if that day falls on a Saturday or Sunday or holiday shall be renewed only upon payment of a



late fee in the amount of two hundred dollars (\$200.00) and only during the sixty (60) day grace period commencing on the day immediately following the application deadline. Such renewal applications must be made in person at the Department of Environmental Management, Office of Boating Registration and Licensing, 235 Promenade Street, Providence, RI 02908; or via mail at the same address; or electronically via the Department's online renewal service at [www.ri.gov/DEM/commercialmarine](http://www.ri.gov/DEM/commercialmarine).

D. Demonstration and verification of "Actively Fishing" and "Actively Participating" standards for the issuance of new licenses:

1. Actively Fishing:

- a. To meet the standard of "Actively Fishing", the license holder must have held the license for a minimum of the immediate two (2) preceding calendar years, and demonstrate by dated transaction records, as verified by SAFIS dealer or dockside sales reporting, a minimum of forty (40) legal Rhode Island landings in the preceding two (2) calendar years, pursuant to a valid Rhode Island license.
  - (1) In cases where there are less than forty (40) legal Rhode Island landings, and one (1) or more of those landings is associated with a multi-day trip(s), Vessel Trip Reports and days fished from those trip(s) may be used to meet the standard of Actively Fishing.
  - (2) In cases where dockside sales reports are being used to meet the standard of Actively Fishing, additional documentation may be required, including, but not limited to, the following: receipts pertaining to the sales of lobsters and/or crabs to consumers; income tax returns; trap tag orders; and receipts pertaining to purchases of fuel, bait, and other supplies.
  - (3) In cases where a person holds both a Landing Permit and a Commercial Fishing License concurrently issued by the Department, dated transaction records established in SAFIS which are recorded on a license holder's Landing Permit may be considered for the demonstration or verification of the activity standard.
- b. For the issuance of a new license in accordance with § 2.7.5(E) of this Part, the standard of Actively Fishing must be met, in addition to one (1) of the following conditional criteria, as applicable:
  - (1) Issuance of a new license upon sale of vessel and/or gear: Landings must have occurred in the previous two (2)

calendar years, with landings occurring in one (1) or both of those calendar years.

- (2) Issuance of a new license ~~under a medical hardship condition in instances of incapacity~~: Landings must have occurred in at least two (2) consecutive calendar years ~~from 2006 to the date of the license holder's hardship within the last ten (10) years~~.
- (3) Eligibility for the issuance of a new Commercial Fishing License with Quahaug Endorsement:
  - (AA) Any license holder who meets the standard of ~~“Actively Fishing”~~ and who held a valid Over Sixty-Five (65) Shellfish License as of the immediately preceding year is eligible to obtain a new Commercial Fishing License with a Quahaug Endorsement for the immediate following year, unless assessed a criminal or administrative penalty in the past two (2) years for a violation of the marine fisheries Regulations.
  - (BB) Any license holder who meets the standard of Actively Fishing and who held a valid Student Shellfish License as of the immediately preceding year is eligible to obtain a new Commercial Fishing License with a Quahaug Endorsement for the immediate following year, unless assessed a criminal or administrative penalty in the past two (2) years for a violation of the marine fisheries Regulations.
    - (i) For Student Shellfish License holders who become ineligible to renew their license due to age after holding the license in the immediately preceding year, the license will be considered eligible for the issuance of a new Commercial Fishing License with a Quahaug Endorsement if the activity standard is met during the year the license was held.
- (4) Issuance of a new Principal Effort License with Quahaug endorsement: Any license holder who meets the standard of Actively Fishing and who held a valid Commercial Fishing License with Quahaug Endorsement as of the immediately preceding year is eligible to obtain a new Principal Effort License with Quahaug Endorsement for the immediate following year. For the purposes of the issuance of a new Principal Effort License with Quahaug Endorsement, only

quahog landings may be used to meet the **Activity** standard of “Actively Fishing”.

- (5) Issuance of a new Whelk Endorsement: -Any license holder who meets the standard of “Actively Fishing” and who held a valid Commercial Fishing or Principal Effort License with Quahaug or Soft-Shell Clam Endorsement as of the immediately preceding year is eligible to obtain a new Whelk Endorsement for the immediate following year. For the purposes of the issuance of a new Whelk Endorsement, only quahog and/or soft-shell clam landings may be used to meet the standard of Actively Fishing.
2. Actively Participating: To meet the standard of “Actively Participating”, a crew must be able to demonstrate via one (1) or more affidavits that they have worked as a paid crew for one (1) or more captains licensed in the State of Rhode Island on a vessel that was commercially declared during the period of activity, that had a minimum of forty (40) legal Rhode Island landings in the immediately preceding two (2) calendar years. To be considered a paid crew, persons must demonstrate a valid record of being a paid employee of the vessel owner or person licensed to fish commercially, including either a W-2 form, 1099 form, or paycheck stub from a financial institution for the period of time being used to meet the standard of Actively Participating.
  - a. Affidavits must reflect activity conducted upon a vessel that was commercially declared during the period of activity.
3. A license holder with a Dockside Sales Endorsement who sells all of his or her lobster and/or crab landings dockside may utilize documentation other than dated transaction records to demonstrate fishing activity. Such documentation shall include properly recorded and submitted logbooks, as well as some or all of the following: receipts pertaining to the sales of lobsters and/or crabs to consumers; income tax returns; trap tag orders; and receipts pertaining to purchases of fuel, bait, and other supplies. DEM shall determine whether the documentation submitted by the license holder substantiates the landings and associated fishing activity claimed by the license holder.
4. Any application submitted in accordance with this Part that includes inadequate or improper documentation, such as insufficient number or type of transaction records, invalid transaction records, Vessel Trip Reports, or affidavits that have not been notarized, will not be considered. Fraudulent submittals will be referred to the Department’s Division of Law Enforcement for further investigation and possible enforcement action. Fraud on the part of any existing license holder, including a captain who signs an affidavit in support of a claim of crew member status that turns

out to be false or inaccurate, may result in the suspension or revocation of the license held by the existing license holder pursuant to § 2.7.10 of this Part.

E. Issuance of new licenses; eligibility:

1. New licenses and endorsements shall be made available as of January 1, annually.
2. In cases where a limited number of new licenses or endorsements are to be issued, the Department will accept applications until the application deadline ~~set forth under § 2.7.5(C) of this Part~~, and then issue said licenses or endorsements to eligible applicants by May 15. To ensure fairness in these cases, no new licenses or endorsements will be issued before the application deadline date.
3. License renewals:
  - a. No application for a license renewal will be considered from a person who's had a change in residency status (i.e., change from a Rhode Island resident to non-resident, or from a non-resident to Rhode Island resident) (R.I. Gen. Laws § 20-1-3).
  - b. No application for a license renewal will be accepted from a person who has failed to submit reports in a timely fashion and who has been previously notified regarding the deficiency.
  - c. Persons who possess a valid Commercial Fishing License as of the immediate preceding year are eligible to renew their license for the immediate following year.
  - d. Persons who possess a valid Principal Effort License as of the immediate preceding year are eligible to renew their license for the immediate following year.
  - e. Residents who possess a valid Multi-Purpose License as of the immediate preceding year are eligible to renew their license for the immediate following year.
    - (1) Alternatively, residents who possess a valid Multi-Purpose License as of the immediate ~~prior~~preceding year are eligible to obtain a new Principal Effort License with Quahaug, Soft-Shell Clam, Shellfish Other, Lobster, Non-Lobster Crustacean, Restricted Finfish, Non-Restricted Finfish, and/or Whelk Endorsements for the immediate following year in place of a Multi-Purpose License. Prior to issuance of a new license, the currently held license must be surrendered.

- f. Residents who possess a valid Student Shellfish License as of the immediate preceding year are eligible to renew their Student Shellfish License pursuant to § 2.7.6(E) of this Part for the immediate following year.
  - g. Residents who possess a valid Sixty-Five (65) and Over Shellfish License as of the immediate preceding year are eligible to renew a Sixty-Five (65) and Over Shellfish License for the immediate following year.
  - h. Applicants who obtained a Principal Effort License with Lobster Endorsement in 2008, or any year thereafter, must continue to hold a Lobster Trap Allocation to be eligible for renewal.
4. Issuance of a new license for family members or crew:
- a. A family member or crew who qualifies as a priority applicant pursuant to §§ 2.7.5(G)(2) ~~or (3)~~ of this Part is eligible to obtain a Commercial Fishing License with applicable endorsement(s), or a Principal Effort License with a Restricted Finfish Endorsement, if they are a family member or crew of a license holder who has been actively fishing, and is not renewing their license.
  - b. The applicable endorsement(s) will be in the fishery sector(s) that was/were being actively fished by the current license holder. Prior to issuance of a new license, the currently held license must be surrendered to the Department.
  - c. One (1) new license will be issued for each license surrendered.
  - d. New license fees shall be applicable at the time of application.
5. Issuance of a new license upon sale of vessel and/or gear:
- a. Residents are eligible to obtain a new license involving the sale of vessel and/or gear if the license holder is actively fishing if the license holder had been actively fishing pursuant to § 2.7.5(D)(1)(b)(2) of this Part.
  - b. Prior to issuance of a new license, the currently held license must be surrendered to the Department. -Upon application for a new license, the Department will then issue a new equivalent license to the purchaser.
  - c. The new license/endorsement(s) issued may be at a lower harvest and gear level than the license surrendered where necessary to accomplish the purposes of fisheries management plans.

- d. New license applications made pursuant to the issuance of a new license upon the sale of vessel and/or gear are not subject to an application deadline.
        - e. New license fees shall be applicable at the time of application.
  - 6. Issuance of a new license to resident family members in cases of Incapacity:
    - a. Resident family members are eligible to obtain a new equivalent license in cases of Incapacity.
    - b. Demonstration of the Incapacity shall be required in the form of a death certificate, or a diagnosis and prognosis signed by a medical doctor (M.D. or O.D.).
    - c. Prior to issuance of the new license, the currently held license must be surrendered to the Department. Upon application, the Department will then issue a new license equivalent to the license currently held.
    - d. The family member shall be designated by the license holder, or, if the license holder is deceased, by mutual agreement among surviving family members. If a mutual agreement has not been reached, the administeradministrator or executor of the estate of the deceased license holder shall be eligible for a new equivalent license for not longer than two (2) years during the probating of the estate.
    - e. New license applications made pursuant to the issuance of new licenses to resident family members in cases of Incapacity are not subject to an application deadline.
    - f. New license fees shall be applicable at the time of application.
  - 7. Persons returning from active military service: Persons holding a valid license and/or landing permit when entering active service are eligible to obtain a new equivalent license and/or landing permit held at the time when entering active service, upon presentation of written credible documentation, such as form DD214, demonstrating the continuity of active service since the license had previously been held.
- F. Issuance of a temporary Operator Permit to residents in cases of Medical Hardship:
- 1. Residents are eligible to obtain an Operator Permit in cases of Medical Hardship; such resident shall be designated by the current license holder.

2. Demonstration of the Medical Hardship shall be required in the form of a diagnosis and prognosis signed by a medical doctor (M.D. or O.D.).
3. Prior to issuance of the Operator Permit, the currently held license must be surrendered to the Department and will be temporarily suspended. Upon application for the Operator Permit, the Department will then issue an Operator Permit equivalent to the license held, which will remain valid for the balance of the license year, or until the return to wellness of the incapacitated license holder, whichever occurs first. The Operator Permit will be eligible for renewal once, at a cost equivalent to the cost of the license, upon approval by the Director. Upon the return to wellness of the incapacitated license holder and application for re-instatement of the license, the license will be re-instated upon surrendering the Operator Permit.
4. Applications made pursuant to the issuance of a temporary Operator Permit to residents in cases of Medical Hardship are not subject to an application deadline.

G. Prioritization and lottery for the issuance of new licenses and endorsements:

1. General:
  - a. In cases where a limited number of new licenses or endorsements are available, the Department shall provide priority to applicants as described herein.
  - b. All eligible applicants in each priority category will be issued licenses or endorsements before any licenses or endorsements are issued to applicants in the next lower priority category.
  - c. If in any priority category there are more eligible applicants than there are licenses or endorsements available for issue, those licenses or endorsements will be issued by lottery, unless otherwise specified herein.
  - d. Within each priority category, eligible applicants will be prioritized based on the length of time, in years, they have been actively fishing their license, or actively participating in the fishery as a crew member, on a continuing basis.
  - e. In cases where an applicant has previously surrendered a license to the Department pursuant to the sale of vessel and/or gear, and the applicant has subsequently acquired a new license, the applicant must have held the current license for a minimum of seven (7) years before being eligible to use the activity standard as a criteria for prioritization (as described in §§ 2.7.5(G)(2)(a) and (b) of this Part).

f. Active military and veterans who have been honorably discharged from active military duty may use the immediately preceding two (2) calendar years prior to conscription into the military to meet the activity standard.

2. Priority categories:

a. First priority: First priority shall be provided equally to the following sub-categories:

- (1) Residents holding a Commercial Fishing License who meet the standard of “Actively Fishing” in the same fishery sector for which a new license/endorsement is being sought.
- (2) Residents holding a Principal Effort License who have actively fished their license.
- (3) Resident crew members who have actively participated in the same fishery sector for which a new license/endorsement is being sought.

(AA) If in any of these three (3) sub-categories there are fewer eligible applicants than licenses/endorsements available for issuance, the balance will be evenly distributed to the other two (2) sub-categories. If the selection of qualified applicants cannot be resolved equitably by the initial prioritization and lottery process, and if the number of remaining endorsements cannot be distributed evenly between the remaining categories, the number of remaining endorsements will be rounded up to provide each remaining category with the necessary endorsement(s) required to complete the selection process.

b. Second priority: Second priority shall be provided equally to the following sub-categories:

- (1) Residents holding a Commercial Fishing Licenses, endorsed in any fishery sector, who have actively fished their license.
- (2) Resident crew members who have actively participated in any fishery sector.

(AA) If in any of these two (2) sub-categories there are fewer eligible applicants than there are licenses/endorsements available for issuance, then the balance will be distributed to the other category. If



the selection of qualified applicants cannot be resolved equitably by the initial prioritization and lottery process, and if the number of remaining endorsements cannot be distributed evenly between the remaining categories, the number of remaining endorsements will be rounded up to provide each remaining category with the necessary endorsement(s) required to complete the selection process.

- c. Third priority: Third priority shall be provided to any resident, aged eighteen (18) or older.
- d. Fourth priority: Fourth shall be provided to any non-resident, aged eighteen (18) or older.

H. Appeals of license denials due to Medical Hardship:

- 1. There shall be no right to appeal to the Department of Environmental Management's Administrative Adjudication Division (AAD) for the rejection of any new license applications submitted after February 28, or any license renewal applications submitted after the sixty (60) day grace period, except in the case of a documented Medical Hardship as defined herein.
- 2. The applicant may appeal the denial to the Administrative Adjudication Division for Environmental Matters pursuant to R.I. Gen. Laws § 42-17.7-1 *et seq.* and the procedures set forth in [Part 10-00-1 of this Title](#), Rules and Regulations for the Administrative Adjudication Division.
- 3. The burden of proof shall be on the applicant to demonstrate that he or she meets the criteria for issuance of a license. Such proof shall include written documentation of a diagnosis and prognosis of the Medical Hardship of the license holder signed by a medical doctor (M.D. or O.D.).

**2.7.6 Licenses, Endorsements and Vessel Declarations; Resident:**

- A. Fishery Endorsements: Any Commercial Fishing or Principal Effort License issued to a Rhode Island resident pursuant to these Regulations may, upon demonstration of eligibility by the applicant, be endorsed to allow participation in the following fishery sectors:
  - 1. Non-Lobster Crustacean
  - 2. Lobster
  - 3. Quahaug

4. Soft-shell clam
5. Shellfish Other
6. Non-Restricted Finfish
7. Restricted Finfish
8. Whelk

B. Commercial Fishing License:

1. Applicants must provide proof of Rhode Island residency and pay an annual fee of fifty dollars (\$50.00), plus twenty-five dollars (\$25.00) per fishery endorsement.
2. The holder of a Commercial Fishing License may participate in any fishery sector for which he/she holds an endorsement.

C. Principal Effort License:

1. Eligible applicants must present proof of Rhode Island residency and pay an annual fee of one hundred fifty dollars (\$150.00) which entitles them to fish in a single fishery endorsement category.
2. The holder of a Principal Effort License may participate in any fishery sector for which he/she holds a fishery endorsement.
3. The holder of a Principal Effort License may also obtain a Commercial Fishing License with applicable endorsements to fish other sectors, and/or obtain additional fishery endorsements on his or her Principal Effort License to fish other sectors, if such endorsements are available for any given license year; provided that a license holder may not hold both a Principal Effort and Commercial Fishing License in the same fishery sector. The annual fee for additional fishery endorsements on Principal Effort Licenses is seventy-five dollars (\$75.00) each.
4. The holder of a Commercial Fishing License or a Principal Effort License with a Quahaug Endorsement shall not be required to pay the annual fee for that license if the license holder is at least sixty-five (65) years old as of February 28 of the applicable license year. The license holder is still required to pay all other applicable fees, including but not limited to fees for the Non-Lobster Crustacean, Lobster, Non-Restricted Finfish, Restricted Finfish, as well as all additional Gear, Dockside Sales, and Paper Catch and Effort Harvester Logbook Endorsements on their Commercial Fishing License or Principal Effort License.

D. Multi-Purpose License:

1. Eligible applicants must present proof of Rhode Island residency and pay an annual fee of three hundred dollars (\$300.00).
2. The holder of a Multi-Purpose License mayis authorized to participate in all fishery endorsement sectors.

E. Student Shellfish License:

1. Applicants must present proof of Rhode Island residency and pay an annual fee of fifty dollars (\$50.00).
2. Applicants must be no older than twenty-three (23) years as of June 30 of the license year.
3. Applicants must present proof that they are full-time students in the form of a notarized letter or transcript from the learning institution in which they are enrolled.
4. The holder of a Student Shellfish License mayis authorized to participate only in the quahaug ~~endorsement sector~~fishery.
5. The holder of a Student Shellfish License may also obtain a Commercial Fishing License and/or a Principal Effort License, with endorsements, if such licenses or endorsements are available for any given license year; provided that the holder of a Student Shellfish License may not also hold a Commercial Fishing or Principal Effort License with a ~~q~~Quahaug Endorsement.

F. Sixty-Five (65) and Over Shellfish License:

1. Applicants must present proof of Rhode Island residency.
2. There is no fee.
3. Applicants must be at least sixty-five (65) years old as of February 28 of the license year.
4. The holder of a Sixty-Five (65) and Over Shellfish License mayis authorized to participate only in the quahaug ~~endorsement sector~~fishery.
5. The holder of a Sixty-Five (65) and Over Shellfish License may also obtain a Commercial Fishing License and/or a Principal Effort License, with endorsements, to fish other fishery sectors, if such licenses or endorsements are available and the application requirements are met for any given license year; provided that the holder of a Sixty-Five (65) and Over Shellfish License may not also hold a Commercial Fishing or Principal Effort License with a Quahaug Endorsement.

G. Gear Endorsements:

1. Gear Endorsement categories shall include Fish Trap, Gill Net, Purse Seine, and Mid Water/Pair Trawl.
2. The Fish Trap ~~gear~~Endorsement shall ~~allow~~authorize the license holder to set one (1) or more fish traps in accordance with all applicable requirements of R.I. Gen. Laws Chapter 20-5. The annual fee shall be twenty dollars (\$20.00) per trap location for a three (3) year period. Applicants who possessed a valid Fish Trap ~~gear~~Endorsement as of the immediately preceding year may obtain a Fish Trap Endorsement for the immediately following year, subject to the same terms and conditions in effect as the immediately preceding year. New Fish Trap Endorsement opportunities shall be established by rule, pursuant to fisheries management plans.
3. The Gill Net ~~gea~~Endorsement shall ~~allow~~authorize the license holder to set a gill net in accordance with all applicable Regulations. The annual fee shall be twenty dollars (\$20.00). Applicants who possessed a Gill Net~~gear~~ Endorsement as of the immediately preceding year may obtain a Gill Net Endorsement for the immediately following year. New gill net Endorsement opportunities shall be established by rule, pursuant to fisheries management plans.
4. The Purse Seine and Mid Water/Pair Trawl ~~gear~~Endorsements shall ~~allow~~authorize the license holder to set these gear types in accordance with all applicable Regulations. The holders of Purse Seine and/or Mid Water/Pair Trawl ~~gear~~Endorsements must consent to carry an observer on the vessel and/or on any spotter plane used as part of the operation, per the request of DEM; must report any/all landings of menhaden on a daily basis to the Division of Marine Fisheries; must report beginning, location, and cessation of fishing activities on a daily basis to the Division of Enforcement; and must obtain and have on board charts showing the known locations of fixed-gear clusters, as provided by the Division of Marine Fisheries. The annual fee for each endorsement shall be twenty dollars (\$20.00). New Purse Seine or Mid Water/Pair Trawl Endorsement opportunities shall be established by rule, pursuant to fisheries management plans.
  - a. Control date: A control date of December 31, 2007 is established for the purse seine and mid-water/pair trawl fisheries in Rhode Island. This control date has been established by the Department for potential future use in establishing eligibility criteria for future access to the fishery.
- ~~5. By rule, the Department may add, eliminate, or modify gear endorsement categories; in so doing, the Department will consider the status of each~~

~~fishery, levels of participation by existing license holders, the impact of the gear type on fishing mortality, and the provisions of fisheries management plans and programs.~~

H. Vessel declaration:

1. Every vessel employed in the commercial fishery must be declared with the Department at the time the owner/operator of such a vessel first applies for or subsequently renews his/her fishing license; or if a license has already been issued, prior to that vessel being used for commercial fishing.
2. Each such vessel must be individually and separately declared, on an annual basis, and the required fee paid.
3. The vessel declaration will include the name of the vessel and its owner, its length and horsepower, displacement, registration and/or federal permit number, gear type(s), principal fishery(s), and number of crew.
4. The annual fee for a vessel declaration is twenty-five dollars (\$25.00) per vessel for vessels up to and including twenty-five feet (25') in length, plus fifty cents (50¢) per linear foot for each whole foot over twenty-five feet (25').
5. A declared vessel will be issued decals, which must be prominently displayed on the port and starboard bow, or on the port and starboard sides of the console cabin or wheelhouse, or elsewhere on the port and starboard sides of the vessel such that they are readily viewable. The displayed decals must be updated annually.
6. Declared vessels that are less than twenty-five feet (25') long may obtain a vessel declaration plate upon payment of an additional annual fee of fifteen dollars (\$15.00). The vessel declaration of the declared vessel may be temporarily transferred to another vessel less than twenty-five feet (25') long by affixing the aforementioned plate to that vessel. This vessel declaration transfer shall not exceed sixty (60) days, with one sixty (60) day extension in any given year by permission of the Department.

I. Dockside Sales Endorsement:

1. Applicability: The endorsement shall ~~enable~~authorize the license holder to sell live lobsters and crabs directly to consumers at dockside. Only live lobsters and crabs may be sold under the endorsement. Sales of shellfish and finfish to anyone other than licensed dealers are prohibited.
2. Eligibility: The endorsement shall be available to all Rhode Island license and landing permit holders who are authorized to harvest and land for sale lobsters and/or crabs. With regard to lobsters, such licenses and permits

shall include: Multi-Purpose License, Principal Effort License with Lobster Endorsement, Commercial Fishing License with Lobster Endorsement; and Resident and Non-resident Landing permit. With regard to crabs, such licenses and permits shall include: Multi-Purpose License; Principal Effort License with Non-lobster Crustacean Endorsement; Commercial Fishing License with Non-lobster Crustacean Endorsement; and Resident and Non-resident Landing permit.

3. ~~The purchase of a dockside sales endorsement will ensure that the licensee/permittee receives a paper dockside sales logbook. Dockside sales made pursuant to the Dockside Sales Endorsement must be reported to the Department with a Paper Dockside Sales Endorsement Logbook issued by the Department. -There is no additional fee for this logbook.~~
  - a. All dockside sales reports and reports of no sales activity are due to the Division of Marine Fisheries quarterly.
  - 4b. A licensee/permittee who declared their reporting method as a federal vessel trip report is required to report all dockside sales via the Paper Dockside Sales Endorsement Logbook.
- ~~5. Individuals selling lobsters and crabs under the dockside sales endorsement must at all times possess, and display upon request, a current and proper license or landing permit, as set forth above; and said license or permit must include a dockside sales endorsement.~~
64. Only the licensee/permittee, or a regularly employed crew member of the licensee/permittee, may sell lobsters and crabs at dockside under the Dockside Sales Endorsement. To be eligible to conduct such sales, a crew member must first receive written authorization from the licensee/permittee. Such authorization shall be in the form of a type-written statement, signed and dated by the licensee/permittee that expressly authorizes the crew member to act on behalf of the licensee/permittee with regard to dockside sales. The statement shall further specify: the name of the crew member, the name of the vessel from which the sales are conducted, and the month and year that the crew member began working on the vessel. The statement shall be kept on the vessel and be available at all times for inspection by Department personnel. A crew member who is acting on behalf of a licensee/permittee must comply with all applicable Regulations governing dockside sales, as set forth herein, and the licensee/permittee shall be responsible for any violations of Regulations by the crew member.
5. Licensees/permittees offering live lobsters and crabs for sale at dockside must meet all applicable and current Federal and State Laws and

Regulations governing harvest and possession relating to the species being sold.

- ~~86.~~ Licensees/permittees offering live lobsters and crabs for sale at dockside must meet all applicable and current Federal, State, and local Laws and Regulations governing retail sales operations, including but not necessarily limited to those governing taxation, signage, noise, and hours of operation.
- ~~97.~~ Licensees/permittees offering live lobsters and crabs for sale at dockside may only sell live lobsters and crabs that they harvested, and all sales must be made from the vessel that harvested the product, unless otherwise authorized by the Director.
- ~~408.~~ Sales at dockside may only be to the final consumer – i.e. the individual(s) who will be consuming the product – and no resale of, or commercial transaction involving, the product beyond the final consumer is allowed.
- ~~449.~~ Licensees shall include, on all landing reports and other data submitted to the National Marine Fisheries Service and/or the Department, the lobsters and crabs offered for sale at dockside to the general public.
- ~~4210.~~ The annual fee for the Dockside Sales Endorsement shall be twenty-five dollars (\$25.~~00~~).
- ~~4311.~~ The Dockside Sales Endorsement is not subject to the application deadline provisions ~~as set forth in § 2.6.7(C) of this Part; as such, the endorsement shall be available at any time during the year to holders of current and proper commercial fishing licenses and landing permits issued by the Department.~~
- ~~14.~~ ~~All dockside sales reports and reports of no sales activity are due to the Division of Marine Fisheries quarterly.~~

J. Research Set Aside (RSA) Endorsement:

1. Applicability: The RSA Endorsement shall ~~enable~~authorize the holder to land marine species, for sale, in Rhode Island, in accordance with RSA quota obtained from the National Marine Fisheries Service.
2. The endorsement shall be automatically available to anyone who obtains an Exempted Fishing Permit from the Department, allowing for the harvest and/or landing of RSA quota in Rhode Island.
3. Both the RSA Endorsement and the Exempted Fishing Permit must be obtained prior to the landing of any RSA quota for State quota monitored species in Rhode Island.

4. Upon presentation of an ~~an approved and~~ valid Exempted Fishing Permit from the Department, an RSA Endorsement will be issued.
5. ~~Annual fee: The annual fee for the issuance of an RSA endorsement for State quota monitored species shall be~~ Twenty-five dollars (\$25.00).
6. The RSA Endorsement is not subject to the application deadline provisions ~~as set forth in § 2.6.7(C) of this Part; as such, the endorsement shall be available at any time during the year to holders of current and proper Commercial Fishing Licenses, and Exempted Fishing Permits, issued by the Department.~~

K. Paper Catch and Effort Harvester Logbook Endorsement:

1. Applicability: The Paper Catch and Effort Harvester Logbook Endorsement shall authorize the license holder to use a Paper Harvester Catch and Effort Logbook in lieu of electronic reporting to report catch and effort information. The Paper Catch and Effort Harvester Logbooks ~~s are~~ is issued by the Director.
2. If declared as the reporting method, the Paper Catch and Effort Harvester Logbook Endorsement fee must be paid at the time of application.
3. Paper Catch and Effort Harvester Logbook submissions will not be accepted from a license holder who does not hold the endorsement.
4. Annual fee: Twenty-five dollars (\$25.00).

**2.7.7 Licenses, Endorsements and Vessel Declarations; Non-Resident:**

A. Non-resident fishery endorsements: Any Commercial Fishing or Principal Effort License issued to a non-resident pursuant to these Regulations may, upon demonstration of eligibility by the applicant, be endorsed to allow participation in the following fishery sectors:

1. Non-Restricted Finfish;
2. Restricted Finfish.

B. Non-Resident Commercial Fishing License:

1. Applicants must be at least eighteen (18) years old.
2. The holder of a Non-Resident Commercial Fishing License may participate in either or both fishery sectors for which he/she holds an endorsement, provided that his/her State of residence does not prohibit commercial licensing opportunities for Rhode Island residents in finfish



fisheries for which licensing opportunities are available for residents of that State.

3. The Division of Marine Fisheries shall annually review the Regulations of the States of Massachusetts, Connecticut, and New York to determine whether those States provide Rhode Island residents the privileges referenced in § 2.7.7(B)(2) of this Part. For applicants from any other State, it shall be the applicant's burden to prove that his/her State of residence provides Rhode Island residents the privileges referenced in § 2.7.7(B)(2) of this Part through a certified copy of the relevant Regulation. This copy is to be forwarded to the Division of Marine Fisheries for review and approval a minimum of two (2) weeks before a license may be issued.
4. ~~The a~~Annual fee: for a Non-Resident Commercial Fishing License shall be One hundred fifty dollars (\$150.00) plus fifty dollars (\$50.00) per endorsement.

C. Non-Resident Principal Effort License:

1. Applicability: The holder of a Non-Resident Principal Effort License is authorized to harvest, land and sell any species of fish for which he/she holds the appropriate endorsement(s) – Restricted and/or Non-Restricted Finfish.
- ~~2.~~ Eligibility: Eligible applicants must demonstrate that their State of residence complies with § 2.7.7(B)(2) of this Part regarding treatment of Rhode Island residents.
- ~~2.~~ ~~The holder of a Non-Resident Principal Effort License may harvest, land and sell any species of fish for which he/she holds the appropriate endorsement(s) – Restricted and/or Non-Restricted Finfish.~~
3. ~~The Annual fee: for a Non-Resident Principal Effort License shall be~~ Four hundred dollars (\$400.00), plus one hundred dollars (\$100.00) per endorsement.

D. Non-Resident Vessel Declaration:

1. Applicants must comply with the requirements of § 2.7.6(H) of this Part, provided that temporary transfers of vessel declarations between vessels less than twenty-five feet (25') in length via vessel declaration plates are not permitted.
2. Annual fee: The fee for a Non-Resident Vessel Declaration shall be Fifty dollars (\$50.00), plus one dollar and fifty cents (\$1.50) for each whole foot over twenty-five feet (25') in length overall.

**2.7.8 Landing Permits:**

A. General Requirements:

1. A Landing Permit or a valid Rhode Island Resident or Non-Resident License with the appropriate fishery endorsements, but not both a permit and license, is required to off-load any seafood product legally harvested outside of Rhode Island waters for sale or intended sale in Rhode Island, or to secure a vessel with the seafood products on board to a shoreside facility where the products may be offloaded for sale or intended sale.
2. If the operator of a vessel carrying seafood products notifies the Department's Division of Law Enforcement at least four (4) hours before entering Rhode Island waters that he/she intends to dock in a Rhode Island port for specified purposes other than landing, selling, or offering that seafood for sale, and if permission to do so is first obtained from the Division of Law Enforcement, no landing permit or Rhode Island license is required.
3. The Department will issue a Landing Permit upon proof that an applicant holds a valid federal or non-Rhode Island State license or permit(s) to harvest a given species or group of similar species, provided that the Landing Permit so issued will only allow the landing of those species authorized by said Federal or State permit.
4. A Landing Permit is issued to an individual and not a vessel, although the vessel(s), which will generate the landings, must be identified. The landing permit may not be transferred and does not attach to a vessel when it is sold.
5. The individual in charge of a vessel subject to § 2.7.8(A) of this Part must be in possession of a Landing Permit issued to that individual in order for that vessel to legally enter Rhode Island waters.
6. Landing Permits are not subject to the application deadline ~~provisions set forth under § 2.7.5(C) of this Part.~~

B. Resident Landing Permit:

1. Applicability: The holder of a Resident Landing Permit ~~mais authorized to~~ land, sell, or offer for sale any marine fishery species or product, in accordance with all applicable Rules and Regulations governing those species.
2. ~~The Annual fee: for a Resident Landing Permit is~~ Two hundred dollars (\$200.00).

C. Non-Resident Landing Permit with Restricted Finfish:

1. Applicability: The holder of a Non-Resident Landing Permit with Restricted Finfish ~~mayis authorized to~~ land, sell, or offer for sale any marine fishery species or product including restricted finfish species, in accordance with all applicable Rules and Regulations governing those species.
2. ~~The Annual fee: for Non-Resident Landing Permit with Restricted Finfish is~~ Four hundred dollars (\$400.00).
3. A new Non-Resident Landing Permit with Restricted Finfish will only be issued if the landing is charged to the quota of the State in which the vessel making the landing is registered or documented; or, if the State where the vessel making the landing is registered or documented allows Rhode Island residents to land against its quota for that species; or, if the Department pursuant to a fisheries management plan determines there to be excess harvesting capacity in the Rhode Island commercial quota for that species.
4. A renewal of Non-Resident Landing Permit with Restricted Finfish ~~areis~~ considered to be a new permits subject to the provisions of § 2.7.8(C)(3) of this Part unless the applicant can show evidence of Rhode Island landings of more than one thousand (1,000) pounds of that species per year in four (4) of the five (5) years preceding the application. Having made that demonstration, a holder of a Non-Resident Landing Permit with Restricted Finfish who held that permit as of the immediately preceding year may renew it for the immediately following year as set forth herein.
5. If a non-resident vessel is upgraded by twenty percent (20%) or more in length, displacement or horsepower, renewal of a Non-Resident Landing Permit with Restricted Finfish will be considered a new permit application, issuance of which is subject to the requirements of § 2.7.8(C)(3) of this Part.

D. Non-Resident Landing Permit:

1. Applicability: The holder of a Non-Resident Landing Permit ~~mayis~~ authorized to land, sell, or offer for sale any marine fishery species or product, except restricted finfish, in accordance with all applicable Rules and Regulations governing those species and products.
2. ~~The Annual fee: for a Non-Resident Landing Permit is~~ Four hundred dollars (\$400.00).

**2.7.9 Dealer's Licenses:**

A. General requirements:

1. Applicability:

- a. No person, partnership, firm, association, or corporation shall sell, purchase, barter or trade in any marine fisheries species unless having first obtained a dealer's license as provided for in this section ~~§ 2.7.9 of this Part~~ for the applicable fishery; or unless the activity is exempt from licensing requirements as set forth in § 2.7.9(A)(2) of this Part.
- 2b. Any person, partnership, firm, association, or corporation engaged solely in the business of selling seafood to consumers, either directly or through restaurants or other retail outlets, and/or engaged solely in the processing or preparation of seafood for sale directly to consumers, is not required to be licensed under these Regulations, provided that such person, partnership, firm, association, or corporation purchases or otherwise acquires said seafood from licensed dealers.
32. ~~Applicants~~Applications for a Dealer's license shall ~~complete such forms be made on oms as prescribed by the Director and~~ containing such information as the Department may require.
43. Maintenance of transaction records:
- a. Multipurpose, finfish, shellfish, or lobster dealer's license:  
Applicants ~~for a dealer's license~~ must demonstrate that they or their registered agent maintain a fixed place of business in the State of Rhode Island at which transaction records will be maintained and made available for inspection during normal business hours.
- b. Direct Sale Dealer license: Applicants must demonstrate that they or their registered agent maintain a fixed place of business, residence or vessel berthed in the State of Rhode Island at which transaction records will be maintained and made available for inspection during normal business hours.
54. Each license is valid only for the calendar year in which it is issued ~~upon payment of the required fee.~~
65. A ~~duly~~ licensed dealer may transport any marine species otherwise subject to the requirement that a person transporting such species carry a Rhode Island commercial fishing license, so long as that dealer can demonstrate by a bill of lading that the fish in question had been sold by a duly licensed person.
76. License renewal: No application for a dealer license renewal will be accepted from a licensee who has failed to submit reports pursuant to § 7.8(F) of this Subchapter.

7. License holders must meet all applicable and current Federal and State Laws and Regulations governing harvest and possession relating to the species being sold.
8. License holders must meet all applicable and current Federal, State, and local Laws and Regulations governing retail sales operations, including but not necessarily limited to those governing taxation, signage, noise, and hours of operation.
9. Dealer licenses are not subject to an application deadline.
10. All sales must be reported to DEM via SAFIS eDR electronic dealer reports pursuant to § 7.8 of this Subchapter.

B. Multi-purpose dealer's license:

1. Applicability: The holder of a Multi-Purpose Dealer's License ~~may~~ is authorized to buy and sell all wild marine fisheries species that may legally be landed in Rhode Island, but only in the amounts specified by Rule. Licensed multi-purpose dealers may also buy and sell cultured marine fisheries species in accordance with applicable Rules and Regulations.
2. Annual fee: ~~The annual fee is~~ Three hundred dollars (\$300.00).

C. Finfish dealer's license:

1. Applicability: The holder of a Finfish Dealer's License ~~may~~ is authorized to buy and sell all wild finfish species that may legally be landed in Rhode Island, but only in the amounts specified by Rule. Licensed finfish dealers may also buy and sell cultured finfish species in accordance with applicable Rules and Regulations.
2. Annual fee: ~~The annual fee is~~ Two hundred dollars (\$200.00).

D. Shellfish dealer's license:

1. The holder of a Shellfish Dealer's License ~~may~~ is authorized to buy and sell all wild shellfish species that may legally be landed in Rhode Island, but only in the amounts specified by Rule. Licensed shellfish dealers may also buy and sell cultured shellfish species in accordance with applicable Rules and Regulations.
2. Annual fee: ~~The annual fee is~~ Two hundred dollars (\$200.00).

E. Lobster dealer's license:

1. The holder of a Lobster Dealer's License ~~may~~ is authorized to buy and sell all wild crustacean species, including lobster, that may legally be landed in

Rhode Island, but only in the amounts specified by Rule. Licensed lobster dealers may also sell cultured crustacean species in accordance with applicable Rules and Regulations.

2. Annual fee: ~~The annual fee is~~ Two hundred dollars (\$200.00).

F. Direct sale dealer license:

1. Applicability:

- a. Authorizes the sale of allowable species of finfish, live lobsters and crabs, and live whelk direct to consumers and/or licensed seafood retailers dockside from the vessel on which they were harvested.
- b. Authorizes the transport and sale of live lobsters, crabs, and whelks from the vessel on which they were harvested to consumers and/or licensed seafood retailers.

2. Eligibility:

- a. Applicants must hold a resident [Commercial Fishing License](#) or a resident landing permit authorizing the harvest and/or landing of species allowable for sale pursuant to this license.
- b. Applicants for a direct sales dealer license must include with their application, documentation that they have secured permission from both the property owner and municipality at the location(s) where direct sales will be conducted.

3. General requirements:

- a. Only the licensee/permittee, or a regularly employed crew member of the licensee/permittee, may sell allowable species under the Direct Sale Dealer License. To be eligible to conduct such sales, a crew member must first receive written authorization from the licensee/permittee. Such authorization shall be in the form of a type-written statement, signed and dated by the licensee/permittee that expressly authorizes the crew member to act on behalf of the licensee/permittee with regard to direct sales. The statement shall further specify: the name of the crew member, the name of the vessel from which the sales are conducted, and the month and year that the crew member began working on the vessel. The statement shall be kept on the vessel and be available at all times for inspection by Department personnel. A crew member who is acting on behalf of a licensee/permittee must comply with all applicable [Regulations governing direct sales, as set forth herein, and the licensee/permittee shall be responsible for any violations of \[Regulations by the crew member.\]\(#\)](#)

- b. All direct sale activities must be conducted in a manner consistent with applicable Federal, State, and municipal Laws, Regulations and polices governing port and marina operations.
  - c. Licensees/permittees offering allowable species for sale pursuant to the Direct Sale Dealer License may only sell allowable species that they legally harvested. Sales may only be conducted by commercial license holders authorized to commercially harvest the species made available for sale or a regularly employed crew member of the licensee/permittee.
  - d. The transfer of species between Direct Sale Dealer License holders is expressly prohibited.
  - e. Any change in location for a Direct Sale Dealer License requires notification to the Department and is subject to a license re-print fee of ten dollars (\$10.00).
4. Federal permit holders: -Pursuant to Federal requirements, any person holding a Federal fishing permit (vessel-based) must sell their catches to Federally permitted dealers.- For persons wishing to engage in direct sales from Federally permitted vessels, a Federal dealer's permit must be obtained from NOAA Fisheries. Once a dealer's permit is obtained, Federally permitted fishermen may sell to themselves, by reporting the catch on a vessel trip report (paper or electronic) and reporting sales through the Federal dealer reporting system.
5. Prohibited activities:
- a. The direct sale of histamine producing fish, including bluefish, tuna, mackerel, herring, mahi mahi, bonito, swordfish, marlin, sailfish, wahoo, anchovy, sardines, shad, menhaden; as well as amberjack, escolar, hind, jack, kahawai, milkfish, saury, scad, spearfish, sprat and trevally.
  - b. The direct sale of striped bass.
  - c. The transportation for sale of finfish to consumers and/or retailers. All sales of finfish must be sold dockside from the vessel.
6. Storage and handling requirements:
- a. All finfish must be sold between midnight and 11:59 p.m. on the same day as harvested.
  - b. All finfish not sold on the day they were caught/harvested cannot be sold on any subsequent day.

- c. While on board the vessel, all species to be sold must be protected from contamination, kept shaded, maintained at or below [forty-one degrees Fahrenheit \(41° F\)](#) and/or buried in ice.
- d. Knives/utensils and other food contact surfaces used to head, gut or bleed fish must be kept clean.
- e. Species for sale must be labeled accurately.
- f. Finfish must be sold whole, or may be headed and gutted, and may be bled.- No filleting or other processing may be done dockside from the vessel.
- g. Direct Sale Dealer License holders are exempt from the requirement set forth in [§ 7.10\(E\)\(1\)](#) of this Subchapter that summer flounder be placed in standard sixty (60) or one hundred (100) pound containers prior to their removal from the dealer's premises or from the point of transfer.
- h. Lobsters, crabs and whelk must be sold live.
- i. Transporting is limited to lobsters, crabs, and whelk harvested from individual vessels and sold/donated and transported by the individual harvester or affiliated crew members. -The name of the vessel and license holder, provided in writing and legible, must accompany all transported lobsters, crabs, and whelk.

## 7. Reporting

- a. For all species subject to sale, standard harvester reporting is required (i.e. [Federal VTR's](#) or [State catch and effort reports](#)), in accordance with the requirements set forth in [§ 2.7.4](#) of this Part.
  - b. Harvester reports must be completed in full and be available for inspection by the Director prior to any species being sold pursuant to this license.
8. Donations: -Direct donations of finfish by licensed commercial fishermen are subject to the same [Rules](#), [Regulations](#), and requirements as set forth herein.
9. Annual fee: Two hundred dollars ([\\$200.00](#)).

## **2.8 Recreational Saltwater Fishing Licenses**

### **2.8.1 General Provisions:**



- A. **Applicability:** It shall be unlawful for any person to fish or spearfish recreationally for finfish or squid in the marine waters of Rhode Island without a valid and current recreational saltwater fishing license.
- B. For the purpose of § 2.8 of this Part, an individual will be considered to be fishing or spearfishing recreationally if they are engaged in the process of angling via the use of any type of hook and line, or spearfishing via the use of any type of spear or powerhead, or if they possess equipment used for angling or spearfishing and are in possession of finfish or squid.
- C. A valid and current recreational saltwater fishing license may include: a Rhode Island recreational saltwater fishing license, a recreational saltwater fishing license from a reciprocal State, or a national saltwater angler registration.
- D. Reciprocal States are listed at [saltwater.ri.gov](http://saltwater.ri.gov).
- E. Anglers and spearfishers must be in possession of, or within close proximity to, their license at all times while engaged in angling or spearfishing. The term close proximity shall be construed to mean aboard a vessel, on which or from which an individual is angling or spearfishing; or, for shore-based anglers, or spearfishers, within a nearby car or other location that is within walking distance from the point of exit from the water.
- F. Anglers and spearfishers shall present a valid and current recreational saltwater fishing license for inspection upon demand by an authorized law enforcement officer.
- G. Failure to meet the terms of § 2.8 of this Part shall be deemed a violation, subject to the penalties set forth under R.I. Gen. Laws § 20-2.2-8.

### **2.8.2 Exemptions:**

- A. No license is required for: anglers or spearfishers who are under sixteen (16) years of age; anglers or spearfishers on party or charter vessels that are licensed in accordance with R.I. Gen. Laws § 20-2-27.1; licensed party or charter vessel operators when fishing in party/charter mode; anglers or spearfishers who are on leave from active military duty; anglers or spearfishers who are blind or permanently disabled; anglers or spearfishers who hold federal Highly Migratory Species Angling Permits, issued under their name of the angler or spearfisher; anglers or spearfishers who are fishing or spearfishing during a free-fishing day, designated by the Director; or anyone who is fishing commercially in accordance with a current and valid Commercial Fishing License.
- B. Where appropriate, anglers or spearfishers who are exempt shall carry applicable proof, and present such proof, along with a photo ID, upon demand by an authorized law enforcement officer.

## 2.9 Vessel Regulations

### 2.9.1 Recreational mode:

- ~~A.~~ Any vessel, including a commercially declared and/or licensed party/charter vessel, may operate in recreationally mode, in accordance with all applicable recreational Regulations.
- ~~B.~~ ~~With regard to all species that are not subject to per-vessel restrictions, compliance with possession limits while fishing in recreational mode shall be determined by dividing the total number of fish aboard the vessel by the total number of licensed or exempt recreational fishers or spearfishers aboard the vessel.~~
- ~~C.~~ ~~If a vessel makes more than one trip in recreational mode per day, the catches attributable to the same licensed or exempt fishers or spearfishers who go out again are cumulative.~~

### 2.9.2 Party/Charter Vessels:

- A. Only vessels licensed in accordance with R.I. Gen. Laws § 20-2-27.1 may operate in party/charter mode as a party or charter vessel.
  - B. A vessel is operating in party/charter mode as a party or charter vessel whenever the vessel is carrying one (1) or more passengers for hire for the purpose of engaging in recreational fishing or spearfishing.
  - C. Unless otherwise specified in this Sub-chapter, vessels operating in party/charter mode as a party or charter vessel must adhere to recreational Regulations.
  - ~~D.~~ ~~With regard to all species that are not subject to per-vessel restrictions, compliance for vessels operating in party/charter mode shall be determined by dividing the total number of fish aboard the vessel by the total number of anglers or spearfishers aboard the vessel.~~
  - ~~E.~~ ~~If a vessel makes more than one trip in party/charter mode per day, any marine species possessed by the captain and mate are cumulative.~~
- FD.** Reporting:
1. Trips made in party/charter mode as a party or charter vessel shall be logged and submitted electronically in SAFIS.
  2. Trips shall be logged prior to the termination of the trip and submitted electronically within forty-eight (48) hours of the end of the trip. Trip elements shall include, but ~~is-are~~ is-are not limited to:
    - a. Trip date

- b. Area fished
  - c. Gear type(s) fished
  - d. Quantity of gear fished
  - e. Number of anglers on trip
  - e. Fishing time
  - f. Pounds or count of species caught
  - g. Disposition
3. In ~~cases~~ years when no party/ or charter ~~mode~~ trips were made, at least one (1) negative report must be submitted to the Department prior to renewal of license.
  4. Failure to submit reports ~~as required~~ shall result in one (1) of the following actions: license suspension, revocation or ineligibility to renew.

### 2.9.3 Commercial Mode:

- A. Only vessels that are commercially declared may operate in as a commercial ~~mode vessel.~~
- B. A vessel is operating in commercially ~~mode~~ whenever the vessel is engaged in the process of taking, harvesting, holding, transporting, loading or off-loading marine species for sale or intended sale.
- C. Vessels operating in commercially ~~mode~~ must adhere to all applicable commercial Regulations.
- ~~D. Vessels making more than one commercial trip per calendar day are bound by all applicable per vessel, per day possession limits.~~
- ED. Vessels making more than one (1) commercial trip per calendar day must have onboard a Rhode Island catch and effort logbook or a Federal VTR, and the logbooks or VTRs must be completed prior to the initiation of the second commercial or recreational fishing trip on the same day. An exemption from carrying the Rhode Island catch and effort logbook shall be granted for vessels which are operated by licensed captains who are enrolled and currently active participants in the eTrips electronic reporting program. The eTrips report of the first commercial or recreational fishing trip must be entered prior to the initiation of the second commercial or recreational fishing trip on the same day.
- ~~F. A commercially declared vessel, operating in commercial mode, may not possess or land more than the per vessel limit; however, a portion of the catch~~

~~may be retained for (non-commercial) personal use, provided that the amount of fish retained for personal use must be recorded in the licensee's commercial logbook.~~

~~GE.~~ Any vessel operating commercially, including any vessel fishing commercially using rod and reel, may utilize, without restriction, any number of unlicensed crew members to assist with any commercial operations.

~~HF.~~ For all commercial fisheries except shellfish, any number of unlicensed crews may assist in direct commercial harvest operations regardless of the manner, method or contrivance employed, as long as said crew is/are located onboard a commercially declared vessel that is operated by an individual who possesses a valid and proper commercial fishing license and is/are under the direct supervision and responsibility of said properly licensed commercial fisher. With respect to commercial shellfish operations, unlicensed crews may only assist with culling activities and other indirect harvest operations, while said crew is/are located onboard a commercially declared vessel that is operated by an individual who possesses a valid and proper commercial fishing license and is/are under the direct supervision and responsibility of said properly licensed commercial fisher.

#### **2.9.4 Vessels Fishing Operating in More Than One Mode:**

A. On a per-trip basis, a vessel may only operate ~~in~~ recreationally mode, or as a party/ or charter mode vessel, or commercially mode. No vessel may fish operate in more than one (1) mode during the same trip.

B. A vessel that is commercially declared, ~~pursuant to § 2.7.8(H) of this Part herein,~~ may operate ~~in~~ commercially mode during one (1) portion of a calendar day and fish operate in recreationally or as a party/ or charter mode vessel during a separate trip on the same day, subject to separate and non-overlapping commercial and recreational, or party/charter, Regulations. A vessel that operates ~~first~~ commercially must complete their logbook prior to the initiation of ~~the second a following~~ trip.

C. Upon boarding or inspection, the captain or operator of a commercially declared vessel must disclose whether the vessel is operating ~~in~~ commercially mode or as a party/ or charter mode vessel, or recreationally mode.

**From:** [Jon Kourtesis](#)  
**To:** [Duhamel, Peter \(DEM\)](#)  
**Subject:** [EXTERNAL] : Direct sales license  
**Date:** Sunday, October 25, 2020 9:38:11 PM

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Mr. Duhamel,

I am sure you are aware, my husband and I are of the few that have participated in the dockside sales program. We have repeatedly expressed that it is not feasible to sell Finfish dockside on a regular basis unless the 24 clock which starts at midnight is changed. It simply isn't fair to start the clock when the boat isn't out and the fish aren't even caught yet. Fishermen start their day very early and work hard to catch the fish, it's physically impossible for them to stay extended hours at the dock to sell their catch and then drive what's left over to a dealer all in the same day. We propose that the clock start when either the boat leaves the dock to start their trip or preferably when the boat returns to the dock with the fish.

Additionally, we also feel the proposed fee of \$200 is not reasonable. We propose there be no fee or a nominal fee of \$50 or less in 2021 since fishermen will still be experiencing loss of income due to the ongoing pandemic.

Thank you,  
Sherry and Jon Kourtesis

Sent from my iPad

**From:** [Michael Marchetti](#)  
**To:** [Duhamel, Peter \(DEM\)](#)  
**Cc:** [Michael Marchetti](#); [Fvcapt](#); [Ballou, Robert \(DEM\)](#); [Fred Mattera](#)  
**Subject:** [EXTERNAL] : RI DEM Public Hearing dockside sales  
**Date:** Sunday, October 25, 2020 8:47:49 PM

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Hello, RI DEM Fish and Wildlife Staff , RI Marine Fisheries Council Members,

As this is a late comment literally at the last minute, I will try to keep this brief. I am opposed to the listing of scallops, be they sea scallops or bay scallops as prohibited for consideration of dockside sales. There are many layers to this issue, more than I have time to cover in this format, I will try to get to several. But I have also talked at length with Bob Ballou on this subject over the last several months. I did not pursue this as an emergency action as I did not want to hold up the discussion for the dragger finfish and dayboat fleets.

First off this is a federal fishery and as such those of us that want to do this need to get federal dealer permits. Since scallops are all considered federal, they do allow us the permit to sell our product, both shucked meats and live shell stock to a federally licensed dealer, even if that dealer is ourselves. Let me point out that this provision has been allowed as an emergency action and a waiver in most northern east coast states due to COVID since March and April and May, so that means that those of us in RI have been disadvantaged this entire time in that regard. If this spike continues I can easily foresee a need to go directly to the consumer again!

The entire hang up here is within the state of RI, and the interaction between RI DEM and seemingly in this case the RI DOH acting as a lead agency on allowing this activity. It seems that the fact that scallops are a shellfish is a large problem,,!?,. In the case of scallops it should not be. The product is completely shucked and free of the viscera, shell and other potential bacteria harboring and toxin producing agents. This is the industry standard of processing and production for many decades. In my view sea scallop meats and bay scallop meats are one of the purest seafood products you can get. The product is shucked on usually fiberglass or stainless tables or boxes into plastic pails, washed in a saltwater bath stainless tub every tow and put in cheesecloth bags on ice every tow (each hour), in warm weather ice is added to the pails and this bath to chill the product. Care is taken so as not to absorb too much fresh water from the ice, AND SOAKING IN TSP IS VERY MUCH TABOO and NOT done by any dayboat scalloper that I know of in this area!! The product is kept in Xtubs, well iced, chilled, until offload. We take pride in our product as a dayboat FRESH clean, dry product for the consumer!! And it is delivered HOURS old. Mind you that it is accepted standard for a trip boat to hold their product on ice for WEEKS, and in a few cases it is not treated nearly as well either.

Further, Let me point out that in the Atlantic sea scallop fishery, we must be properly federally permitted. These permits are very expensive. Further we need quota, which is also very expensive!! Several hundreds of thousands, even well upwards of a million and a half dollars for a boat to work a reasonable season. The vessel needs to be equipped with a VMS unit, polling every 30 minutes, with pre sailing forms AND pre landing forms, to match a FVTr (in my case electronic).SO that means there is absolutely no question as to where the vessel was and when it landed. I point all this out to show there is a quality control and accountability within our fishery, let alone PRIDE in our product! Also, IF BY CHANCE, and I HOPE, that a bay scallop fishery returns to our state waters in earnest and that a set or more of sea scallops finally set for real in state waters as they did several decades ago,that our draggers and other state commercial fishermen have this possible outlet to offer a quality product to

their consumers along with their finfish.

The only difference now in the sales of product is the requirement that we go thru another set of hands or more at the dealer(s). Mind you, I am not against the dealer, we need them and the consumer does too. I believe though that we should have the right to sell a portion of our trips if chosen to the consumer directly at times.

Again, This is a Brief overview of our fishery, I am always open and available to answer questions and I am willing to work with the DEM and DOH to help move this along.

As such I am requesting that the RIMFC request that the RIDEM and Director Coit work directly with her counterpart in RIDOH to get this dockside sales provision be approved for State of RI Commercial fishermen involved in the sea scallop AND bay scallop fisheries ASAP and without further delay.

Thank You for your consideration,  
Michael L. Marchetti  
Pres Eastern New England Scallop Assn  
Pres East Farm Commercial Fisheries Center



## COMMERCIAL FISHERIES CENTER OF RHODE ISLAND

P.O. Box 5161, Wakefield RI 02880  
Tel: (401) 874-4568 Web: [www.cfcri.org](http://www.cfcri.org)  
Email: [fredmattera@cfcri.org](mailto:fredmattera@cfcri.org) [shayerooney@cfcri.org](mailto:shayerooney@cfcri.org)

October 23, 2020

Peter Duhamel  
Department of Environmental Management  
3 Fort Wetherill Road  
Jamestown, RI 02835

Thank you for the opportunity to comment on the Dockside Sales Emergency Pilot Regulation. Please consider these comments on the behalf of The Commercial Fisheries Center of Rhode Island.

- First and foremost, the same day rule that fish must be caught and sold on the same calendar day (whole fish sold by 11:59pm) needs to be addressed, otherwise the license does not provide much benefit to the industry. We must further explore what our neighboring states have initiated. It should be permitted to sell fish, not sold on the same day that has been properly stored and cooled in the hold. If it is not possible to allow sales of fish after a day, a regulation of a full 24 hours would allow fishermen greater flexibility and time to sell their catch than the same calendar day rule.
- The present regulations governing dockside sales are designed around exemption. I would like to suggest we consider what Massachusetts has initiated to govern Rhode Island dockside sales by applying for a letter of authorization rather than the exemption. Neighboring states have implemented a letter of authorization to allow dockside sales of fin fish and scallops, this should be further explored in Rhode Island.
- Scallops caught and sold in the same 24 hours will have an equal food safety risk as fin fish caught and sold within the same 24 hours. Therefore, scallops caught and sold in the same 24 hours should also be permitted under this license. Other states permit dockside sales of scallops and we should learn from these states to allow this in Rhode Island.

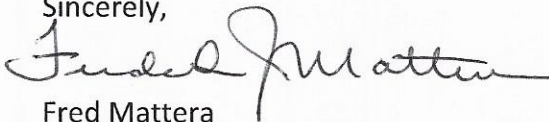
**Proudly Representing:** Ocean State Fishermen's Association, RI Commercial Fisherman's Association, RI Lobstermen's Association, RI Shellfishermen's Association, Eastern New England Scallop Association, RI Monkfishermen's Association, Point Judith Fishermen Memorial Foundation, Commercial Fisheries Research Foundation, RI Party & Charter Boat Association, Point Judith Scholarship Foundation



- The license fee of \$200 should be reduced to \$50. Reducing the license fee to \$50 will incentivize fishermen to utilize the license. As this is still a pilot program, fishermen are still determining what strategies work and what strategies do not work under this license. Therefore, it is best to not charge a substantial fee to discourage fishermen from applying for and utilizing the license. The Peddler license fee of \$100 should also be reduced to further incentivize direct to consumer sales within Rhode Island.

In conclusion, Rhode Island is the Ocean State and should become the model in the North East in adopting an accessible process for direct sales of seafood. This program should be accessible for both the fishermen and the consumers. Building our local food market is increasingly important during the pandemic and new market pathways need to be expanded including selling seafood from boats to consumers. The current regulations governing the dockside sales license does not provide benefit to the industry and does not support an accessible direct to consumer pathway for seafood.

Sincerely,

A handwritten signature in black ink that reads "Fred Mattera". The signature is fluid and cursive, with the first name "Fred" being more prominent than the last name "Mattera".

Fred Mattera

Executive Director

The commercial Fisheries Center of RI

[fredmattera@cfcri.org](mailto:fredmattera@cfcri.org)

(401) 874-4568



# Rhode Island Marine Fisheries Council

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

## Meeting Notice

Shellfish Advisory Panel

Wednesday September 2, 2020, 4:00PM

Virtual public meeting - Zoom webinar

## MEETING AGENDA

**Panel Chair:**

Katie Eagan

**Membership:**

Jeff Gardner  
*Aquaculture*

Bob Rheault  
*Alternate for J. Gardner*

David Ghigliotty  
*Comm. Bullrake*

Mike McGiveney  
*Comm. Bullrake*

Gerald Schey  
*Comm. Bullrake*

Manuel Sousa  
*Comm. Bullrake*

Bob Smith  
*Dealer*

Roger Tellier  
*Recreational Rod & Reel*

Richard Pastore  
*Recreational Rod & Reel*

Edward Troiano  
*Recreational Shellfish*

Kenneth Murgo  
*Comm. Shellfishing*

John McDonald  
*Comm. Shellfishing*

**Marine Fisheries staff:**

Anna Gerber-Williams

Agenda item	Recommended action(s)	ePacket Attachment(s)/links
1. Aquaculture application <a href="#">2019-10-047</a> (East Beach Oyster Co. LLC, Papa)	Provide recommendation to the CRMC/Council pursuant to <a href="#">RI Gen. Laws §20-10-5(d)</a>	<ul style="list-style-type: none"> <li>• Application out to public notice</li> <li>• DEM Review letter</li> </ul>
2. Aquaculture application <a href="#">2020-05-083</a> (Van Hemelrijck)	Provide recommendation to the CRMC/Council pursuant to <a href="#">RI Gen. Laws §20-10-5(d)</a>	<ul style="list-style-type: none"> <li>• Application out to public notice</li> <li>• DEM Review letter</li> </ul>
3. Aquaculture application <a href="#">2020-04-037</a> (Bowen)	Provide recommendation to the CRMC/Council pursuant to <a href="#">RI Gen. Laws §20-10-5(d)</a>	<ul style="list-style-type: none"> <li>• Application out to public notice</li> <li>• DEM Review letter</li> </ul>
4. Shellfish harvest schedules for winter management areas (Greenwich Bay, Bissel Cove, Bristol Harbor Shellfish Management Areas)	Discussion. Provide recommendation to the Council on harvest schedule changes.	<ul style="list-style-type: none"> <li>• Current harvest schedules (<a href="#">Part 4 – Shellfish</a>: sections 4.12.2(A), 4.12.2(E), and 4.12.2(G))</li> </ul>
5. Providence River Transplant	Discussion on upcoming transplant scheduled for September 15 <sup>th</sup>	
6. Any Other Matters	Discussion and/or recommendations for future actions	
7. Adjourn		

**To join the webinar, [click here](https://zoom.us/j/98106352056).** Or enter the following into your web browser:  
<https://zoom.us/j/98106352056>

To join by phone, call: 1-929-205-6099

Meeting ID: 981 0635 2056

Participant ID: Provided once you log onto webinar. If not logging onto webinar, simply wait on the line to be connected on the phone.

**All RIMFC Species Advisory Panel meetings are open to the public.**

For more information please contact Anna Gerber-Williams at (401) 423-1930.

\* Aquaculture applications can be found at <http://www.crmc.ri.gov/applicationnotices.html>

\* Posted to Sec. of State August 21, 2020



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

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

**PUBLIC NOTICE**

File Number: 2019-10-047 Date: October 21, 2019

This office has under consideration the application of:

East Beach Oyster Co. LLC  
 1176 Post Road  
 Wakefield, RI 02879

for a State of Rhode Island Assent to re-configure, expand and maintain: a bottom plant oyster farm in Ninigret Pond. The current site area is 10.69 acres. The reconfiguration would relinquish a portion of the existing site and expand the remaining portion of the site to create a farm of 15.6 acres.

Project Location:	Ninigret Pond
City/Town:	Narragansett
Plat/Lot:	/
Waterway:	

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

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

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

If you desire to protest, you must attend the scheduled hearing and give sworn testimony. A notice of the time and place of such hearing will be furnished you as soon as possible after receipt of your request for hearing. If you desire to request a hearing, to receive consideration, it should be in writing (**with your correct mailing address, e-mail address and valid contact number**) and be received at this office on or before November 20, 2019.



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

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

**APPLICATION FOR STATE ASSENT**

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

Applicant's Name: <u>East Beach Oyster Co LLC</u>		File No (CRMC use only): <u>2019-10-047</u>
Mailing Address: <u>1176 Post Rd</u>		Res. Tel. # _____
City/Town: <u>Wakefield</u>	State: <u>RI</u> Zip Code <u>02879</u>	Bus. Tel. # <u>(401) 649-0117</u>
Waterway: <u>Nnigret Pond</u>	Est. Project Cost \$ <u>200.00</u>	Fee/Costs: \$ <u>50</u>
Longitude/latitude of <b>all corners</b> of Proposed Aquaculture Project Location (preferably in decimal degrees):		
NW <u>71° 40' 53.90" / 41° 21' 12.48"</u>	NE <u>71° 40' 36.23" / 41° 21' 14.61"</u>	
W <u>71° 40' 53.38" / 41° 21' 10.04"</u>	E <u>71° 40' 35.71" / 41° 21' 12.18"</u>	
SW <u>71° 40' 52.86" / 41° 21' 07.61"</u>	SE <u>71° 40' 35.19" / 41° 21' 9.74"</u>	

Have you or any previous owner filed an application for and/or received an assent for any activity on this site? (If so please provide the file and/or assent numbers).

File # 2019-02-078

Is this application being submitted in response to a coastal violation?

Yes \_\_\_\_\_ No X

If yes, you must indicate NOV or C&D Number \_\_\_\_\_

Is this site within a designated historic district? NO

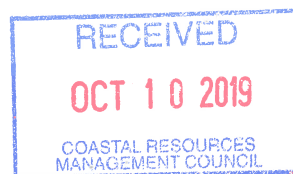
Owner's Signature (sign and print)

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

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

01:17

PLEASE REVIEW REVERSE SIDE OF APPLICATION FORM



East Beach Oyster Co.  
Prepared on 9/14/2019

### Written Description

This proposal is to reconfigure and expand our bottom culture lease #2015-5-107. Our request is to relinquish 900' from the east end of the existing lease to ease the most heavily traveled north eastern corner and make navigation for other boaters more fluid. We also would like to shift the existing western border 400' to the west. The reconfiguration of the lease will result in a total area of 15.6 acres which is a net expansion of 4.91 acres. On this site we will be bottom planting eastern oysters and hard shell clams. Periodically a boat will be on site either planting or harvesting. The harvesting techniques will include bullraking, dredging and diving. Between memorial day and labor day harvesting will be limited to weekdays. The shellfish will be graded and marketable product will be sold and sub market product will be returned to the site to be replanted. The site will be marked with 4 corner markers no larger than 12" and also one marker in the middle of each corner to make the border clear. The proposed area is a silty sand bottom ranging from 6'-8' deep.



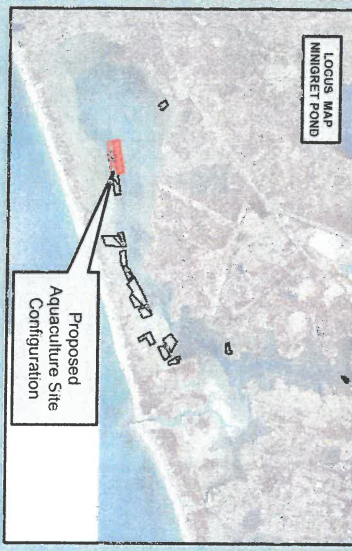
Nicholas J. Papa  
East Beach Oyster Co. LLC  
Prepared on 9/14/2019

## Operational Plan

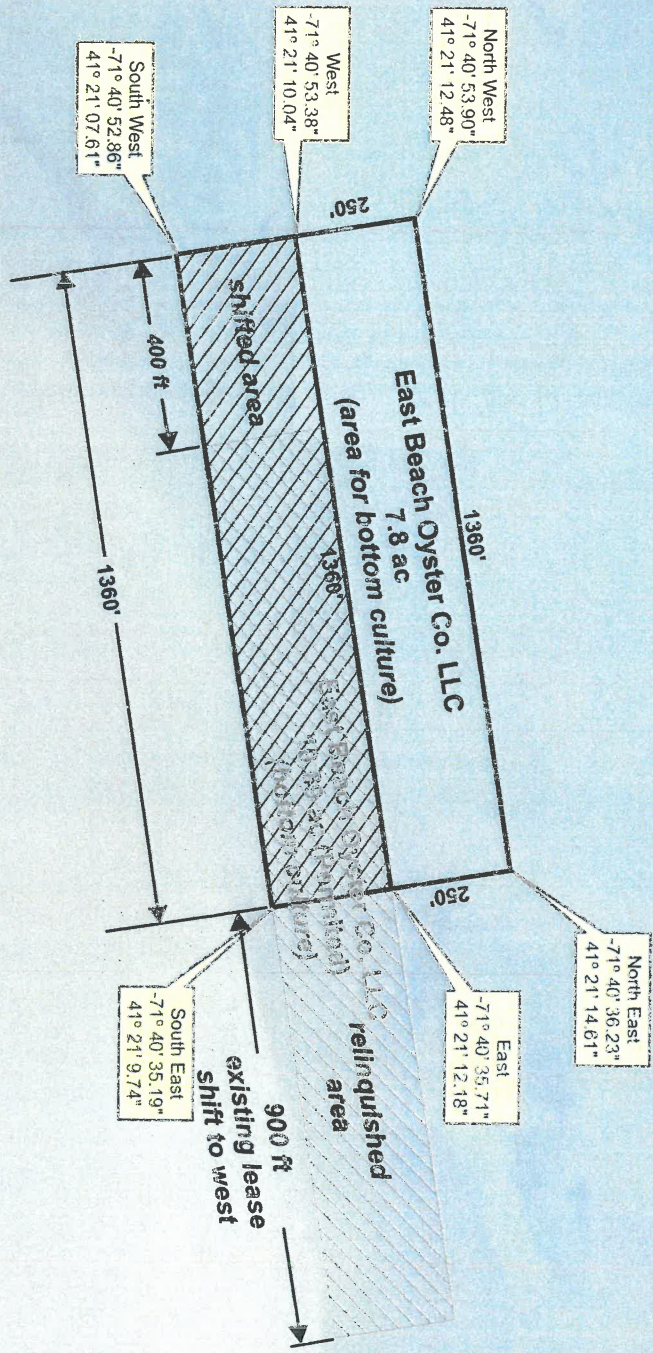
The Proposed Shellfish farming operation will be raising oysters and clams from juvenile to market size on the bottom only. The seed will be purchased from a number of approved sources. The oysters will be raised up to about 1.5-2inch on our cage lease. It will then be planted on the bottom where it will grow out to market size. The clam seed will be planted in the fall directly in the sand below the oysters and left there for grow out.. Once the oysters reach market size, they will be sold to the Ocean State Shellfish Co-op located on Walts way in Narragansett. The market oysters and clams will be culled out by hand. The shellfish will be bull raked, dredged or harvested by diving.



LOGUS MAP  
MINORLET POND



**PROPOSED  
AQUACULTURE SITE  
EXPANSION  
AND  
SHIFT OF EXISTING SITE  
(EXISTING LEASE AREA 10.69 ac)  
(TOTAL PROPOSED LEASE AREA 15.6 ac)  
(TOTAL PROPOSED EXPANSION 4.91 ac)  
NICHOLAS J. PAPA  
EAST BEACH OYSTER CO. LLC**



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OCT 10 2019  
COASTAL RESOURCES  
MANAGEMENT COUNCIL



RESOURCES  
MANAGEMENT COUNCIL





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OCT 10 2019  
COASTAL RESOURCES  
MANAGEMENT COUNCIL



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MANAGEMENT COUNCIL

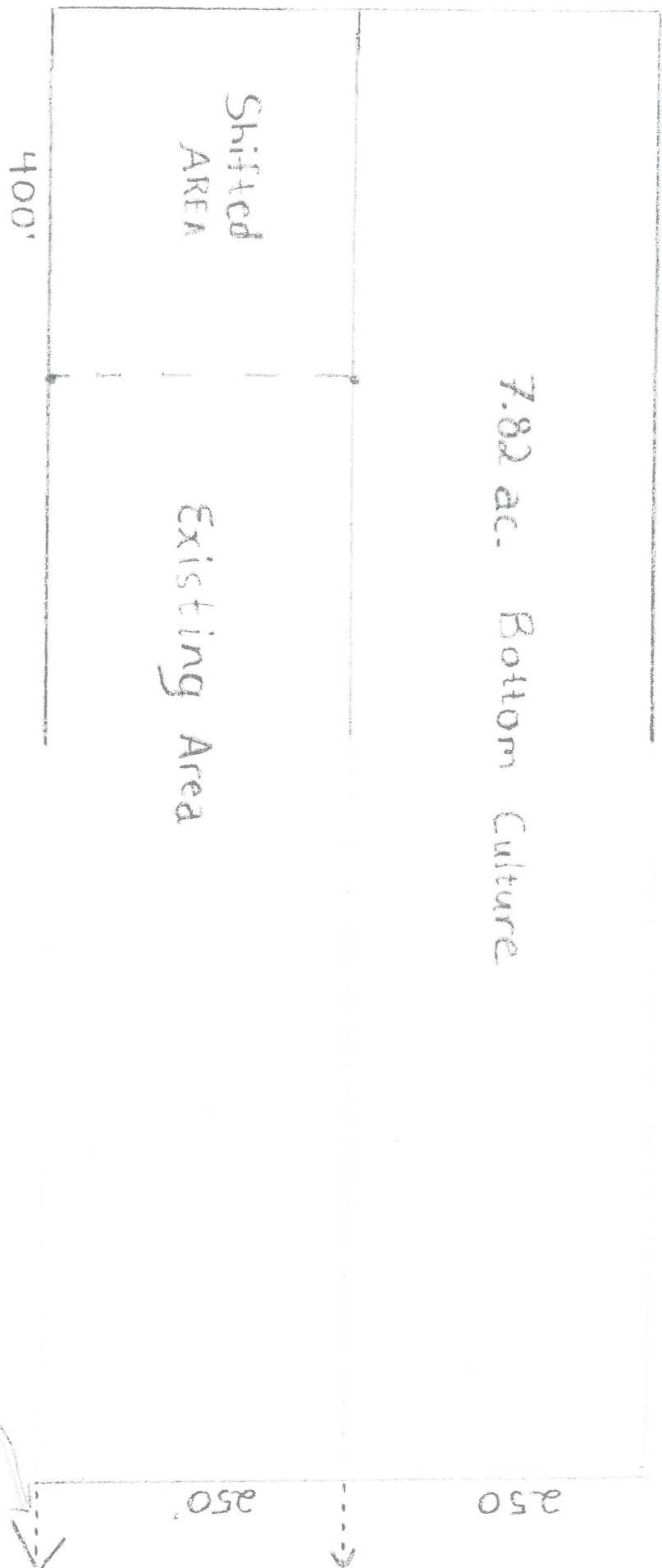


East Beach Oyster Company

09/14/2019

1360'

7.82 ac. Bottom Culture

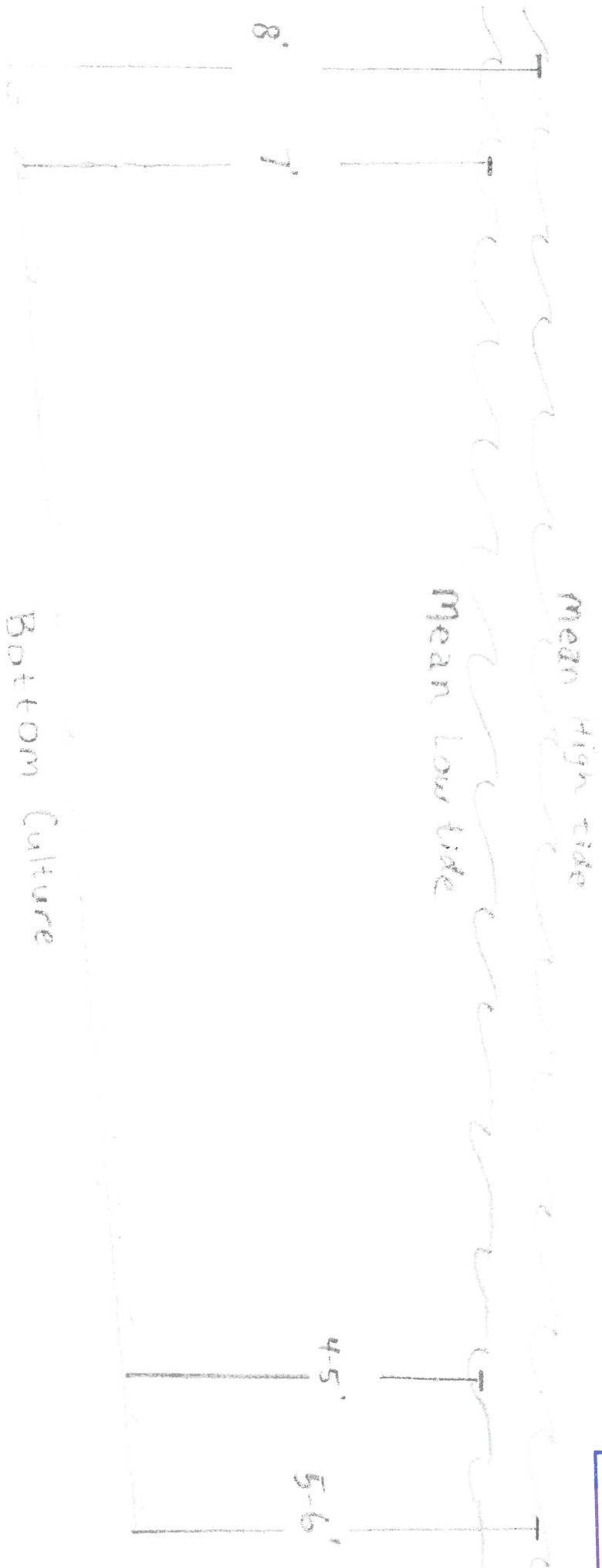


250' x 900' Relinquished Area

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East Beach Oyster Company

09/14/2019



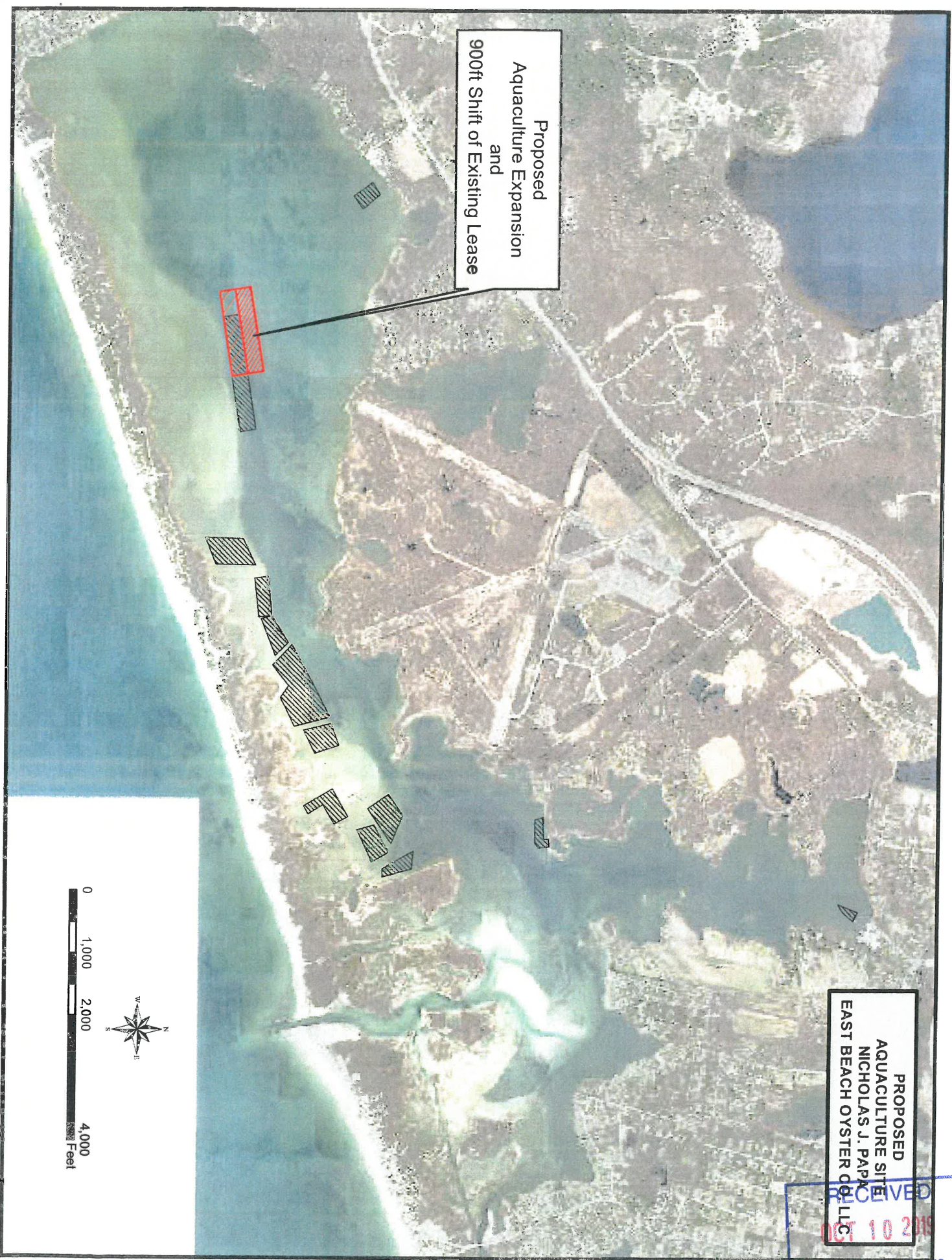
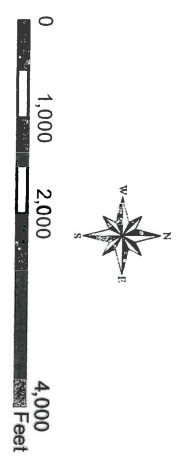
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MANAGEMENT COUNCIL

Proposed  
Aquaculture Expansion  
and  
900ft Shift of Existing Lease

PROPOSED  
AQUACULTURE SITE  
NICHOLAS J. PAPA  
EAST BEACH OYSTER CO. LLC

RECEIVED  
OCT 10 2019

COASTAL RESOURCES  
MANAGEMENT COUNCIL



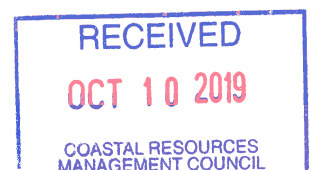
**NICHOLAS J. PAPA**  
**EAST BEACH OYSTER Co. LLC**  
**PREPARED ON: 9/14/2019**

Section 300.1

- 1) Q: Demonstrate the need for the proposed activity or alteration.  
A: The proposed activity consists of an expansion of an existing lease in the west end of Ninigret Pond. This site is desired for the cultivation of the eastern oyster, *Crassostrea virginica*. The East Beach Oyster Company LLC will use this additional acreage to not only continue healthy farming practices, but also insure healthy and responsible oyster husbandry in the pond.
- 2) Q: Demonstrate that all local zoning ordinances, building codes, flood hazard standards, and all safety codes, fire codes, and environmental requirements have or will be met.  
A: The proposed project will not impact the Land.
- 3) Q: Describe the boundaries of the coastal waters and land area that are anticipated to be affected.  
A: The proposed site is located in the west end of Ninigret Pond. The site is north of the sand flats and north of the East Beach Oyster Co. existing bottom culture lease.
- 4) Q: Demonstrate that the alteration or activity will not result in significant impacts on erosion and or deposition processes along the shore and in tidal waters.  
A: The proposed activity will not impose any threat of erosion or deposition to the area or surroundings. The activities will be very low impact.
- 5) Q: Demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life.  
A: The proposed activity will aid in the diversity and abundance of animal life by providing additional habitat and micro-ecosystems. The presence of oysters in this area will help mitigate the negative effects of Nitrogen run off from waterfront lawn fertilizer applications and septic systems in close proximity to the pond.
- 6) Q: Demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and or the shore.  
A: The proposed activity will not interfere with shoreline access or to the waters. The proposed operation is for bottom culture only which will not interfere with navigation of vessels.
- 7) Q: Demonstrate that the alteration will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation  
A: The proposed operation will be very low profile and not affect circulation, flushing, turbidity or sedimentation.



- 8) Q: Demonstrate that there will be no significant deterioration in the quality of the water in the immediate vicinity as defined by DEM  
A: The water quality will be improved by oysters' food filtration system and by the increase in biodiversity. Each oyster can filter up to 50 gallons of water a day, resulting in a cleaner pond. This can negate the skyrocketing nitrogen input (Lawn fertilizer and septic runoff) from more than ten waterfront homes. Adding oysters in the proposed site creates an ecosystem, which builds biodiversity. This, in turn, promotes bioturbation, aiding in sediment health.
- 9) Q: Demonstrate that the alteration or activity will not result in significant to the areas of historic and archaeological significance.  
A: The proposed site is not of historical or archeological significance.
- 10) Q: Demonstrate that the alteration or activity will not result in significant conflicts with water-dependent uses and activities such as boating, fishing, swimming, navigation, and commerce, and...  
A: The proposed activity will not interfere with navigation or recreational activities.
- 11) Q: Demonstrate that measures have been taken to minimize any adverse scenic impact (see section 330)  
A: The proposed site will be marked with only a 12" buoy on each point. And due to the size of the area and distance between corners there will also be a buoy between the corner markers to clearly mark the boundary.



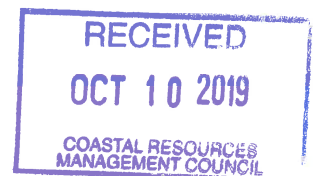


## Guidance Document for Aquaculture Operations Plans

Anyone conducting aquaculture operations in RI must comply with all applicable CRMC regulations (*Coastal Resources Management Program Section 300.11*) and DEM regulations, as set forth in “*Aquaculture of Marine Species in RI Waters.*” Plans provided to the CRMC will be available for DEM review. Modifications to the permit must follow the CRMC process for modification of assent. Separate, individual plans shall be developed and submitted for each aquaculture site/facility (i.e., one for each lease site, one for each upweller location, etc.); provided, however, that if lease sites are contiguous, or part of a single, unified operation, the overall site can be covered by a single plan. Operations Plans shall address each of the items listed below, as applicable, following the format set forth below.

*Note: All plans must be type written. This Microsoft Word document is intended to be used by licensees/operators as a template when preparing plans and may be modified as needed to fit the specific needs of the operator.*

1. **Name and mailing address** of individual, firm, partnership, association, academic institution, municipality, or corporation who is principally responsible for the aquaculture operation or activity; if corporation, specify and include names of all owners/partners: East Beach Oyster Co. LLC 1176 Post Road, Wakefield RI, 02879
2. **CRMC file number** for the facility; new applications will be assigned a file number by CRMC:
3. **DEM Aquaculture License number** (applicable if products are offered for sale); new applicants will need to obtain the DEM aquaculture license:056
4. **Type of facility** (e.g., commercial lease site, upweller, experimental site, restoration site) and **nature of operation** (i.e., methodology used). Commercial oyster lease/bottom culture
5. **Location of facility** (include aerial or chart depicting exact location):
  - Town: Charlestown
  - Water body: Ninigret pond
  - Lat/long coordinates of facility:-71 39'33.94", 41 21'17.14"



6. Identification of all *species of shellfish* grown at the facility. Acknowledgement that the applicant will follow Biosecurity Board seed protocols should be included. *Crassostrea Virginica* and *mercenaria mercenaria* will be grown and all biosecurity board protocols will be followed
7. Description of *types of structures, gear and methods* used at the facility (e.g., rafts, pens, cages, tanks, upwellers, docks) and their locations on the site. (Include a sketch/site plan that details a cross-section of structures as they appear in water column including proximity to surface and bottom.): The proposed expansion will be for bottom culture only, see cross section in application.
8. Description of the *methods and equipment used to identify and mark site*. The site will be marked at each corner with a 12' lobster pot buoy with the CRMC assent number visible.
9. DEM *Shellfish Harvesting Classification* at site. DEM6p
10. Description of *practices and procedures used* during the growth, harvest, storage, transportation, and sale of the cultured species. The oysters will be grown on the sand bottom and harvested with bull rakes and by hand. Once harvested, the oysters will be packed and iced and delivered to the dock where the Ocean State Shellfish Cooperative refrigerated truck will pick them up. Tags showing the harvest time, date and location will accompany all shellfish at time of transfer. All vibrio regulations will be met or exceeded during the sale of shellfish.
11. Procedures for *maintaining records*:

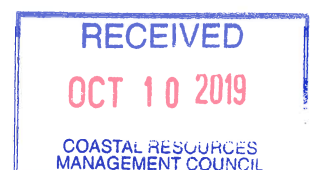
For operations using seed acquired from out-of-state: A log will be taken and pathology reports will be reported and filed.

Description of notification, disease certification, and labeling/tagging procedures: Pathology reports will be obtained and filed with CRMC before any transfer takes place. Upon harvest tags will accompany all product.

12. Procedures for *maintaining records*:

For upwellers/seed-growing facilities in prohibited waters: All seed will be grown in certified waters.

Description of procedures, including frequency of grading (with particular reference to requirements that seed must be removed before it exceeds maximum "seed" size threshold, i.e., <32 mm for oysters, <25 mm for quahogs): The seed will be graded weekly minimum and will be brought to the sight once it reaches 9mm.





**RHODE ISLAND**

**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

**DIVISION OF MARINE FISHERIES/DIVISION OF FISH AND WILDLIFE**

3 Fort Wetherill Road  
Jamestown, Rhode Island 02835

November 21, 2019

David Beutel  
Aquaculture Coordinator  
Coastal Resources Management Council  
4808 Tower Hill Road  
Wakefield, RI 02879

Re: East Beach Oyster CO. LLC public notice #2019-10-047

Dear Mr. Beutel:

The Rhode Island Department of Environmental Management (Department), through the Division of Marine Fisheries (DMF) and the Division of Fish and Wildlife (DWF), has received and reviewed the application submitted by East Beach Oyster Co. LLC for a proposed site reconfiguration and expansion of assent # 2015-05-107 from 4.91 acres to 15.6 acres total in Ninigret Pond for cultivating oysters (*Crassostrea virginica*) and hard shell clams (*Mercenaria mercenaria*) using bottom planting.

The DMF believes that the adverse impacts to marine fisheries and wildlife and their habitat from this prospective shellfish farm would be minimal. As such, the DMF does not have objections to this proposed site expansion as is outlined in the application.

The shallow waters adjacent to the saltmarshes of Ninigret Pond provide critical wintering habitat for a variety of waterfowl including American Black Ducks, Mallards, Bufflehead, Goldeneye, Redbreasted Mergansers and Canada Geese. Of particular concern is the potential for negative impacts on American Black Ducks (ABDU), a species of greatest conservation need (RI WAP 2015), whose 2015 estimated breeding population was 541,000, 11% below the 2014 estimate and 13% lower than the 1990-2014 average of 618,000 birds (USFWS 2015). Research into the drivers of ABDU populations is currently underway; however, some early indications suggest that habitat degradation or loss may be one explanation for the decreasing population.

The fact that this expansion is in an area of Ninigret pond that already has a high density of leases does not negate the negative impacts that it will have. Increased boat traffic and activities associated with the maintenance of the expanded lease will cause flushing and displacement of waterfowl resulting in higher energy expenditure during the winter period when energy conservation is critical for survival.

Additionally, federally threatened Piping Plovers nest and raise chicks on East Beach and forage with their chicks on the Ninigret Pond mudflats annually from April to September (Figure 2). Mudflats are a critical habitat for Piping Plover survival during the chick rearing stage (Elias et al. 2000). Evidence suggests that activity at similar aquaculture facilities can significantly deter Piping Plover and other shorebirds from foraging in adjacent areas (Burger et al. 2015).

Therefore, DFW requests that construction at the lease be performed outside of the three hours surrounding low tide from April 15<sup>th</sup> through September 15<sup>th</sup> in order to limit disturbance to foraging shorebirds. DFW additionally requests that from December 1<sup>st</sup> through March 31<sup>st</sup> annually, work on the lease occurs only between the hours of 10am and 2pm to minimize disturbance to wintering waterfowl.

The DMF and DFW believes that the adverse impacts to marine fisheries and wildlife and their habitat from this prospective shellfish farm would be minimal. However, in order to minimize impacts to migrating birds, DFW requests the following conditions be added to the lease: 1) construction at the lease be performed outside of the three hours surrounding low tide from April 15<sup>th</sup> through September 15<sup>th</sup> annually in order to limit disturbance to foraging shorebirds, and 2) from December 1<sup>st</sup> through March 31<sup>st</sup> annually, work on the lease occurs only between the hours of 10am and 2pm to minimize disturbance to wintering waterfowl.

The Divisions' acceptance of the current proposal is specific to the location and specifications outlined in the application and the amendments listed above. The Department looks forward to working with the applicant in the future.

Sincerely,

Jason McNamee,  
Chief of Marine Resource Management

Jay Osenkowski,  
Deputy Chief, Wildlife

## References

- Borgmann, K. L. 2010. A Review of Human Disturbance Impacts on Waterbirds. Audubon California, 376 Tiburon, California 94920.
- Longcore, Jerry R., Daniel G. Mcauley, Gary R. Hepp and Judith M. Rhymer. 2000. American Black Duck (*Anas rubripes*), The Birds of North America Online (A. Poole, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America Online:  
<http://bna.birds.cornell.edu.bnaproxy.birds.cornell.edu/bna/species/481doi:10.2173/bna.481>
- Platteeuw, M., and R. J. H. G. Henkens. 1997. Possible impacts of Disturbance to Waterbirds: Individuals, Carrying Capacity and Populations. *Wildfowl* 48:225-236.
- Rhode Island Wildlife Action Plan. 2015. Rhode Island Department of Environmental Management, Providence, RI, USA.
- U.S. Fish and Wildlife Service. 2015. Waterfowl population status, 2015. U.S. Department of the Interior, Washington, D.C. USA.

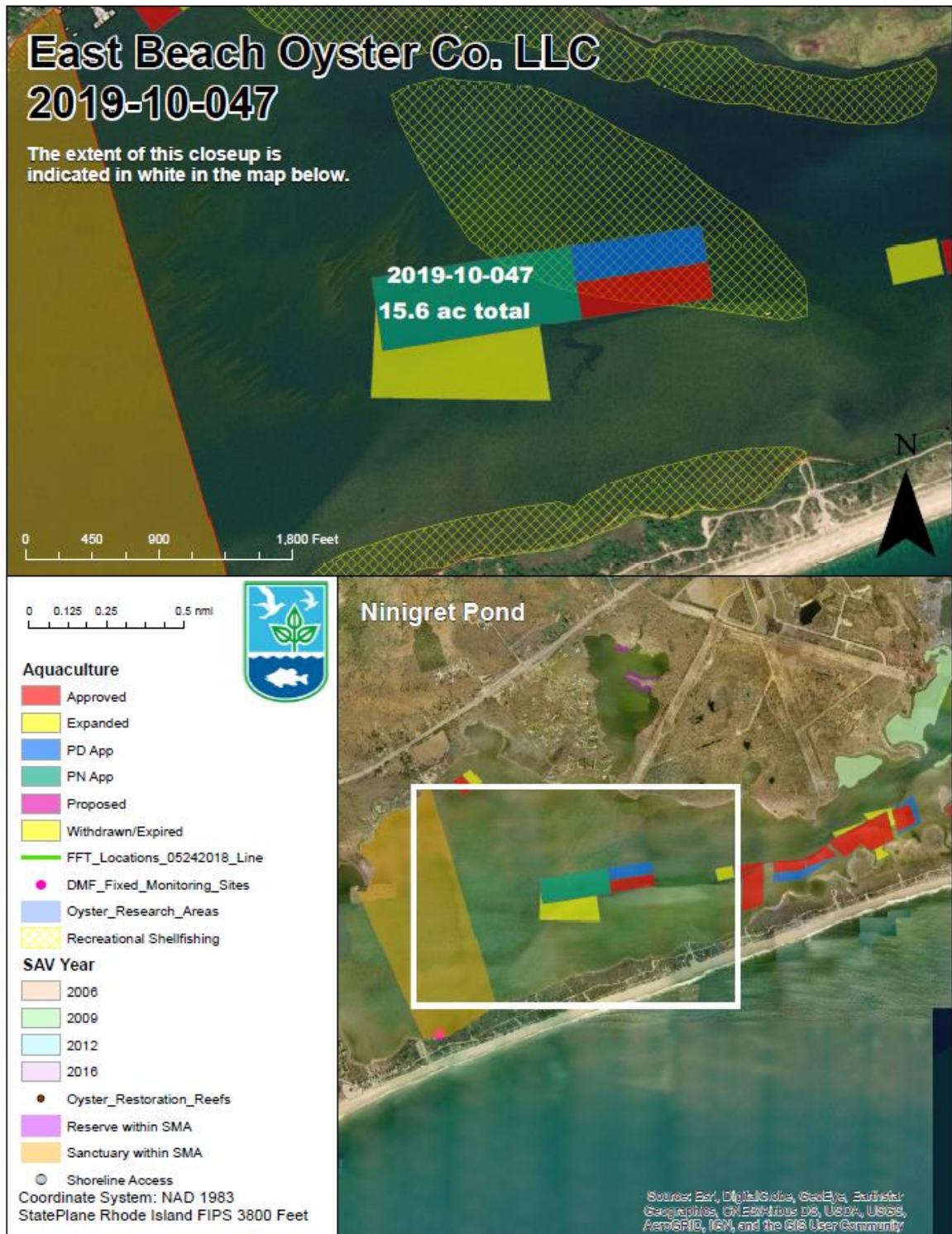


Figure 1. Proposed site shift and expansion



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

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

### PUBLIC NOTICE

File Number: 2020-05-083 Date: June 10, 2020

This office has under consideration the application of:

Andrew Van Hemelrijck  
167 Broadrock Road  
South Kingstown, RI 02879

for a State of Rhode Island Assent to construct and maintain: a 0.55 acre primary site for an oyster farm using bottom cages and a 0.05 acre winter site for bottom cages.

Project Location:	Point Judith Pond
City/Town:	Narragansett
Waterway:	West side of Great Island

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

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

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

If you desire to protest, you must attend the scheduled hearing and give sworn testimony. A notice of the time and place of such hearing will be furnished you as soon as possible after receipt of your request for hearing. If you desire to request a hearing, to receive consideration, it should be in writing (**with your correct mailing address, e-mail address and valid contact number**) and be received at this office on or before July 10, 2020.



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

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

## APPLICATION FOR STATE ASSENT

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

Project Location <u>Point Judith Pond Narragansett, RI</u> <small style="display: flex; justify-content: space-between; font-size: 0.8em;"> <span>No. Street</span> <span>City/Town</span> </small>	File No. (CRMC USE ONLY) <u>2020-05-083</u>
Owner's Name <u>Andrew Van Hemelrijck</u>	Plat: Lot(s):
Mailing Address <u>167 Broad Rock Rd.</u> City/Town <u>South Kingstown</u> State <u>RI</u> Zip Code <u>02879</u>	Contact No.: <u>(401) 741-6507</u> Email Address: <u>andrewvanhemelrijck@gmail.com</u>
Contractor RI Reg. #                      Address	Email address: Tel. No.
Designer                                      Address	Tel. No.
Name of Waterway <u>Point Judith Pond</u>	Estimated Project Cost (EPC): <u>5,000</u> Application Fee: <u>450.00</u>
Describe accurately the work proposed. (Use additional sheets of paper if necessary and attach this form.) <u>Application for aquaculture lease to grow oysters &amp; quahogs at 2 sites in Point Judith Pond.</u>	

Have you or any previous owner filed an application for and/or received an assent for any activity on this property?  
 (If so please provide the file and/or assent numbers): \_\_\_\_\_

Is this site within a designated historic district?                       YES                       NO

Is this application being submitted in response to a coastal violation?    YES                       NO

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

Name/ mailing addresses of adjacent property owners whose property adjoins the project site. Accurate mailing addresses will insure proper notification. \_\_\_\_\_ Applicant must initial to certify accuracy of adjacent property owners and accuracy of mailing addresses.

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

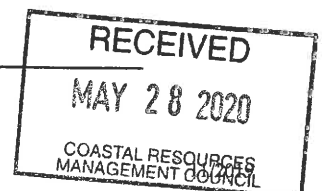
NOTE: The applicant acknowledges by evidence of their signature that they have reviewed the Rhode Island Coastal Resources Management Program, and have, where possible, adhered to the policies and standards of the program. Where variances or special exceptions are requested by the applicant, the applicant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

08/04

\_\_\_\_\_

Owner's Signature (sign and print)

PLEASE REVIEW REVERSE SIDE OF APPLICATION FORM





**Andrew Van Hemelrijck**  
**Aquaculture Lease Application**  
June 9, 2020  
Operational Plan

**CRMC File Number - 2020-03-029** <sup>05-083</sup>

**DEM Aquaculture License number - 000121**

**Type of facility - 2 Commercial Lease Sites (one primary, one winter location)**

**GPS Lat/long coordinates**

**Primary Site**

- 1 - 41.38845° N, -71.51172° W
- 2 - 41.38867° N, -71.51129° W
- 3 - 41.3883° N, -71.51095° W
- 4 - 41.38807° N, -71.51136° W

**Winter Site**

- 1 - 41.38725° N, -71.51301° W
- 2 - 41.38724° N, -71.51292° W
- 3 - 41.38701° N, -71.51295° W
- 4 - 41.38701° N, -71.51304° W

**Proposed Species**

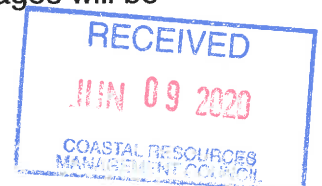
Eastern Oysters (*Crassostrea virginica*),  
Quahogs (*Mercenaria mercenaria*)

**Summary**

I plan to grow Oysters and Quahogs will at this site using several proven aquaculture methods including grow-out bags, cages, rack and bag systems, and direct bottom planting. Both of these species are native to the immediate area.

I have 5 years experience growing oysters in the immediate area both with a commercial viability permit at this location, and also with my parents Lisa and Chris Van Hemelrijck under their dockside permit. Both my parents and grandfather own property overlooking the site, and my family has lived on these 2 waterfront properties for 4 generations. I grew up directly in view of this area as a year round resident, allowing me to become very familiar with this location. I have also completed the Applied Shellfish Farming course at Roger Williams University with Dale Leavitt.

Low tide events (<.5ft below mean) might pose an issue in cold winters, and for this reason I am applying for a winter location in nearby deeper water as well. Cages will be



used at the winter site and will be placed on the sea floor remaining submerged by ~5ft of water at low tides. Gear at the primary site will be on the seafloor as well and will remain submerged in all but the lowest tides. Great care will be taken to ensure that the site appears orderly and presentable.

## **Design & Operation**

**Primary Site** - Several different methods will be used at the primary site including grow out bags in various configurations, cages, and direct bottom planting. The water depth at this site ranges from a foot to a foot and a half at mean low tide, so all gear used will be designed to maintain a low profile. The site and all gear will be adequately marked with buoys to ensure it is not a navigational hazard. I plan to start small at first and work up to full operating capacity over about a 3 year period.

Grow out bags will be organized in trawls throughout the site. Two configurations will be used to keep the bags slightly elevated off the seafloor: 5" diameter PVC feet will be attached to bags, and racks will be constructed of 3" PVC with bags attached to the top. The bags with PVC feet will be clipped to lines and anchored to the seafloor with helicle screws or weighted anchors, and the PVC racks will be driven into the sand. The maximum height of both of these configurations will be 8", and a maximum of 1500 bags will be used.

Cages with bays to hold grow out bags will be used in the Eastern corner of the site where the water is deepest. Cages are heavy enough to be placed as is on the sand with detachable buoys to mark and access these cages at higher tides. Cage heights will be 14 - 18", and a maximum of 80 cages will be used.

Oysters and quahogs will also be planted directly into the seafloor in the center of the site.

**Winter Site** - Cages from the primary site will be relocated to the winter site for the months of December through March each year. None of the other gear types will be used here, and a maximum of 80 cages will be used. The site and all gear will be adequately marked with buoys when gear is onsite.

## **Seed Stock Origin**

Seed cultured in waters from within Point Judith Pond will be used whenever possible. In cases where seed must be sourced from other biosecurity zones it will be from an approved aquaculture facility and accompanied by a shellfish pathology report.

Seed stock from areas not approved for the harvest of shellfish will be recorded to track purchase data, marked using color-coded zip ties, and kept in marked trawls for 12 months before shellfish are offered for sale/consumption.



I don't anticipate any significant effects on erosion or deposition processes in the area. The site does not abut the shore, and aquaculture sites in the area using the same or similar methods have not been shown to significantly impact these processes.

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

The shellfish farming equipment I intend to use is known to create refuges for many marine species, attracting a variety of small fish and crustaceans, along with some commercially important species as well. Juvenile tautog, black sea bass, lobsters and others can often be found using Point Judith Pond shellfish farms for protection as they grow. If anything, an increase in abundance and diversity of plant and animal life is expected.

***(6) demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore;***

The proposed site does not border the shoreline or significantly interfere with access to this area of the pond. All proposed gear will be low-profile and kept tight along the seafloor to minimize any impact it may have.

***(7) demonstrate that the alteration will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation;***

All grow-out gear is designed to allow the maximum flow of water to pass through the area because it is necessary for good shellfish growth, so the typical flow of water through the area will not be impeded. The gear I plan to use does not cause sedimentation, and activity at the site will have no net effect on turbidity.

***(8) demonstrate that there will be no significant deterioration in the quality of the water in the immediate vicinity as defined by DEM;***

Shellfish are filter feeders, and the species I intend to cultivate are known to improve water quality in the area where they are farmed. Shellfish farming is known to clarify water in the local environment and stimulate denitrification, combating harmful algae blooms and benefiting many local species including eel grass. No chemicals or feed of any kind will be used or needed in the operation of the farm.

***(9) demonstrate that the alteration or activity will not result in significant impacts to areas of historic and archaeological significance;***

The proposed site is not on or near any known sites of historic or archaeological significance.

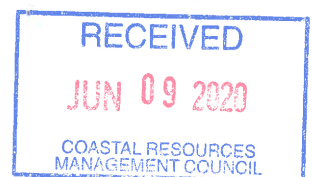
***(10) demonstrate that the alteration or activity will not result in significant conflicts with water-dependent uses and activities such as recreational boating, fishing, swimming, navigation, and commerce, and;***



Activity in the area will not be significantly affected by the proposed farm. This area is rarely used for recreational activities. It is a shallow area that most mariners avoid in all but the highest tides, and it does not contain shellfish in high enough concentrations to attract harvesters. The farm will not obstruct typical navigation in any significant way, and the ability of the public to access the site and surrounding area (by kayak, paddle board or on foot for example) will not be impeded.

***(11) demonstrate that measures have been taken to minimize any adverse scenic impact (see Section 330).***

Every effort will be made to ensure that the equipment is visually innocuous. All gear will be designed to be as minimal and low profile as possible and arranged in orderly rows to achieve this end.

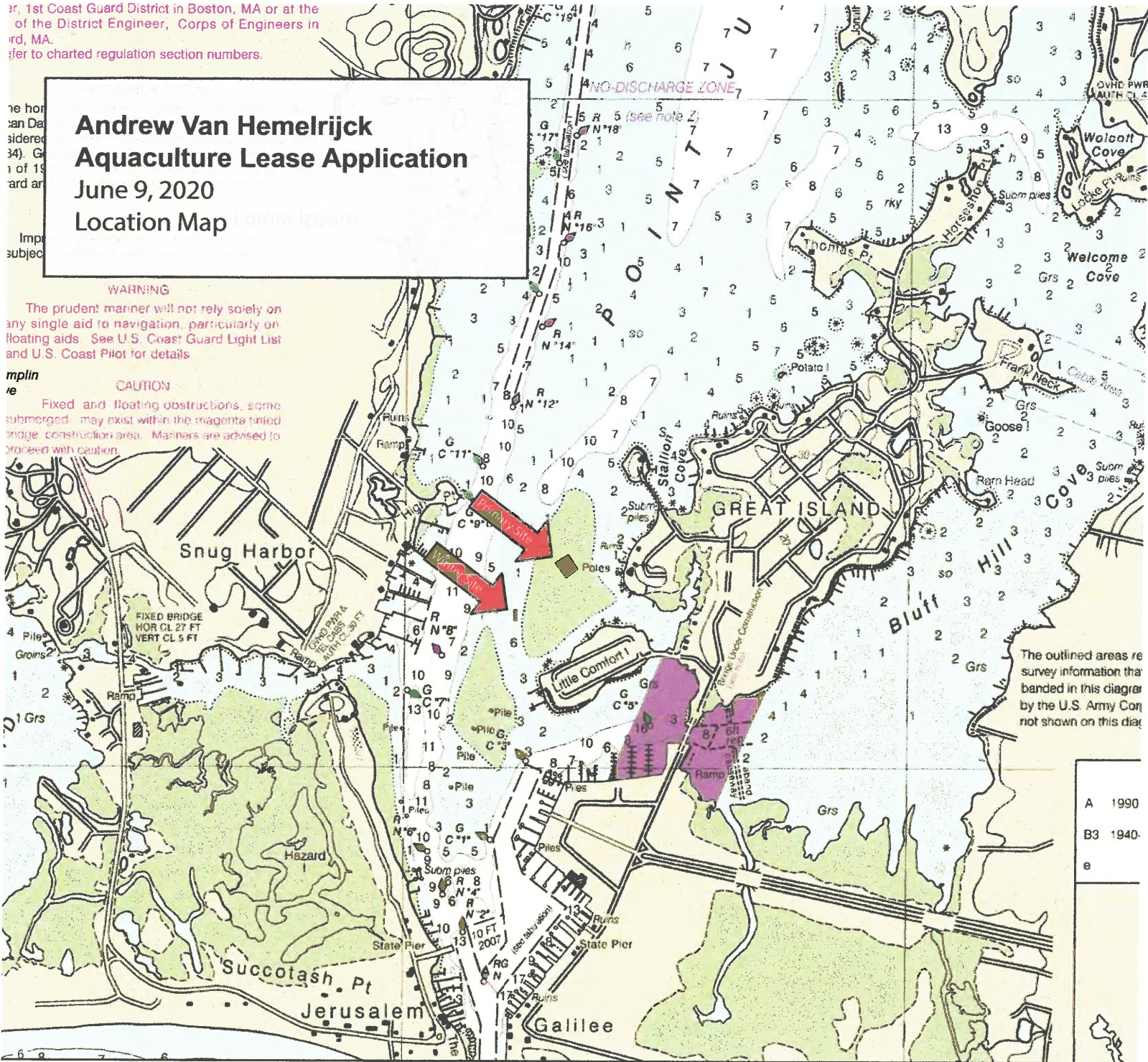


1st Coast Guard District in Boston, MA or at the  
of the District Engineer, Corps of Engineers in  
rd, MA.  
fer to charted regulation section numbers.

**Andrew Van Hemelrijck**  
**Aquaculture Lease Application**  
**June 9, 2020**  
**Location Map**

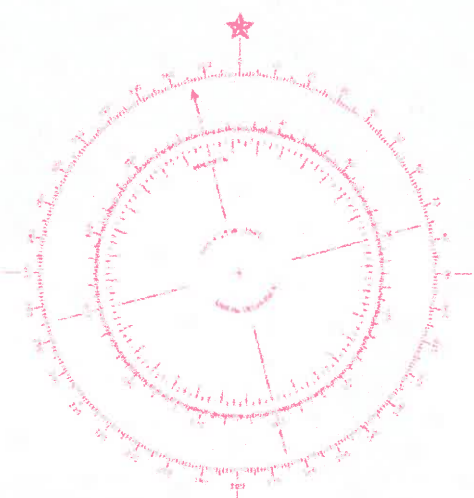
**WARNING**  
The prudent mariner will not rely solely on  
any single aid to navigation, particularly on  
floating aids. See U.S. Coast Guard Light List  
and U.S. Coast Pilot for details.

**CAUTION**  
Fixed and floating obstructions, some  
submerged, may exist within the magenta tinted  
bridge construction area. Mariners are advised to  
proceed with caution.



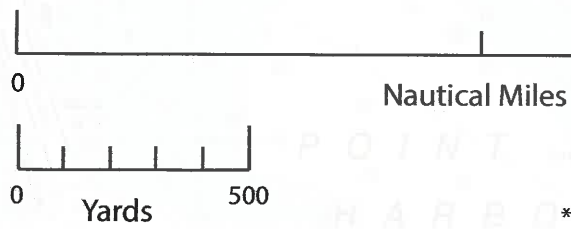
The outlined areas re  
survey information that  
banded in this diagram  
by the U.S. Army Corp  
not shown on this dia

A	1990
B3	1940
e	



**Primary Site:**  
**W** - 41.38845° N, -71.51172° W  
**N** - 41.38867° N, -71.51129° W  
**E** - 41.3883° N, -71.51095° W  
**S** - 41.38807° N, -71.51136° W

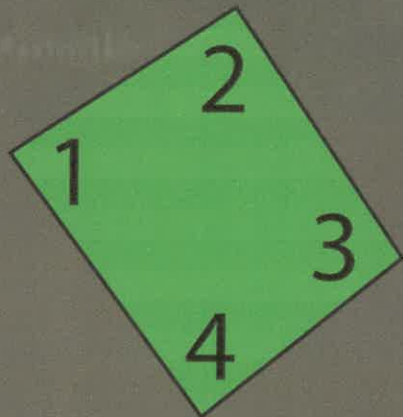
**Winter Site:**  
**NW** - 41.38725° N, -71.51301° W  
**NE** - 41.38724° N, -71.51292° W  
**SE** - 41.38701° N, -71.51295° W  
**SW** - 41.38701° N, -71.51304° W



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\*Taken from NOAA Chart #13219

**Andrew Van Hemelrijck  
Aquaculture Lease Application**  
June 9, 2020  
Primary Site Plans



411 ft

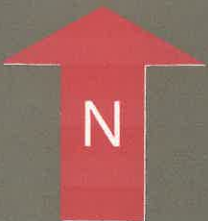
490 ft

**GPS Coordinates:**

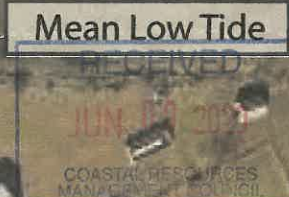
- 1 - 41.38845° N, -71.51172° W
- 2 - 41.38867° N, -71.51129° W
- 3 - 41.3883° N, -71.51095° W
- 4 - 41.38807° N, -71.51136° W

**Dimensions:**

146ft x 166ft  
.55 acres

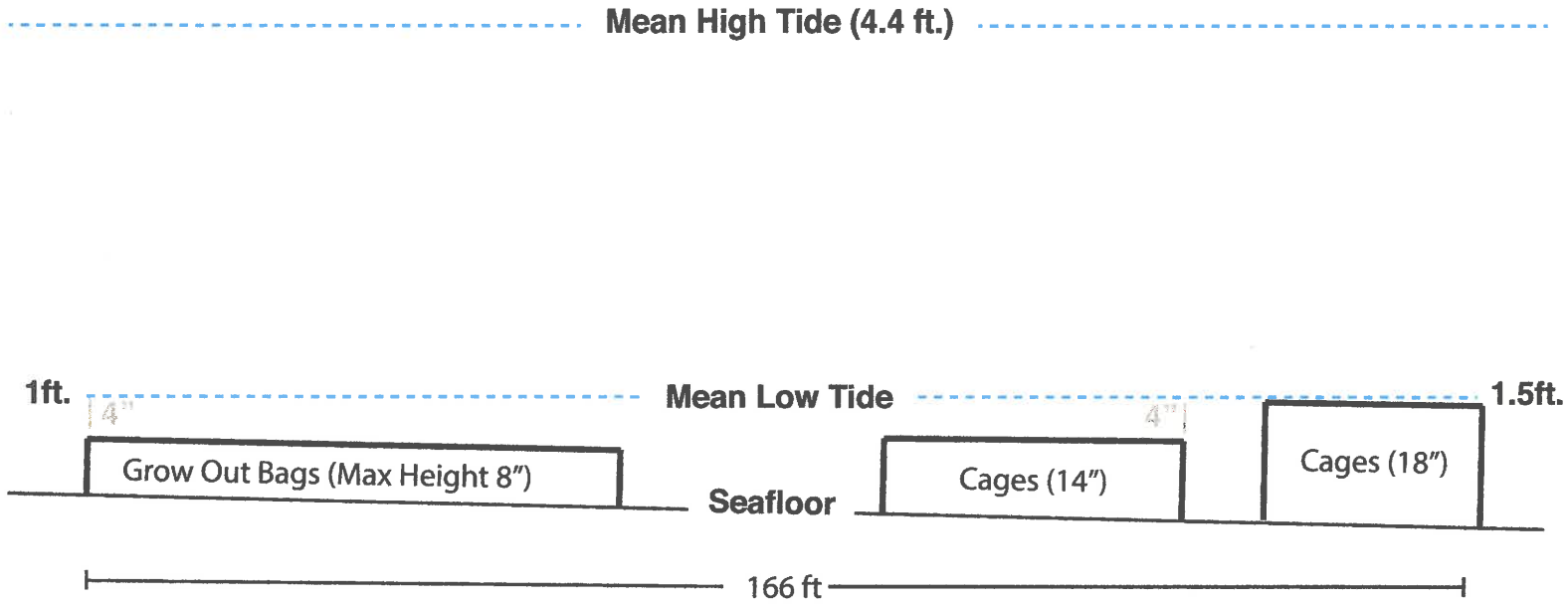


True North



**Andrew Van Hemelrijck**  
**Aquaculture Lease Application**  
June 9, 2020  
Primary Site Plans - Side View

**Side View**



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MANAGEMENT COUNCIL

Andrew Van Hemelrijck  
Aquaculture Lease Application  
June 9, 2020  
Winter Site Plans

1 2  
4 3

Sandbar

543 ft

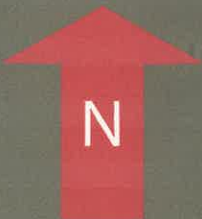
Little Com  
Island

Mean Low Tide

GPS Coordinates:

- 1 - 41.38725° N, -71.51301° W
- 2 - 41.38724° N, -71.51292° W
- 3 - 41.38701° N, -71.51295° W
- 4 - 41.38701° N, -71.51304° W

Dimensions:  
87ft x 25ft  
.05 acres

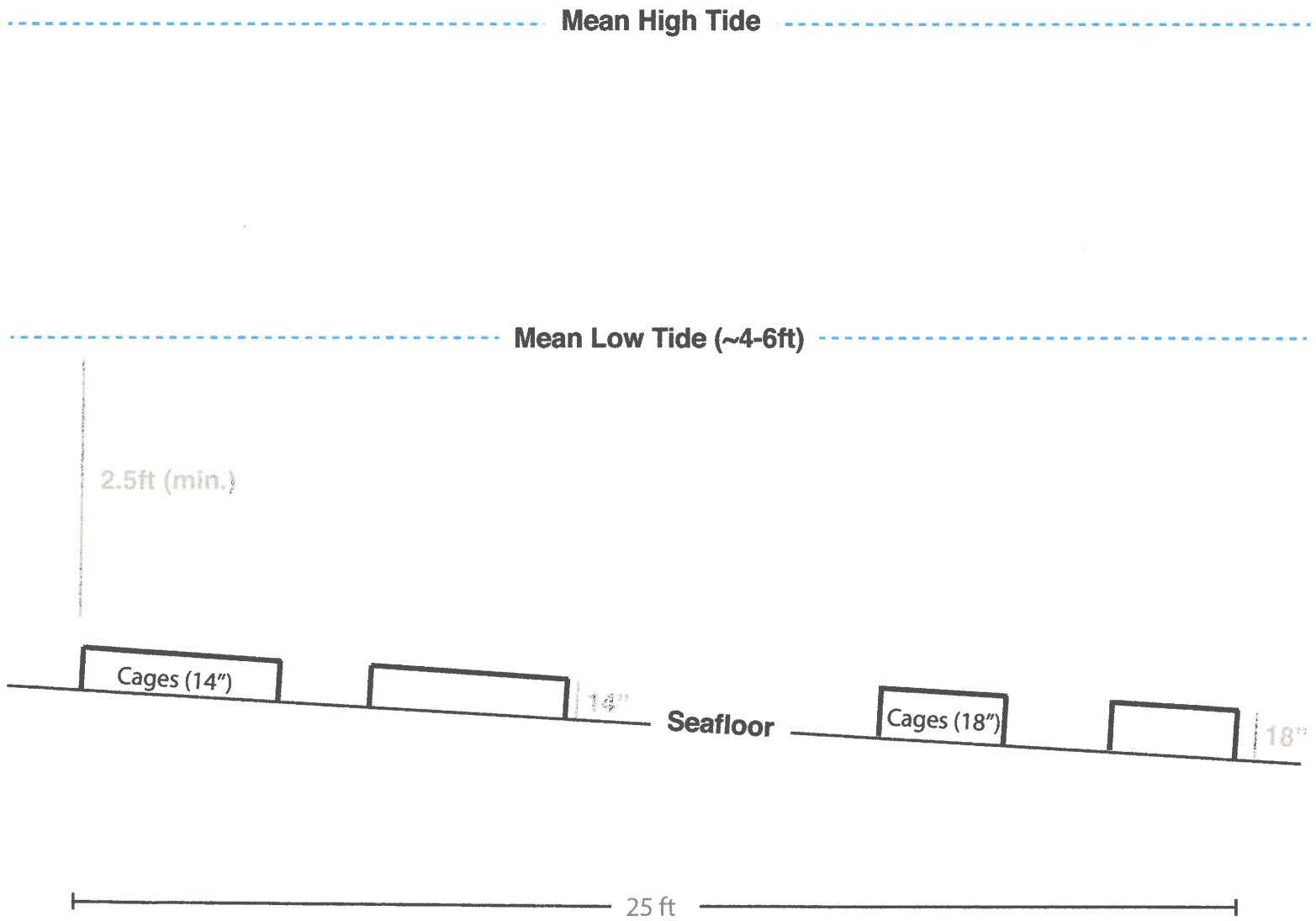


True North



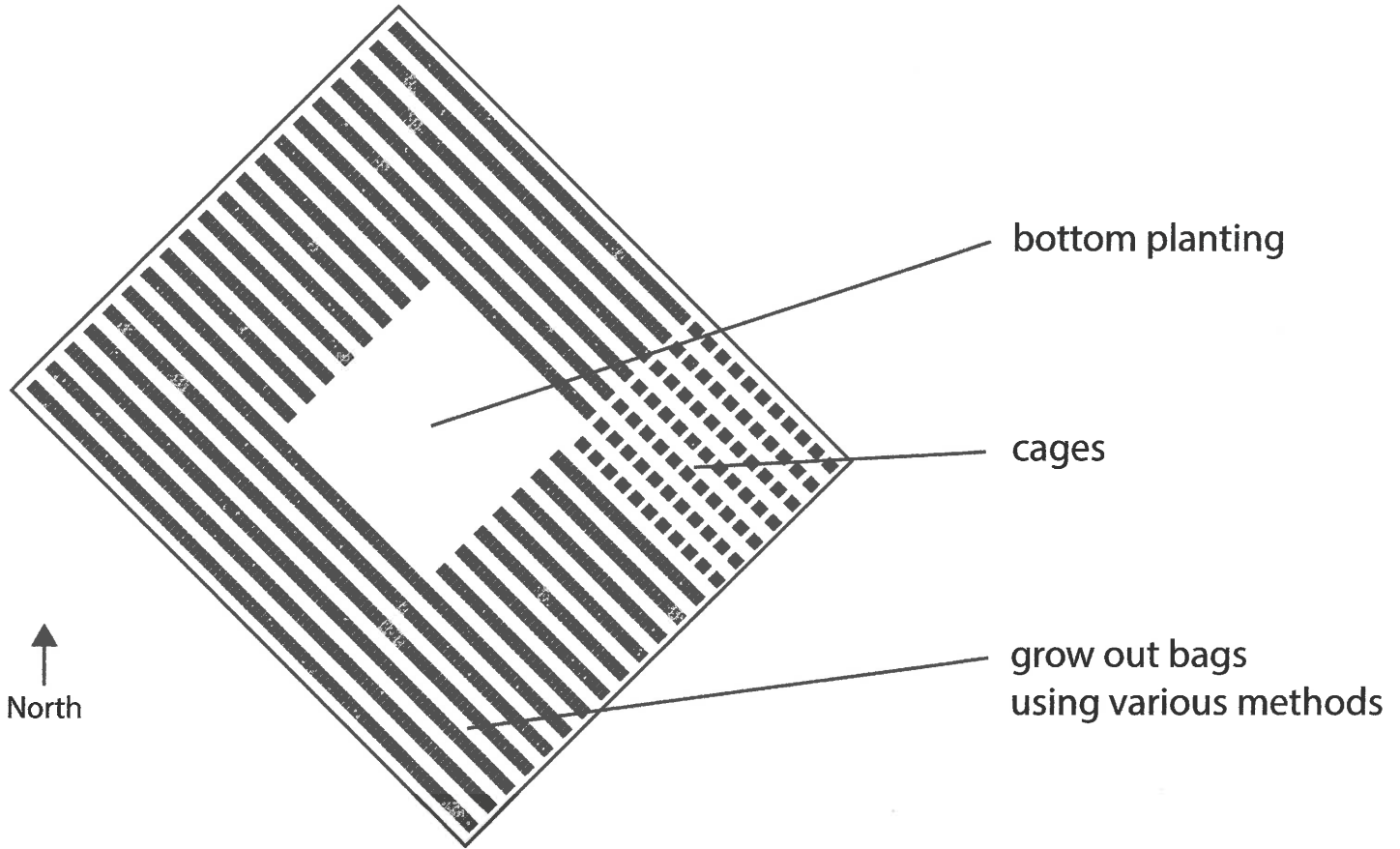
**Andrew Van Hemelrijck**  
**Aquaculture Lease Application**  
June 9, 2017  
Winter Site Plans - Side View

**Side View**

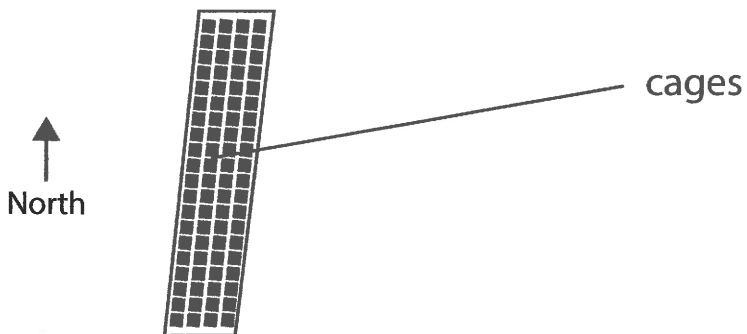


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MANAGEMENT COUNCIL

## Primary Site

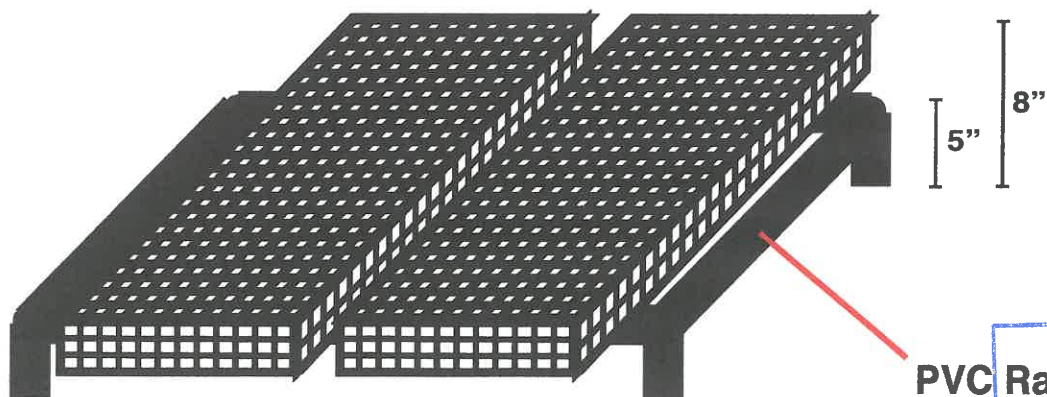
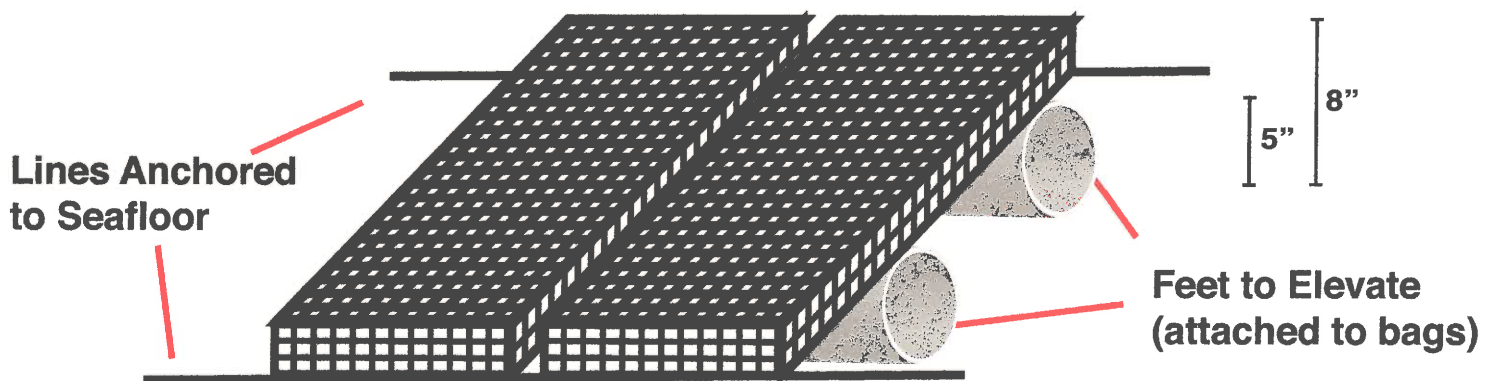
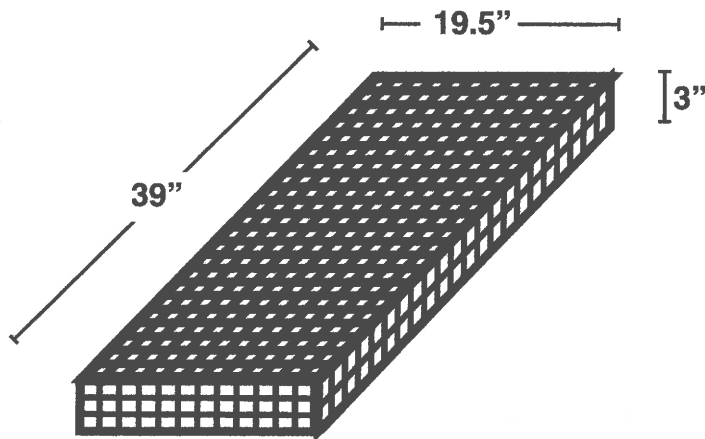


## Winter Site



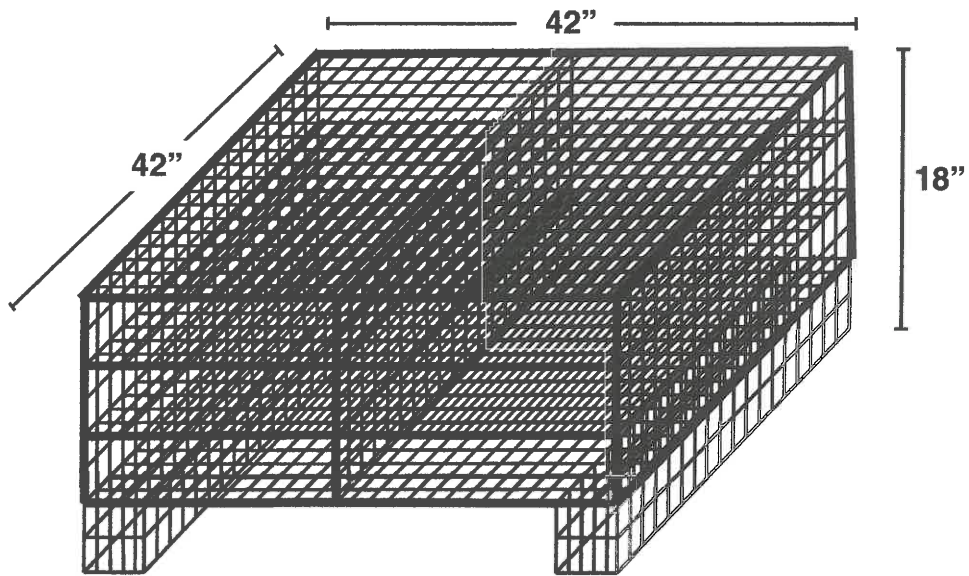
**Andrew Van Hemelrijck**  
**Aquaculture Lease Application**  
June 9, 2020  
Gear Details

**Grow-out Bags -**



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MANAGEMENT COUNCIL

## Cages -



**Six bay bottom growing cage with shock cord retainers and reinforcing end caps on the feet. Cage 4 1/2" 8 gauge Aqua-Marine mesh, Feet 1 1/2" HD Lobster trap wire**

**\* 3 high by 2 wide are pictured, but 2 high by 3 wide will be used as well.**

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**Photos -**



Facing North, looking at Primary Site



Facing East, from Primary Site

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MANAGEMENT COUNCIL



Facing South, from Primary Site, Winter Site is on the right of the frame.



Facing West, from Primary Site, Winter Site is on the left of the frame.





From Little Comfort facing WNW. Winter site is on the right of the frame.

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MANAGEMENT COUNCIL



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

June 25, 2020

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

Re: Van Hemelrijck 2020-05-083

Dear Mr. Goetsch:

The Rhode Island Department of Environmental Management (Department), through the Division of Marine Fisheries (DMF) and the Division of Fish and Wildlife (DFW), has received and reviewed the application submitted by Andrew Van Hemelrijck for a 0.55 acre site and a 0.05 acre winter storage site (total area of 0.6 acres), both in Point Judith Pond for cultivating eastern oysters (*Crassostrea virginica*). The primary site will use grow out bags in various configurations, cages, and direct bottom plant. Oysters will be placed in bottom cages for storage from December through March at the winter storage site.

Given the existence of the site for the last three years as a commercial viability permit and the absence of issues, the DMF believes that the adverse impacts to marine fisheries and their habitat from this prospective site would be minimal. As such, the DMF does not have objections to this application. However, the DMF would like the applicant to be aware that this area is sometimes used for recreational shellfishing.

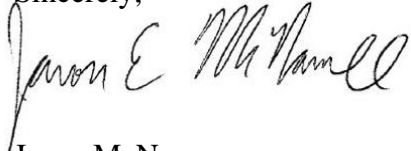
The shallow waters of Point Judith Pond provide important wintering habitat for a variety of waterfowl including American Black Ducks, Mallards, Bufflehead, Goldeneye, Redbreasted Mergansers and Canada Geese. Should the lease be approved, DFW requests that from December 1<sup>st</sup> through March 31<sup>st</sup> annually, work on the winter storage lease occurs only between the hours of 10am and 2pm to minimize disturbance to wintering waterfowl.

The DMF and DFW's acceptance of the current proposal is specific to the location (provided by the coordinates) and specifications outlined in the application. However, the DMF does request that coordinates be provided for both sites in decimal degree format with six digits after the decimal point. This level of precision is necessary to ensure that



the site is properly displayed in the DMF's spatial database. These higher resolution coordinates should be included in the final assent if the site is approved.

Sincerely,

A handwritten signature in black ink that reads "Jason E. McNamee". The signature is written in a cursive style with a large initial 'J' and 'M'.

Jason McNamee,  
Deputy Director, Bureau of Natural Resources



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

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

**PUBLIC NOTICE**

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

This office has under consideration the application of:

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

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

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

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

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

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

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



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

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

## APPLICATION FOR STATE ASSENT

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

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

Have you or any previous owner filed an application for and/or received an assent for any activity on this property?

(If so please provide the file and/or assent numbers): NO

Is this site within a designated historic district?  YES  NO

Is this application being submitted in response to a coastal violation?  YES  NO

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

Name/ mailing addresses of adjacent property owners whose property adjoins the project site. Accurate mailing addresses will insure proper notification. \_\_\_\_\_ Applicant must initial to certify accuracy of adjacent property owners and accuracy of mailing addresses.

This application is for submerged state property.

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

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

08/04


  
 Owner's Signature (sign and print) **PATRICK M. BOWEN**

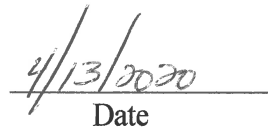
PLEASE REVIEW REVERSE SIDE OF APPLICATION FORM

**STATEMENT OF DISCLOSURE AND APPLICANT AGREEMENT AS TO FEES**

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

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

  
Signature

  
Date

  
Print Name and Mailing Address



**CRMC AQUACULTURE APPLICATION FOR STATE ASSENT**

**Applicant Name and Mailing Address:**

Applicant Name(s): John Bowen, Patrick Bowen

Street: 79 Shaw Road

City/Town: Little Compton State: RI Zip Code: 02837

E-Mail: Seanbow@yahoo.com

**CRMC File Number:** 29-12-023

**DEM License Number:** Application Pending

**Type of Facility:** Commercial lease site

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



**Size of Proposed Aquaculture Site:** 0.97 acres

**Latitude /Longitude of Proposed Aquaculture Site:**

**Northeast Corner: 41.580836, -71.209611**

**Northwest Corner: 41.580975, -71.210326**

**Southwest Corner: 41.580122, -71.209876**

**Southeast Corner: 41.580026, -71.209485**

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

## 1. Introduction.

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

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

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

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

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

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

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

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

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

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

### **As stated in the CRMC Preliminary Determination Report of Findings,**

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

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

**OPERATIONAL PLAN:**

**1. Name and Address:**

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

**2. CRMC File Number: 2019-12-023**

**3. DEM Aquaculture License Number: To be determined**

**4. Type of Facility: Commercial Aquaculture Lease Site**

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

**Setbacks:**

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

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

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

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

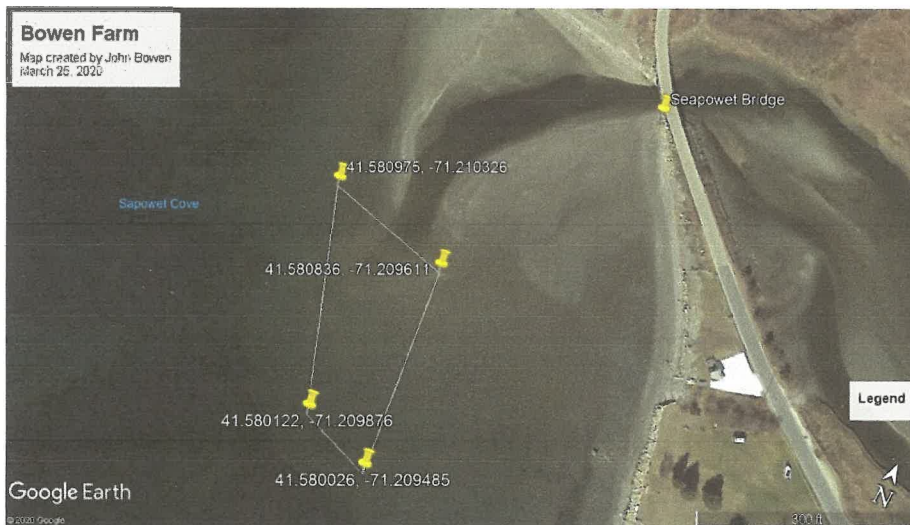
Longitude/Latitude of Proposed Aquaculture Site:

**Northeast Corner: 41.580836, -71.209611**

**Northwest Corner: 41.580975, -71.210326**

**Southwest Corner: 41.580122, -71.209876**

**Southeast Corner: 41.580026, -71.209485**



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

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

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

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

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

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

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

#### **8. Identifying Markers**

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

#### **9. DEM Shellfish Harvesting Classification:**

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

#### **10. Description of Practices and Procedures:**

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



**11. Harvest, Storage, and Transportation:**

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

**12. Time Table of Work**

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

**13. Record Keeping:**

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

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

An upweller will not be used.

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

Seed will not be obtained from prohibited waters.

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

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

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

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

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

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

Northeast Corner: 41.580836, -71.209611

Northwest Corner: 41.580975, -71.210326

Southwest Corner: 41.580122, -71.209876

Southeast Corner: 41.580026, -71.209485

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

**Setbacks:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

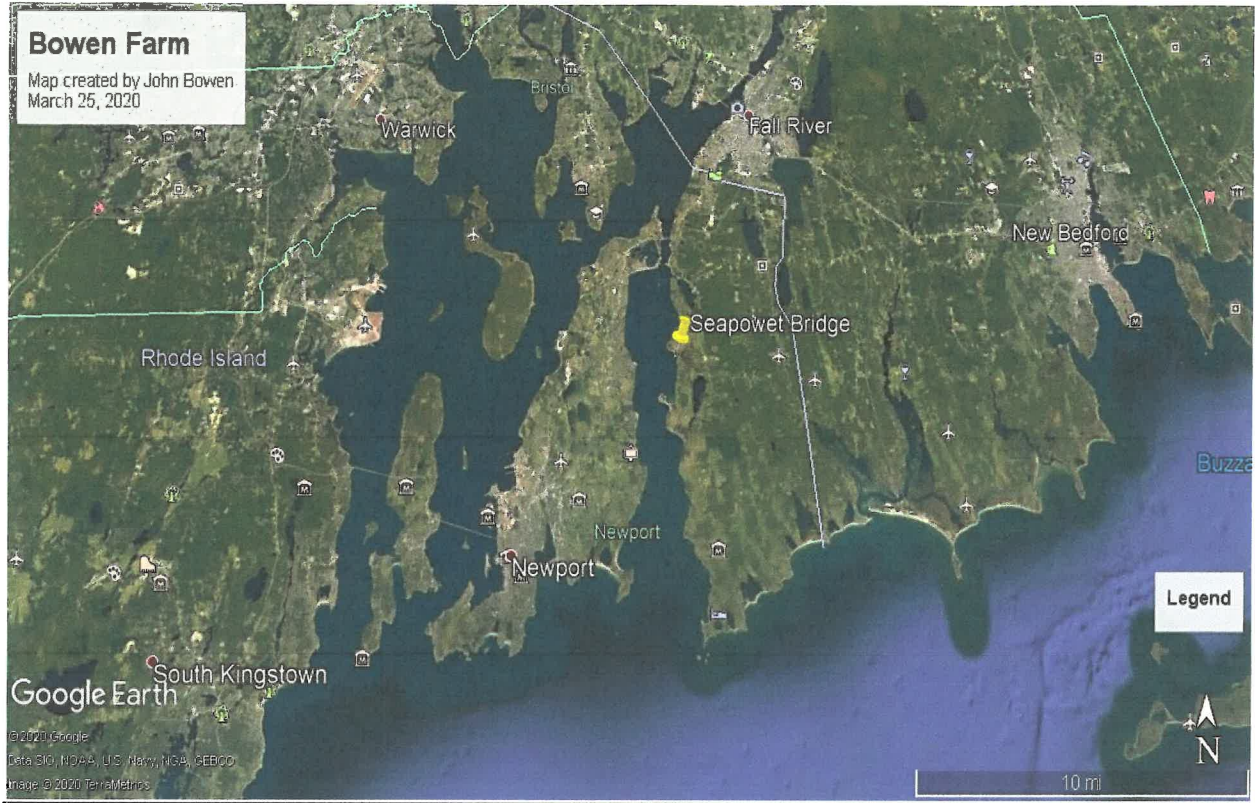
The site is located in the Sakonnet River, on the southwest side of Seapowet Creek. The water depth and coarse sand/gravelly bottom are not conducive to boating\*, swimming\*\* or fishing, and there is no significant hardshell clam resource on the site. **The area SW of Seapowet Point is extremely shallow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

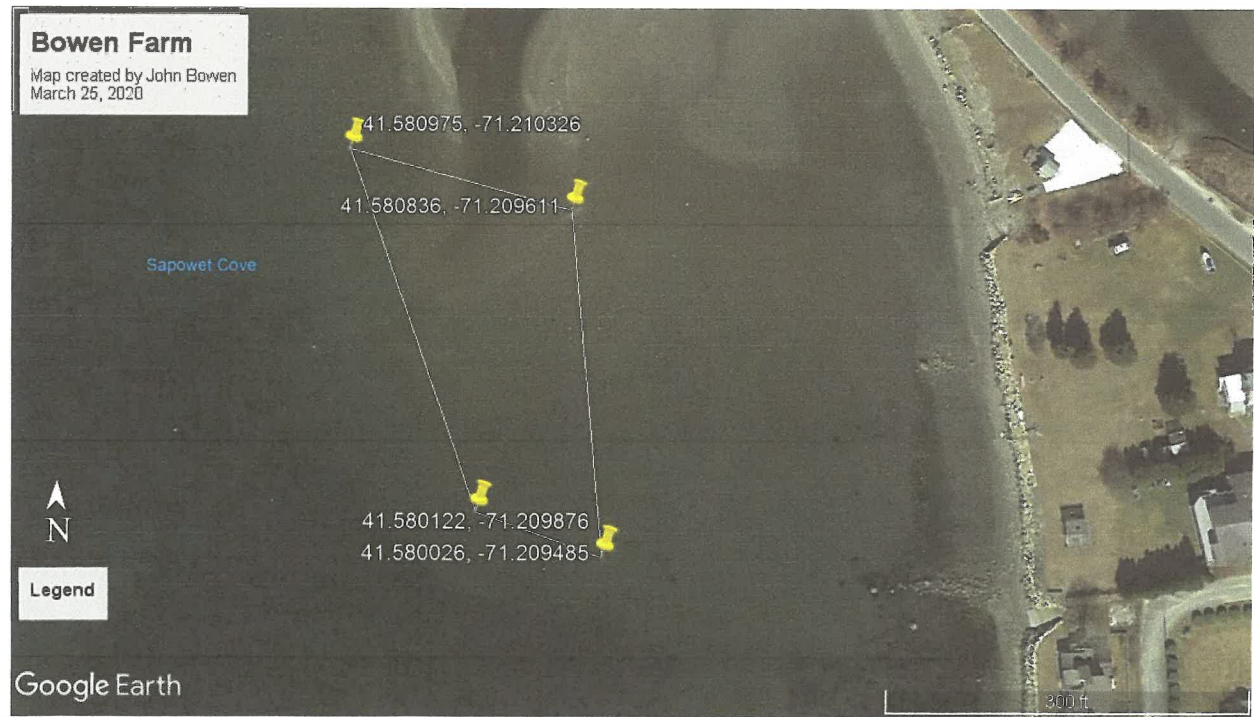
\*TIVERTON HARBOR AND COASTAL WATERS MANAGEMENT PLAN: II(A)(3)(e)

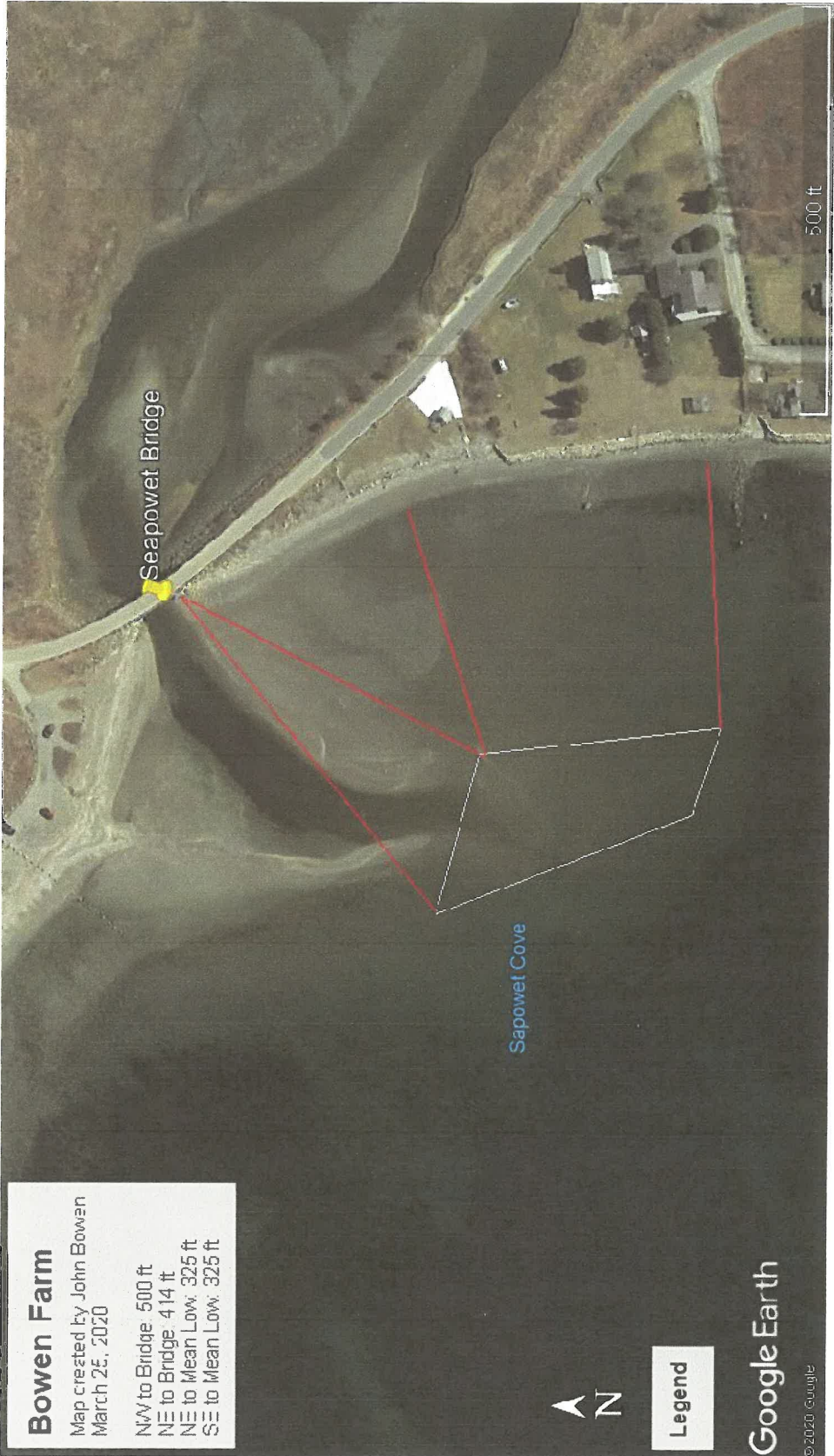
\*\* *CODE OF ORDINANCES, TOWN OF TIVERTON, Chapter 14, Article II, Section 14-193*

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

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







# North





# South



# East



# West



BONEN OYSTER FARM  
MARCH 2020  
P. BONEN

SCALE 1/8" = 1"

### SECTION VIEW (SIDE) TYPICAL OYSTER CAGE GEAR LAYOUT

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

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

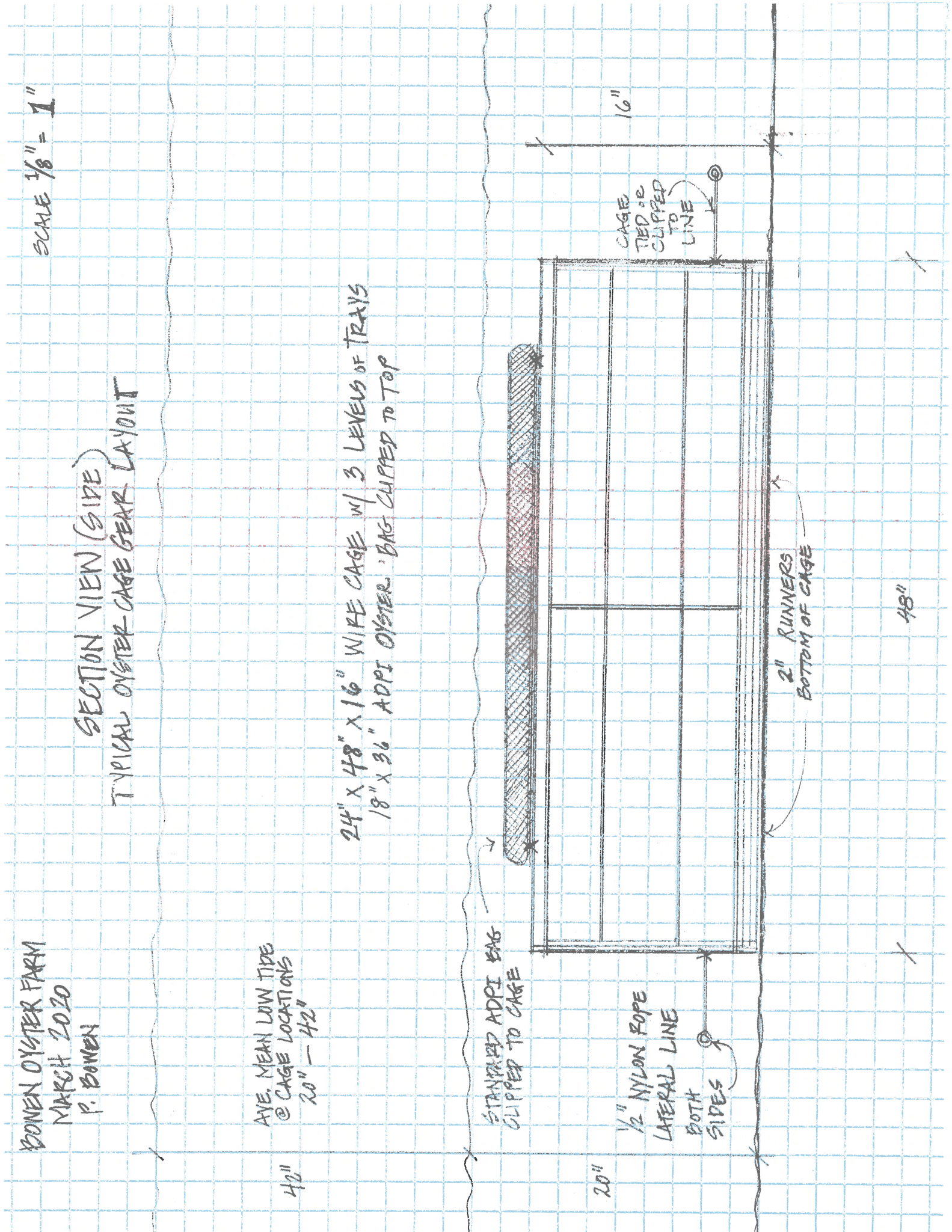
STANKED ADPI BAG  
CLIPPED TO CAGE

1/2" NYLON ROPE  
LATERAL LINE  
BOTH SIDES

CAGE  
TIED TO  
CLIPPED  
TO LINE

2" RUNNERS  
BOTTOM OF CAGE

48"

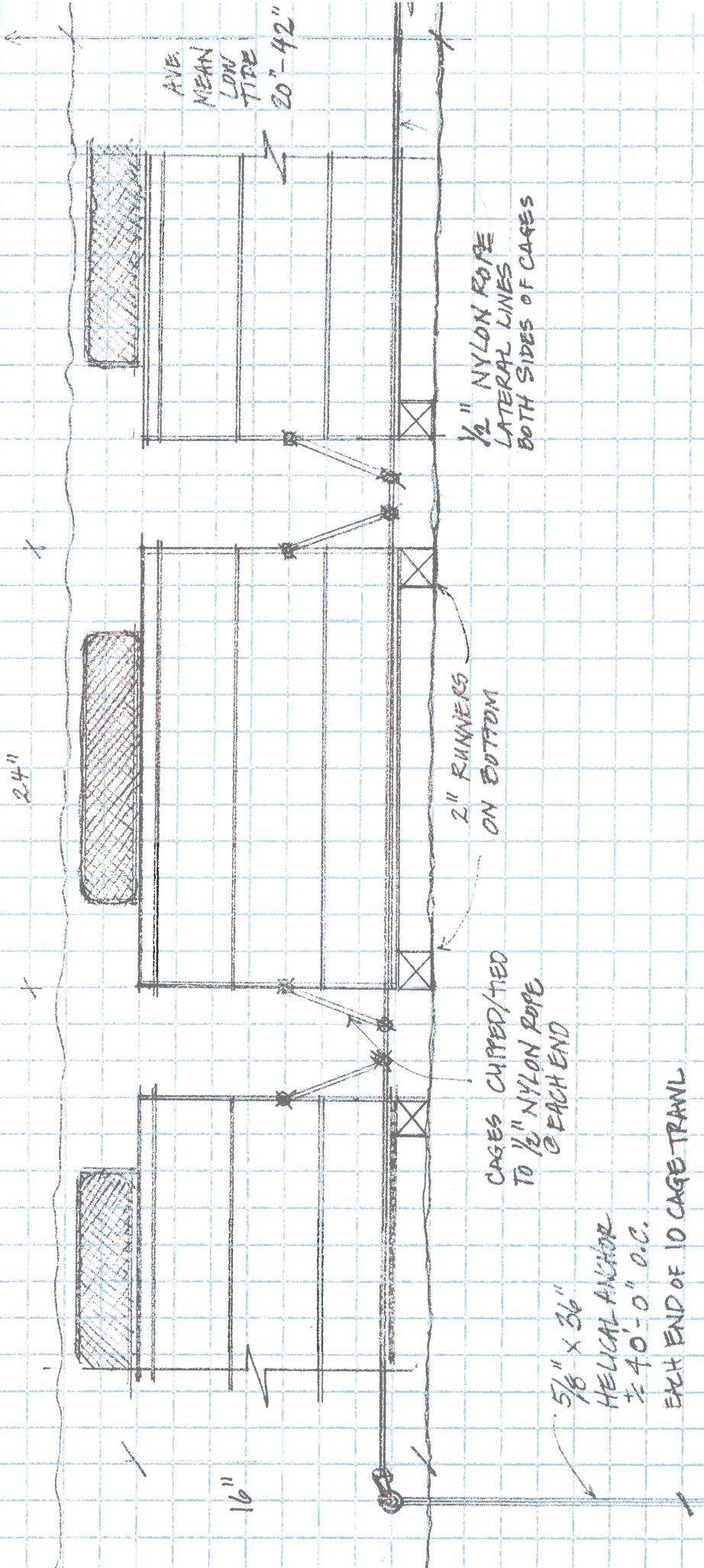


BOWEN OYSTER FARM  
 MARCH 2020  
 P. BOWEN

SCALE: 1/8" = 1'

SECTION VIEW (END)  
 TYPICAL OYSTER CAGE GEAR LAYOUT

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



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

CAGES CLIPPED/TIED  
 TO 1/2" NYLON ROPE  
 @ EACH END

2" RUNNERS  
 ON BOTTOM

1/2" NYLON ROPE  
 LATERAL LINES  
 BOTH SIDES OF CAGES

AVE.  
 MEAN  
 LOW  
 TIDE  
 20'-42"

BOWEN OYSTER FARM  
MARCH 2020  
P. BOWEN

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

### SECTION VIEW TYPICAL OYSTER-CAGE GEAR LAYOUT

### SIDE VIEW

AVERAGE MEAN LOW TIDE  
20' - 42"

$\frac{1}{2}''$  NYLON ROPE  
LATERAL LINE

24" x 48" x 16" WIRE CAGE  
W/ 3 LEVELS OF TRAYS

18" x 36" OYSTER BAG CLIPPED TO CAGE

CAGE CLIPPED TO  
NYLON ROPE EACH END

48"

### END VIEW

AVERAGE MEAN LOW TIDE  
20' - 42"

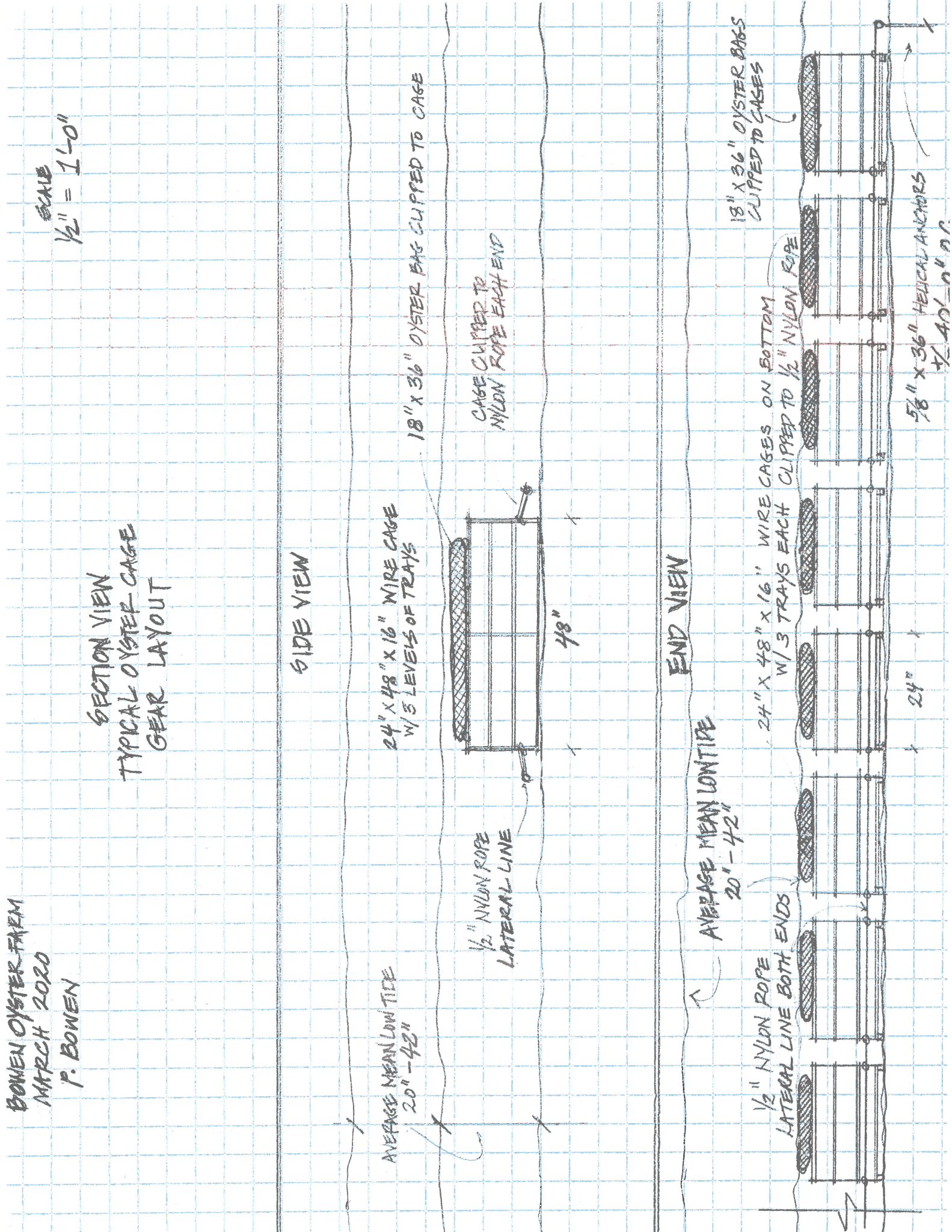
$\frac{1}{2}''$  NYLON ROPE  
LATERAL LINE BOTH ENDS

24" x 48" x 16" WIRE CAGES ON BOTTOM  
W/ 3 TRAYS EACH CLIPPED TO  $\frac{1}{2}''$  NYLON ROPE

18" x 36" OYSTER BAGS  
CLIPPED TO CAGES

24"

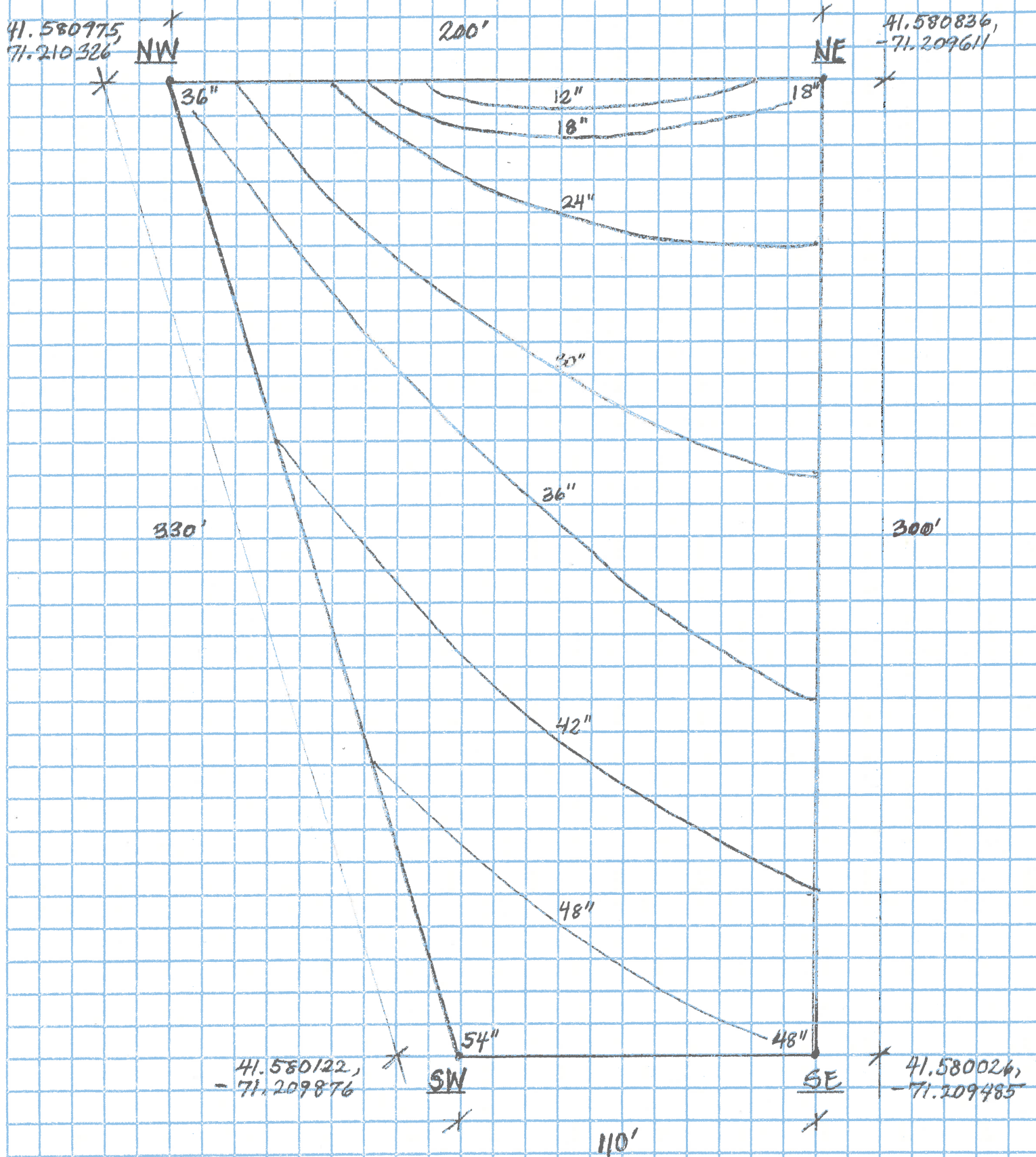
$\frac{5}{8}''$  x 36" MEDICAL ANCHORS  
 $\frac{1}{2}''$  401 0000



BOWEN OYSTER FARM  
MARCH 2020  
P. BOWEN



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



BOWEN OYSTER FARM  
MARCH 2020  
P. BOWEN



# SITE PLAN

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

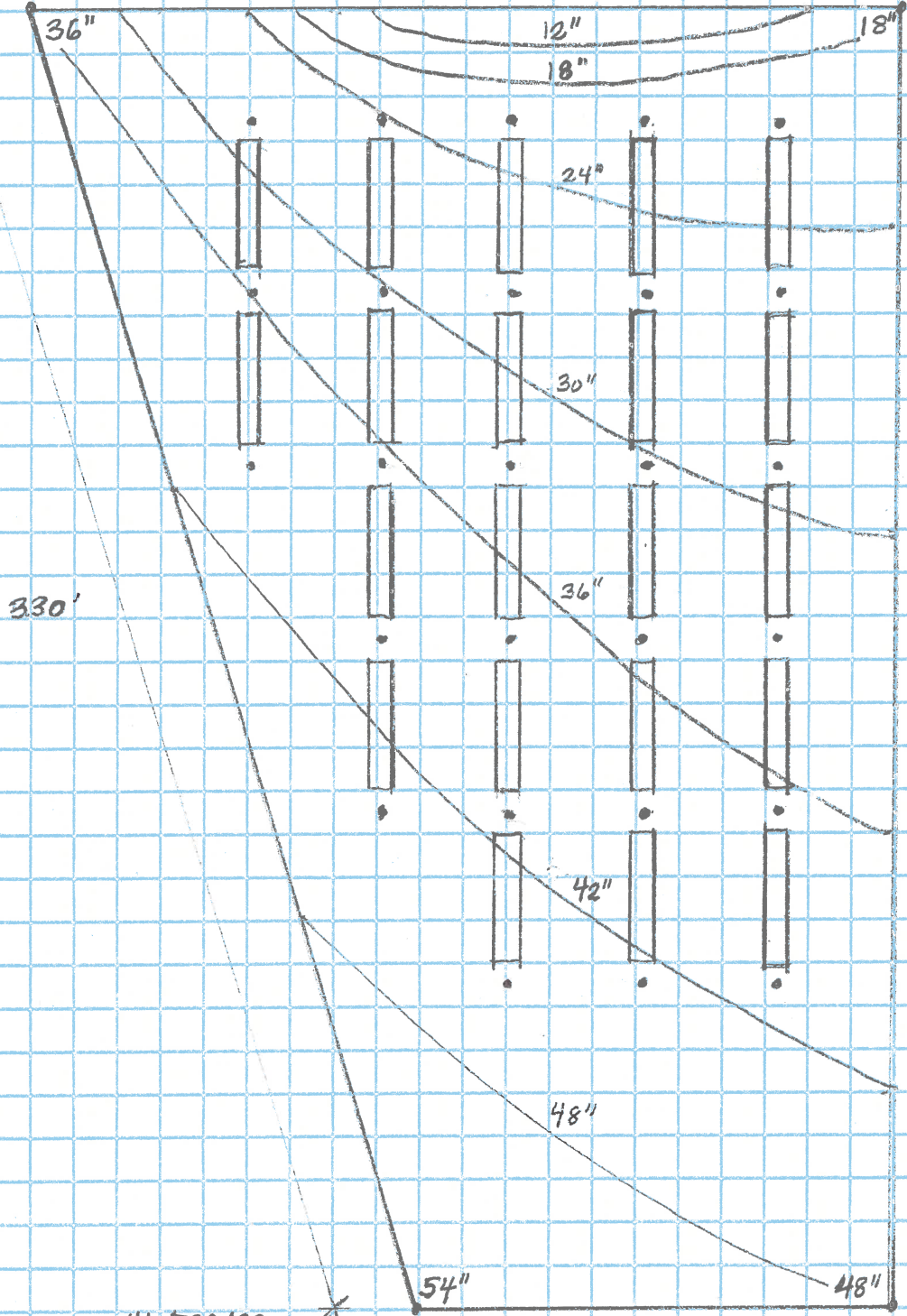
DEPTH CONTOURS @ MEAN LOW TIDE  
w/ PROPOSED GEAR LAYOUT  
200'

41.580975,  
-71.210326

NW

41.580836,  
-71.209611

NE



41.580122,  
-71.209876

SW

41.580026,  
-71.209485

SE

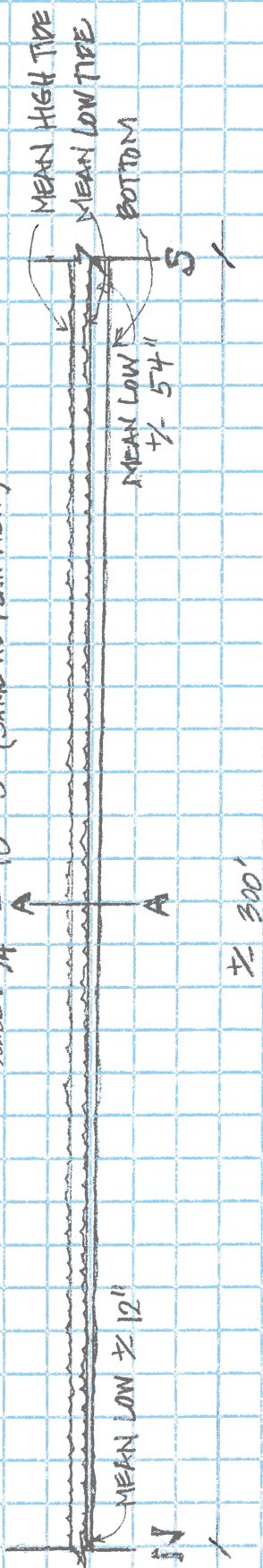
110'



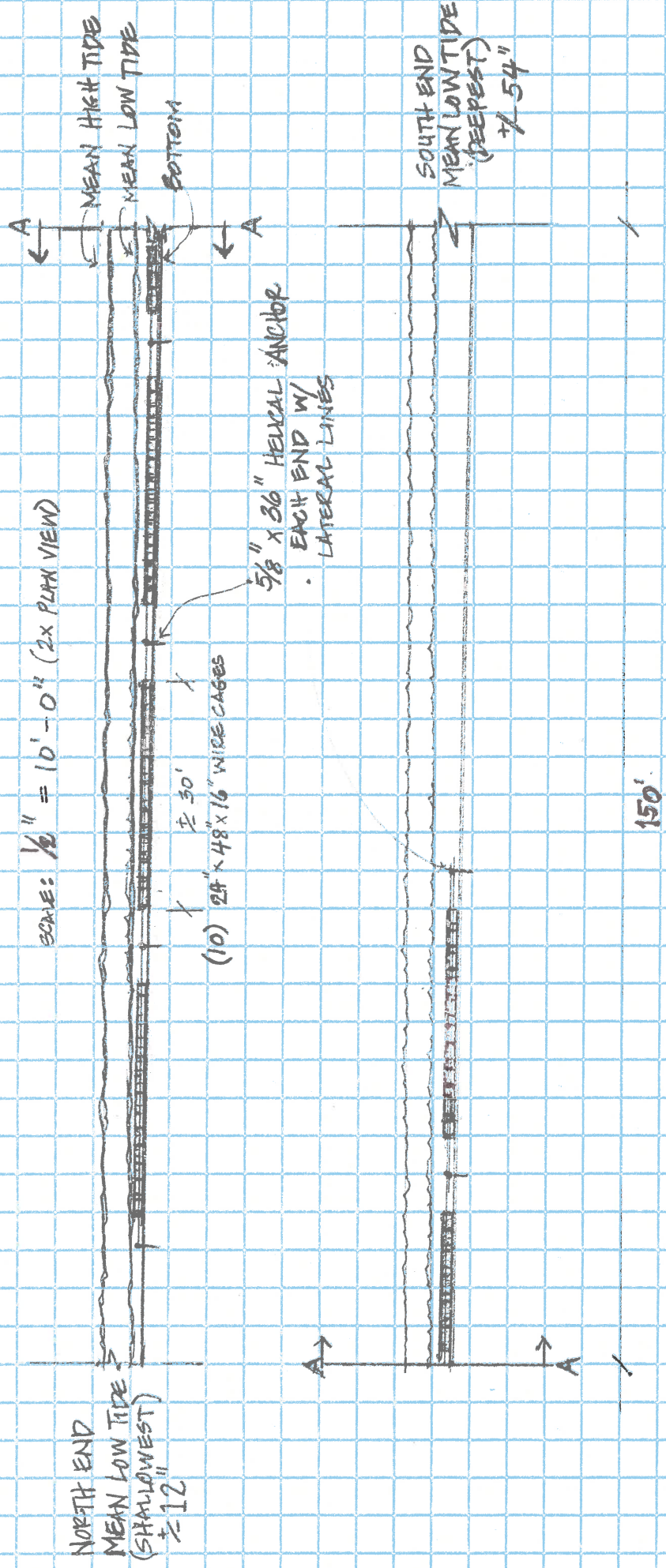
BOWEN OYSTER FARM  
MARCH 2020  
P. BOWEN

### SITE CROSS SECTION

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



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



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

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

**Name:** John Bowen, Patrick Bowen                      **CRMC Assent#:** Applied For

**Address:** 79 Shaw Road                                      **Assent Expiration Date:** N/A

Little Compton, RI 02837                                      **Assent Type:** Commercial

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

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

Land Based: NO

Open Water: YES

Bottom Culture: NO

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

Raft Culture: NO

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

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

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

(Must coincide with terms of CRMC Assent)

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

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

Purpose for culture: Food Production

Is the end product to be sold?: YES

In-state: YES      Out of State: NO

Live: YES      Whole: YES      Processed: NO

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

Name of Hatchery: Approved hatchery to be determined

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



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

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

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

Other Conditions:

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

  4-13-2020  
(Authorized Signature) (Date)



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

June 25, 2020

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

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

Dear Mr. Goetsch:

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

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

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

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

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

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

Sincerely,

A handwritten signature in black ink that reads "Jason E. McNamee". The signature is written in a cursive style with a large initial 'J'.

Jason McNamee,  
Deputy Director, Bureau of Natural Resources

**References:**

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

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

# **SHELLFISH ADVISORY PANEL**

**Virtual public meeting  
Zoom webinar**

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September 2, 2020



# AGENDA



1. Aquaculture application 2019-10-047 (East Beach Oyster Co. LLC, Papa).
2. Aquaculture application 2020-05-083 (Van Hemelrijck).
3. Aquaculture application 2020-04-037 (Bowen).
4. Shellfish harvest schedules for winter management areas (Greenwich Bay, Bissel Cove, and Bristol Harbor Shellfish Management Areas).
5. Providence River Transplant.
6. Any Other Matters.

# Virtual Meeting Participation



1. All participants will be muted throughout the meeting.
2. To make a comment or ask a question you must use the **Raise Hand** feature in the zoom webinar.
3. The meeting facilitator will un-mute one participant at a time to make their comment or ask their question, the participant will then be re-muted.

**Please minimize background noise while unmuted! – Thank you**



# Council/SAP Aquaculture Application Review (R.I. Gen Laws § 20-10-5(d))



## **§ 20-10-5. Procedures for approval.**

(a) Upon submission of a completed application to the CRMC, the CRMC shall notify the director, the MFC and any other parties that the CRMC may by regulation designate.

(b) No application shall be approved by the CRMC or a permit granted prior to the consideration of recommendations by both the director and the MFC.

(c) The director shall review the application to determine whether the aquaculture activities proposed in the application are:

(1) Not likely to cause an adverse effect on the marine life adjacent to the area to be subject to the permit and the waters of the state;

(2) Not likely to have an adverse effect on the continued vitality of indigenous fisheries of the state.

(d) The MFC shall review the application to determine whether the aquaculture activities proposed in the application are consistent with competing uses engaged in the exploitation of the marine fisheries.

(e) The approval by the CRMC shall be subject to any public hearings, consistent with chapter 35 of title 42, that it may require.



# 1. 2019-10-047 East Beach Co. LLC Beach Co. LLC (Papa), Ninigret Pond Pond

- 4.91 acre net expansion of current 11.8 acre lease (total of 15.6 acres)
- Reconfiguration of existing bottom plant to avoid boat traffic.
- CRMC site assessment found mostly soft mud bottom in 8-10 ft of water with 1.4 quahogs/m<sup>2</sup>



**2019-10-047 East Beach Oyster Co. LLC (Papa), Ninigret Pond**



**Motion: to recommend to CRMC that the aquaculture activities proposed in the application is consistent with competing uses engaged in the exploitation of marine fisheries.**

*Motion made by: MM*

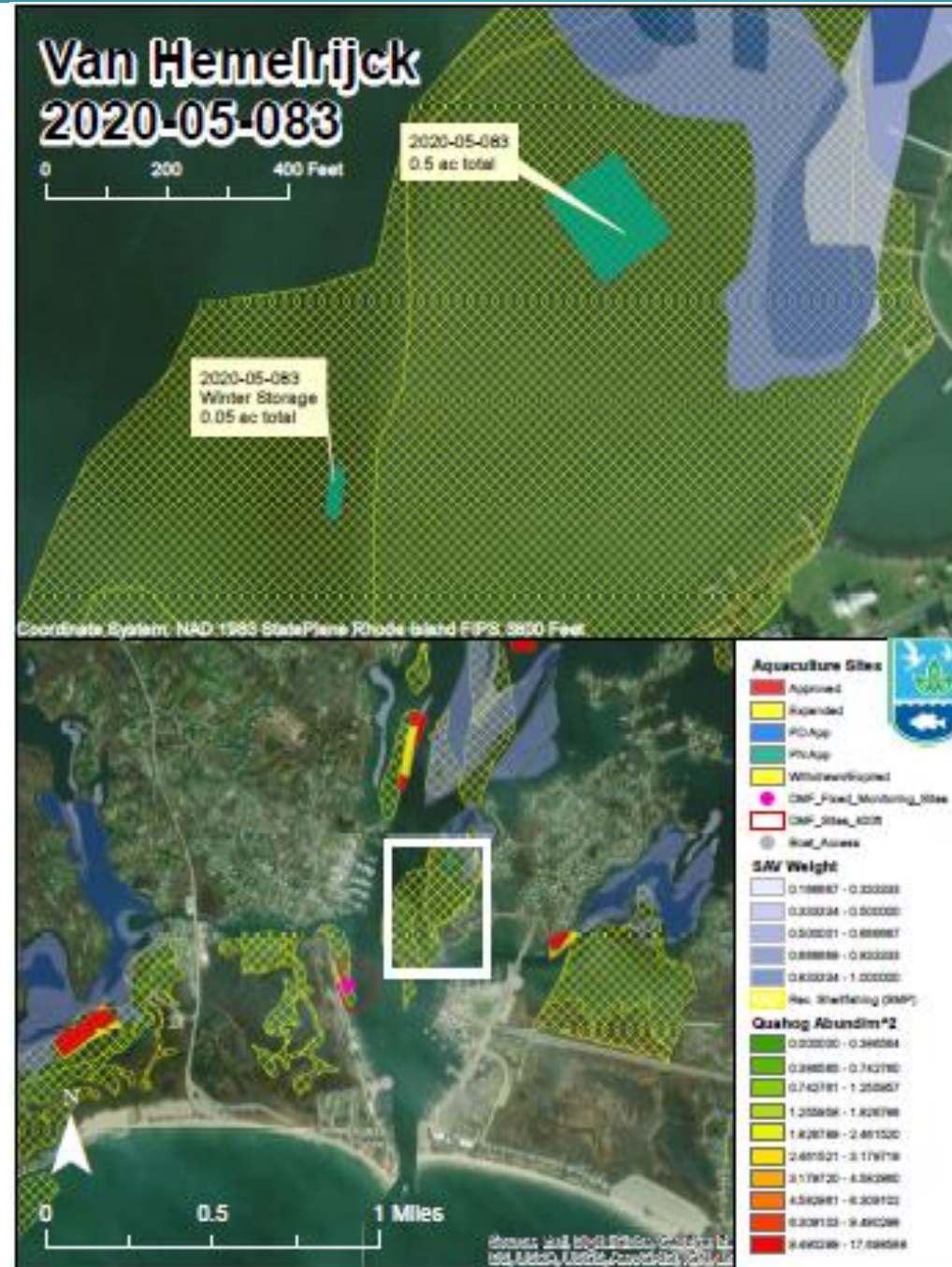
*Motion 2<sup>nd</sup> by: RP*

*Yea: JG, DG, MM, GS, MS, RT, RP, JM*

*Nay:*

## 2. 2020-05-083 Van Hemelrijck, Point Judith Pond

- Proposed 0.55 acre primary site with hard sand bottom in 1.5-4' of water and 0.05 acre nearby winter storage site
- Had 1000 m<sup>2</sup> Commercial Viability site
- Cultivating oysters and quahogs using submerged cages and bottom plant
- CRMC site assessment 0.16 quahogs/m<sup>2</sup>
- This lease would complete PJP 5% limit



## 2020-05-083 Van Hemelrijck, Point Judith Pond



**Motion: to recommend to CRMC that the aquaculture activities proposed in the application is consistent with competing uses engaged in the exploitation of marine fisheries.**

*Motion made by: RP*

*Motion 2<sup>nd</sup> by: DG*

*Yea: JG, DG, MM, GS, DM, RP*

*Nay: RT*

### 3. 2020-04-037 Bowen, Sakonnet River

- Proposed 1.1 acre site in hard sand and rocky bottom in 1'-4' of water.
- Cultivating oysters using submerged bottom cages.
- Site overlaps with DEM recreational shellfishing layer.
- CRMC site assessment 0 quahogs/m<sup>2</sup>
- Site access via boat or private property.

Aquaculture Location Sketch



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

Areas

Override 1

Override 2

Recreational Shellfish Area

1:2,403  
0 0.02 0.04 0.08 mi  
0 0.03 0.07 0.13 km

RI Division of Fish & Wildlife Marine Fisheries



## 2020-04-037 Bowen, Sakonnet River



**Motion: to recommend to RIMFC that the aquaculture activities proposed in the application is not consistent with competing uses engaged in the exploitation of marine fisheries. Also, due to the confusion regarding the alternative site description.**

*Motion made by: MM*

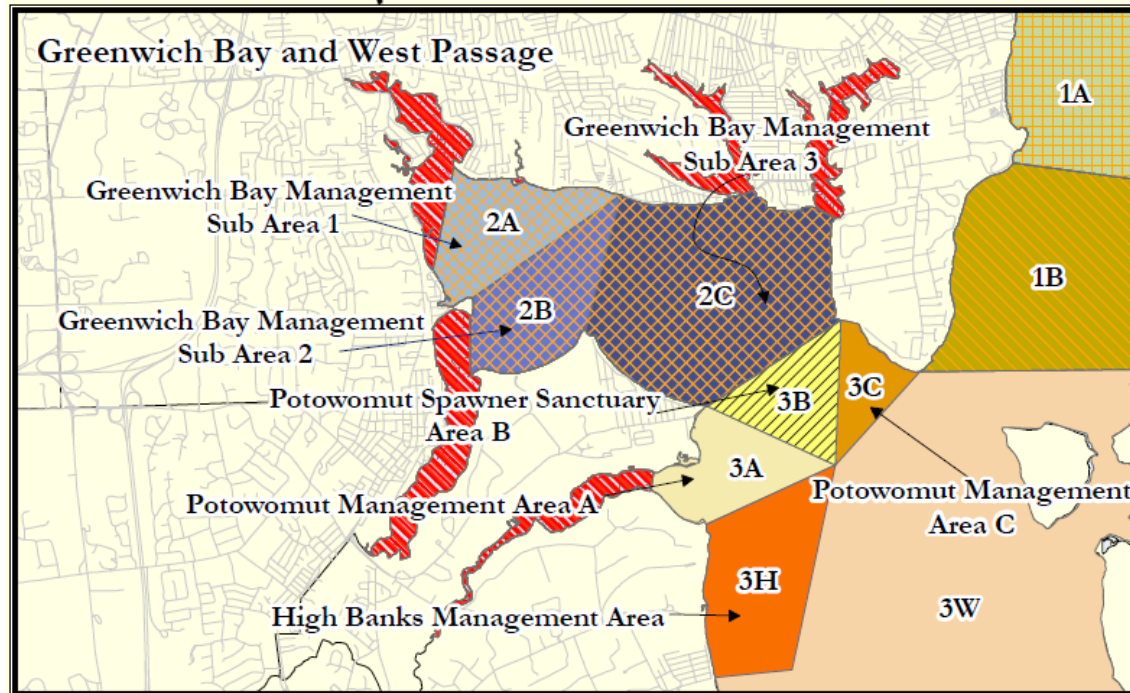
*Motion 2<sup>nd</sup> by: GS*

*Yea: DG, MM, GS, BB, RT, RP, JM,*

*Nay:*

*Abstain: JG*

## 4. Discussion on Winter Harvest Schedule for Shellfish Management Areas: Greenwich Bay Areas 1 and 2



### *Provisions for Proposal*

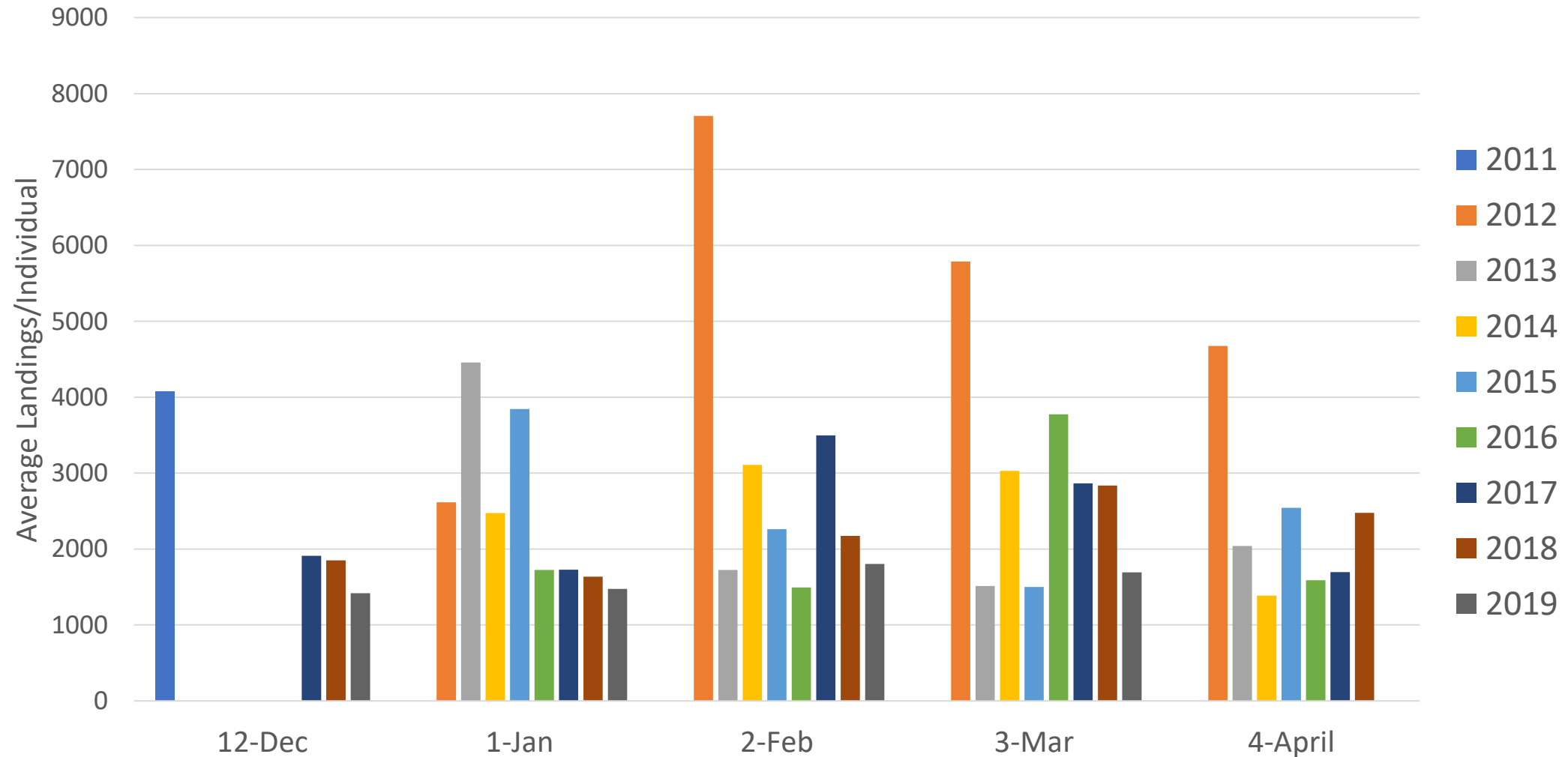
The schedule for the month of December may include up to 48 hours of permitted shellfishing, spread over any number of days during the month, excluding December 25.

### Default

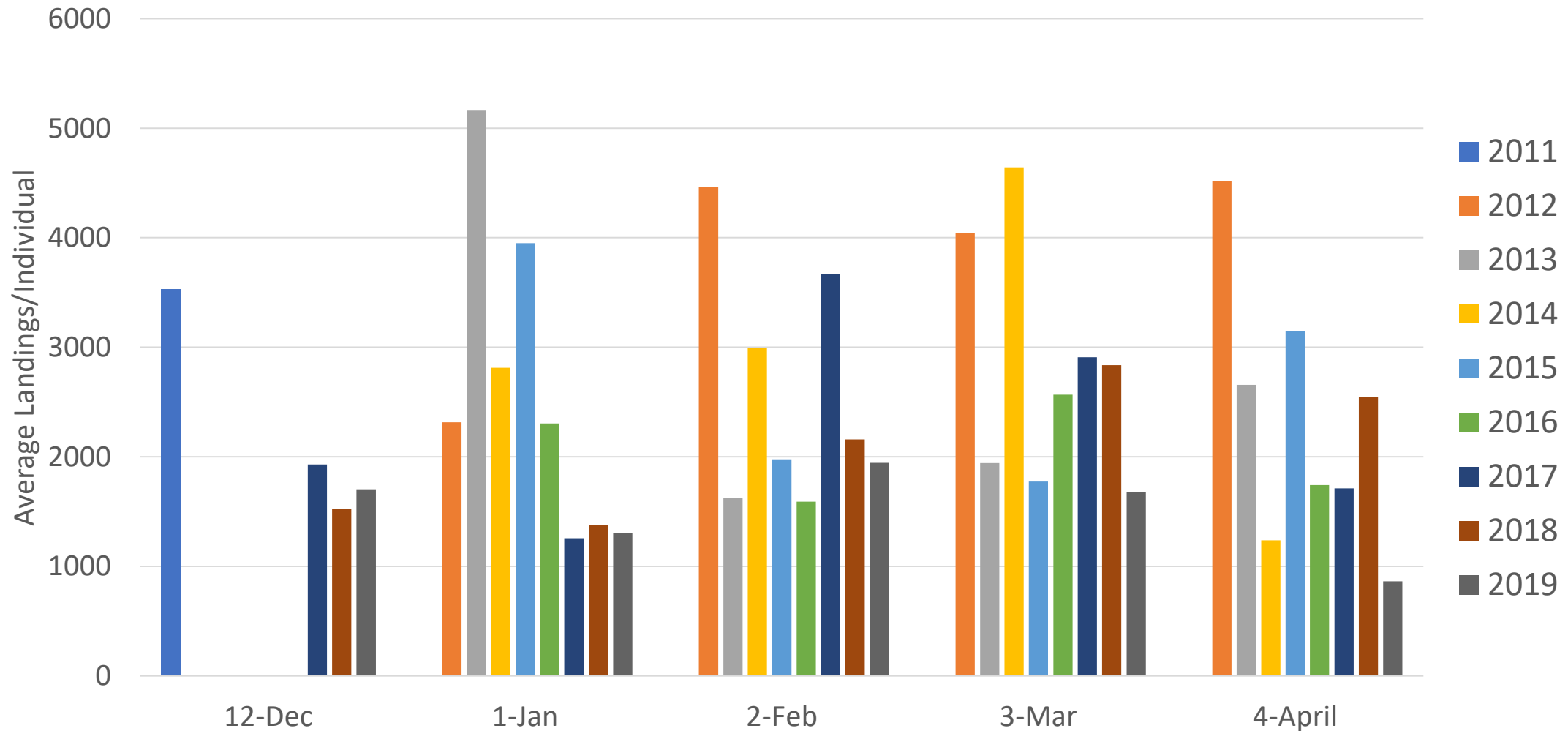
Open 8:00A.M. to 12:00P.M.  
noon on Mondays,  
Wednesdays, and Fridays,  
beginning on the second  
Wednesday of December  
(9<sup>th</sup>) and continuing through  
the last Friday in April  
(30<sup>th</sup>), excluding December  
25 and January 1 annually.



# 4. Discussion on Winter Harvest Schedule for Shellfish Management Areas: Greenwich Bay Area 2A



# 4. Discussion on Winter Harvest Schedule for Shellfish Management Areas: Greenwich Bay Area 2B



# Winter Harvest Schedule for Shellfish Management Areas: Greenwich Bay Sub Areas 1 and 2



**Motion: to recommend to the council proposed schedule change. Greenwich Bay Sub Areas 1 and 2 opens December 9, 11, 14, 16, 18, 21, 22, 23, 24, 28, 29, 30. The 31<sup>st</sup> would only be permissible if weather closures do not permit harvest during one of the scheduled days.**

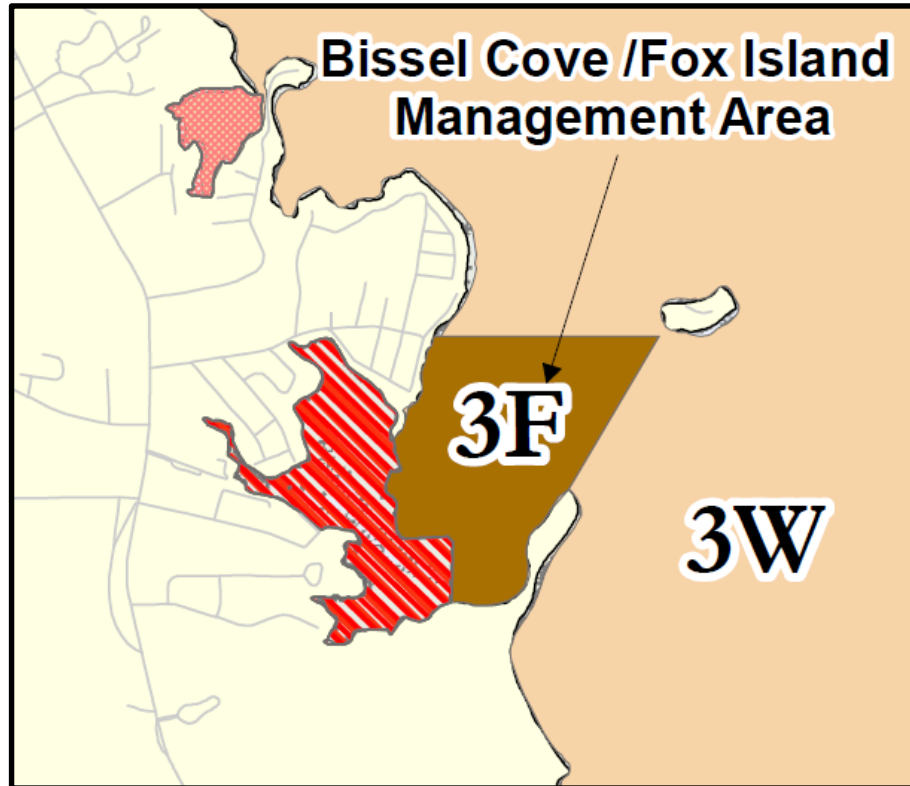
*Motion made by: MM*

*Motion 2<sup>nd</sup> by: DG*

*Yea: DG, MM, GS, JG, BB, RT, RP, JM*

*Nay:*

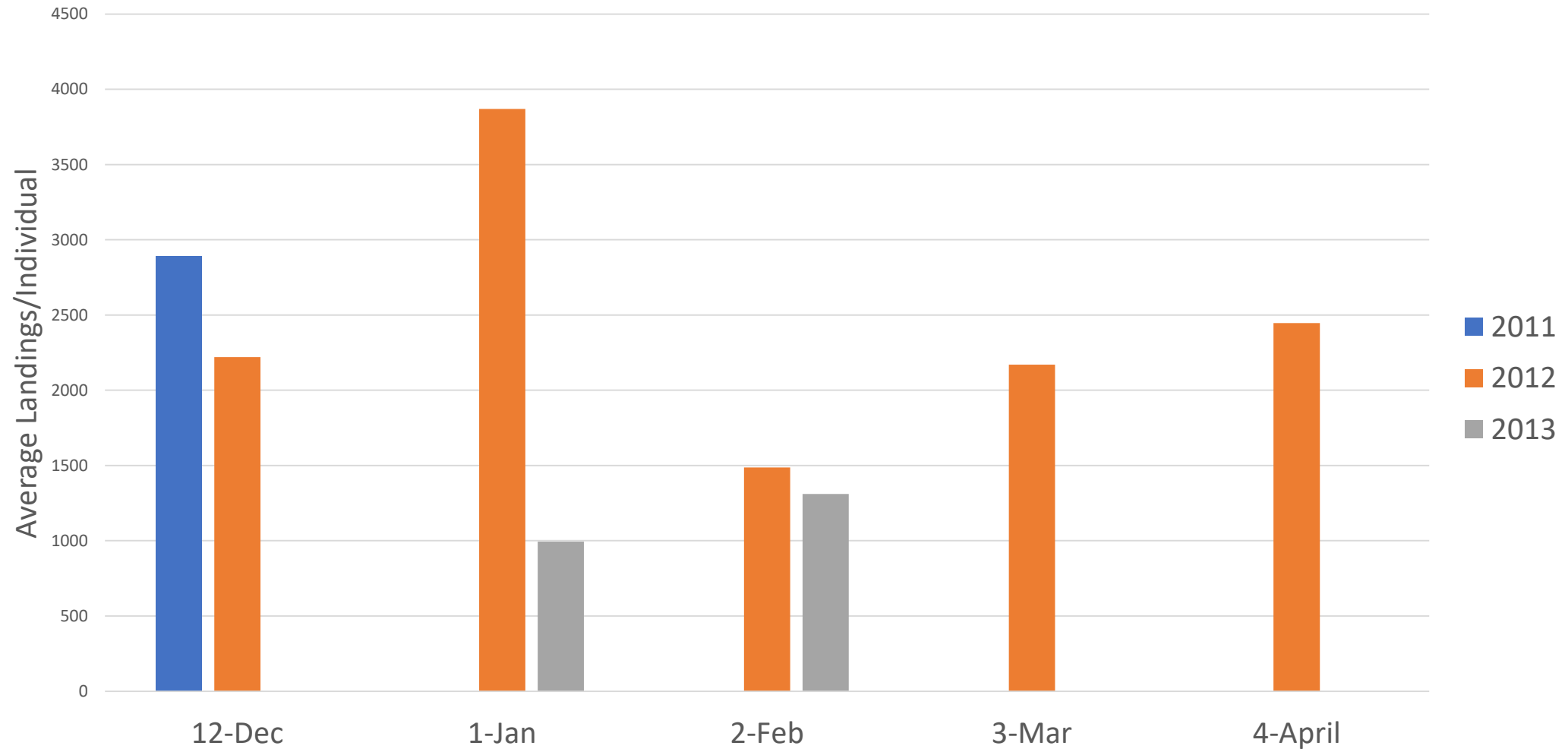
## 4. Discussion on Winter Harvest Schedule for Shellfish Management Areas: Bissel Cove



### Default

Open 8:00A.M. to 12:00P.M. noon on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the end of April, excluding December 25 and January 1 annually.

# 4. Discussion on Winter Harvest Schedule for Shellfish Management Areas: Bissel Cove 3F



# Winter Harvest Schedule for Shellfish Management Areas: Bissel Cove 3F



**Motion:** to recommend to the council proposed schedule change. Bissel Cove opens December 9, 11, 14, 16, 18, 21, 22, 23, 24, 28, 29, 30. The 31<sup>st</sup> would only be permissible if weather closures do not permit harvest during one of the scheduled days.

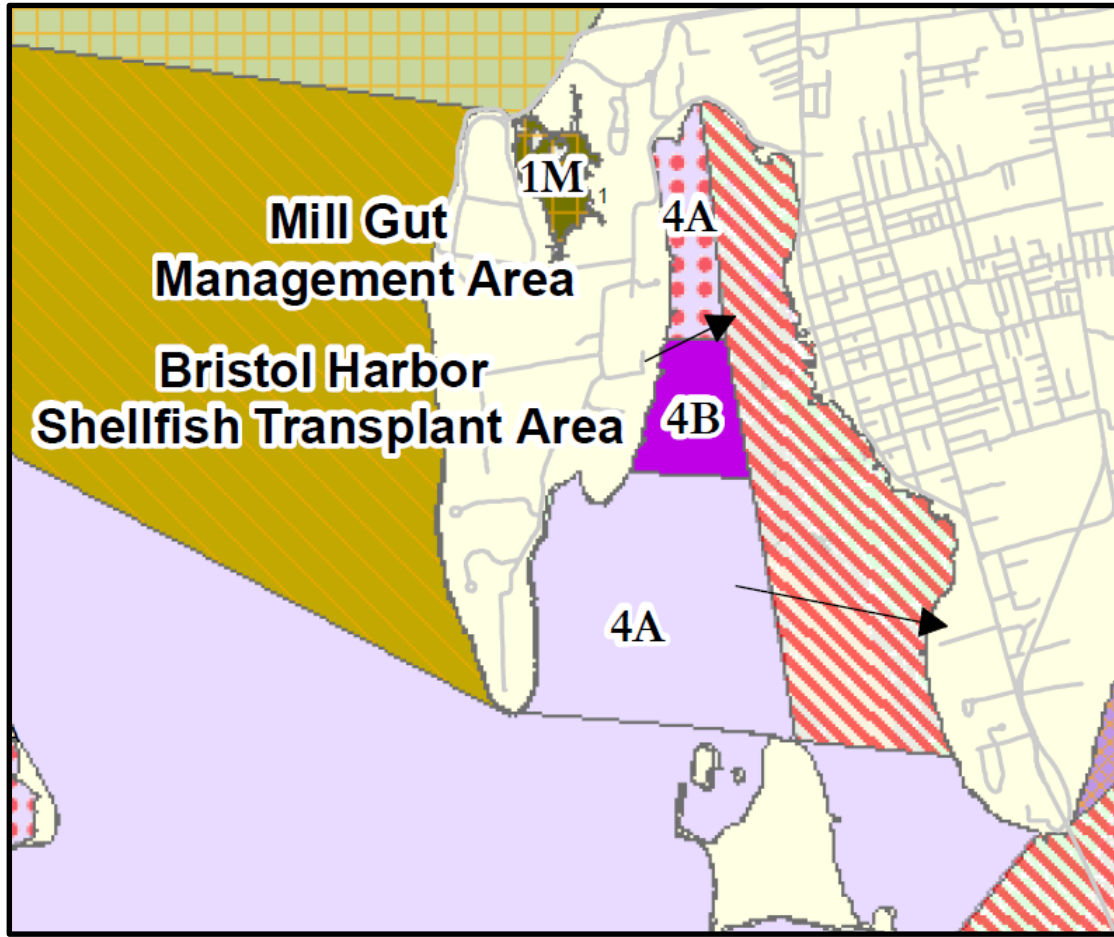
*Motion made by: MM*

*Motion 2<sup>nd</sup> by: GS*

*Yea: DG, MM, GS, BB, RT, JM*

*Nay:*

## 4. Discussion on Winter Harvest Schedule for Shellfish Management Areas: Bristol Harbor



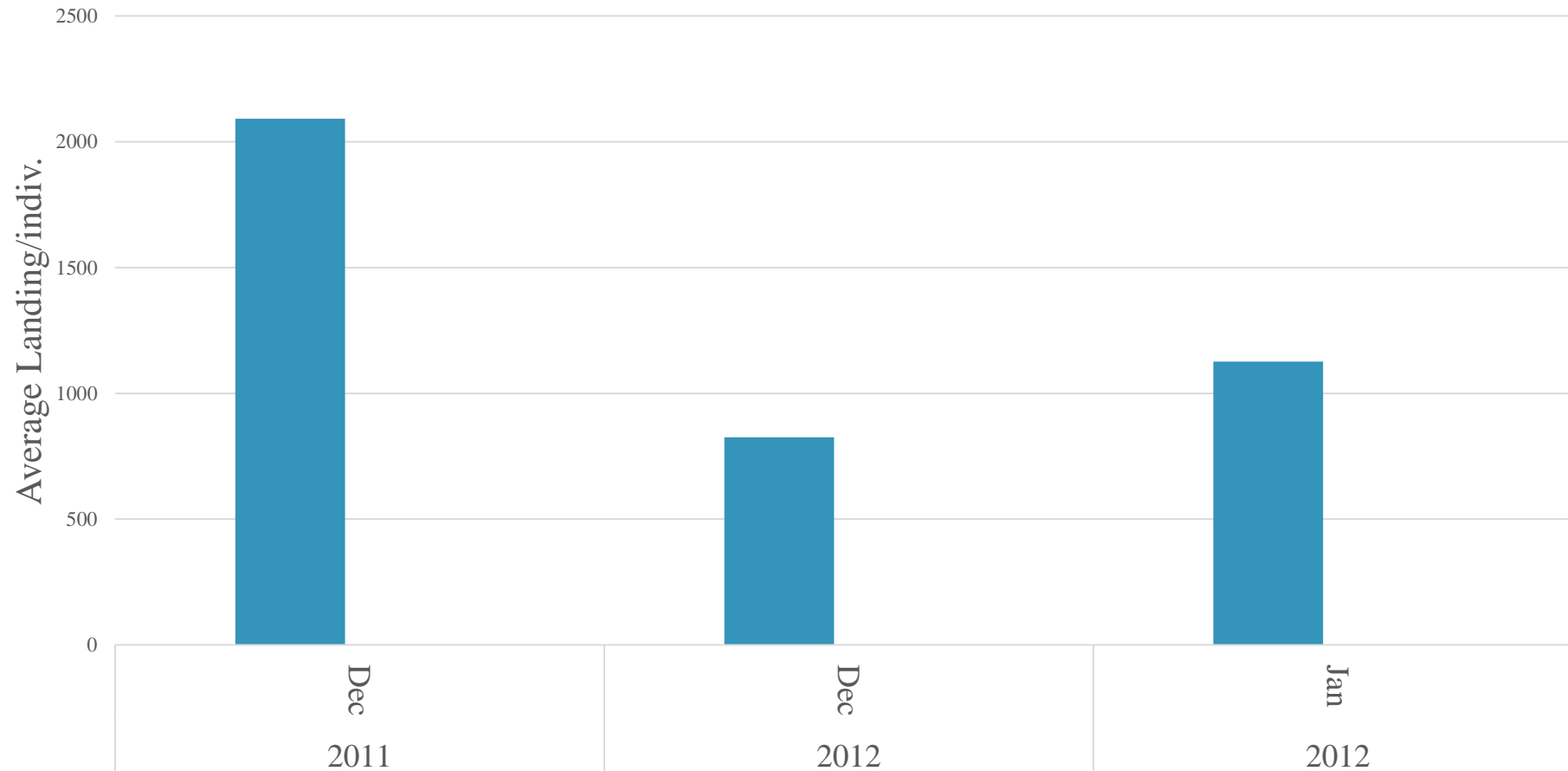
### Default

- Open 8:00A.M. to 12:00P.M. noon on Mondays, Wednesdays, and Fridays, beginning on January 2 and continuing through January 31.
- Open daily February 1 through April 30.
- Closed May 1 through January 1.

# 4. Discussion on Winter Harvest Schedule for Shellfish Management Areas: Bristol Harbor 4B



Bristol Harbor 4B  
Average Winter Harvest Landings





# Winter Harvest Schedule for Shellfish Management Areas: Bristol Harbor 4B



**Motion: to recommend to the council to keep the schedule as is.**

*Motion made by: JM*

*Motion 2<sup>nd</sup> by: MM*

*Yea: DG, MM, GS, BB, RT, JM*

*Nay:*

## 5. Providence River Transplant

- Tuesday September 15<sup>th</sup> (weather day on Wednesday the 16<sup>th</sup>).
- 8:00AM – 12:00PM
- R/V John Chafee base of operations will be anchored centrally in lower PR
- Shellfisherman will be paid \$15 per 50 lb bag if assisting with dumping, otherwise \$10 per 50 lb bag
- Submit W-9 forms by **September 7<sup>th</sup>** to Kim Kirwan via email or mail, this also serves as a RSVP
- If a weather delay is necessary, a Marine Fisheries Listserve will be sent out and a recording on the Water Quality Closure Hotline (401)-222-2900.





## 6. Any Other Matters?

# Shellfish Advisory Panel

September 2, 2020; 4:00PM

Virtual public meeting

Zoom webinar

## MEETING SUMMARY

RIMFC members: K. Eagan (Chair)

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

CRMC: B. Goetsch;

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

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

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

2019-10-047, East Beach Oyster Co. LLC (Papa), Ninigret Pond: *B. Goetsch* provided a brief overview of the proposal, which consists of a 4.91-acre site reconfiguration and expansion of current 11.8-acre lease (total of 15.6-acres) for cultivating oysters (*Crassostrea virginica*) and hard shell clams (*Mercenaria mercenaria*) using bottom plant in Ninigret Pond. The reconfiguration is to avoid boat traffic trying to access the shoreline. CRMC performed a site assessment in and determined densities of quahogs at 1.4/m<sup>2</sup> and mostly soft mud bottom in 8-10 ft of water. *M. McGiveney* asked whether the work schedule was part of the application and *B. Goetsch* said that it is required of the applicant to provide this information. Additionally, *M. McGiveney* asked for the Ninigret Pond aquaculture percent acreage with this lease expansion and *B. Goetsch* calculated the percentage to be 4.39% with the 4.91-acre lease expansion. *D. Ghigliotty* asked for harvest method clarification. *B. Goetsch* replied that it is bullrake, dredge, and scuba.

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

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

2020-05-083, Van Hemelrijck, Point Judith Pond: *B. Goetsch* provided a brief overview of the proposal, which consists of a 0.55 - acre primary lease site on hard sand bottom in 1.5 – 4 feet of water and a second nearby 0.05-acre winter storage site to cultivate oysters (*Crassostrea virginica*) and hard shell clams (*Mercenaria mercenaria*) using submerged cages and bottom plant in Point Judith Pond. The applicant had a 1000 m<sup>2</sup> Commercial Viability site in Point Judith Pond, which expired in 2020. CRMC performed a site

assessment, which found 0.16 quahogs/m<sup>2</sup>. *B. Goetsch* noted this lease would complete the Point Judith Pond 5% limit. CRMC received a letter of objection to the application from local homeowner, whom had circulated a petition, which stated that it was too close to their docks and would impact recreational use. *R. Tellier* asked whether eelgrass was found at the site and *B. Goetsch* stated that there is none located at the site but that it was found to the north of the location. *K. Eagan* asked for clarification on the months designated for the winter storage. *B. Goetsch* said that the winter storage would be used between December and March.

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

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

2020-04-037, Bowen, Sakonnet River: *B. Goetsch* provided a brief overview of the proposal, which consists of a proposed 1.1 - acre lease in the Sakonnet River within the town of Tiverton. The site is located over rocky bottom in 1 – 4 feet of water and would be used for cultivating oysters using submerged bottom cages. The site partially overlaps with the DEM recreational shellfishing layer. CRMC performed a site assessment, which found 0.0 quahogs/m<sup>2</sup>. The site would be accessed using a boat or private property. *B. Goetsch* stated that CRMC received a letter of objection from the Harbor Commission stating that the site location was in too shallow of water. An additional two letters of objection were received regarding conflicting use of the channel for recreational fishing. Due to the recreational fishing objection, CRMC proposed an amended site, which moves the location further south out of the channel and in closer to shore. *R. Pastore* asked whether there is a lot of boating traffic in the area and whether hi fliers were required for these applications. *B. Goetsch* stated that there is some boating traffic to the town boat ramp and that all applications require buoys with assent numbers. *J. Gardner* stated that the sites northwest point could be hard to navigate around and that he proposes moving it further south. *J. Gardner* would not object to the application if the currently proposed northwest corner was shifted down to the northwest corner on the proposed amended site. The applicant, *J. Bowen* clarified that the current proposed lease location on the application out for public notice is the footprint that is located closer to the channel and further outside of the DEM recreational shellfishing layer (purple outline on the map) and that the alternate location (green outline on the map) is what CRCM has proposed as an amendment to address the recreational fishing conflict. *M. McGiveney* stated that due to the confusion regarding the proposed site and site alternate that it would be best for the RIMFC to review the application.

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

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

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

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

5. **Providence River Transplant:**

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

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

*Prepared by: A. Gerber-Williams*

250-RICR-90-00-4

## **TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

### **CHAPTER 90 – MARINE FISHERIES**

#### **SUBCHAPTER 00 – N/A**

PART 4 – Shellfish

#### **4.1 Purpose**

The purpose of these Rules and Regulations is to manage the marine resources of Rhode Island.

#### **4.2 Authority**

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws Chapter 42-35, Administrative Procedures Act.

#### **4.3 Application**

The terms and provisions of these Rules and Regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

#### **4.4 Definitions**

See Marine Fisheries Definitions, Part [1](#) of this Subchapter.

#### **4.5 Severability**

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

#### **4.6 Superseded Rules and Regulations**

On the effective date of these Rules and Regulations, all previous Rules and Regulations, and any policies regarding the administration and enforcement of these regulations shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.



## 4.7 General Provisions

- A. Recreational harvest: Shellfish harvested recreationally shall not be sold or offered for sale.
- B. No person shall take shellfish from waters declared polluted by the Director pursuant to R.I. Gen. Laws § 20-8.1-3 unless authorized by the Director (ref. R.I. Gen. Laws § 20-8.1-5). This sub-section shall not apply to the harvest of Whelk or Bay scallop. For the water quality status of shellfish grounds subject to conditional closures or emergencies call 401-222-2900. (R.I. Gen. Laws Chapter 20-8.1)
- C. Night shellfishing prohibited: The harvesting of shellfish is prohibited during the hours between sundown and sunrise (R.I. Gen. Laws § 20-6-23).
- D. Opening shellfish on water: No person shall possess the meats of six (6) or more shellfish while shellfishing on the waters of the State, or throw the shells of open bay scallops onto bay scallop beds (R.I. Gen. Laws § 20-6-21).
- E. Whelk – general provisions:
  - 1. Mutilation and/or possession of whelk meat; cooked or uncooked: Prior to landing of any whelk, no person shall mutilate any cooked or uncooked whelk by breaking and removing the meat from the shell or have in his or her possession any part or parts of any uncooked whelk so mutilated. In any and all prosecutions under this sub-section, the possession of any part or parts of any cooked or uncooked whelk so mutilated shall be prima facie evidence sufficient to convict. All whelks are to be landed whole in the shell.
  - 2. Hauling or setting whelk pots at night: No person shall haul or unduly disturb any whelk pot within the territorial waters of this state between the hours of one (1) hour after sundown and one (1) hour before sunrise.
- F. License Required:
  - 1. Recreational harvest – R.I. resident: R.I. residents are not required to obtain a license for the recreational harvest of shellfish (R.I. Gen. Laws § 20-6-1).
  - 2. Recreational harvest – non-resident: A non-resident over the age of twelve (12) years wishing to take or possess shellfish recreationally in Rhode Island waters must obtain shellfish license (R.I. Gen. Laws § 20-2-22):
    - a. Annual: The fee for an annual shellfish license is two hundred dollars (\$200). This license will expire on the last day in February annually.

- b. Fourteen (14) day: The fee for a fourteen (14) day tourist license is eleven dollars (\$11). This license is valid for fourteen (14) consecutive days only, including the date of issue, and is limited to one (1) license per person per calendar year.
  - c. Non-resident landowner: A non-resident landowner may, with proof of residential property ownership in the form of a current tax bill from a town or city hall showing that the non-resident landowner is current in his or her property tax obligation, obtain an annual, non-commercial, non-resident shellfish license for a fee of twenty-five dollars (\$25) (R.I. Gen. Laws § 20-2-22(d)).
- 3. Commercial harvest: See specific requirements and conditions in DEM's Part [2](#) of this Subchapter, Commercial and Recreational Saltwater Fishing Licensing Regulations.
  - a. A commercially licensed fisherman shall only sell, barter, or trade shellfish taken from Rhode Island waters to a licensed shellfish dealer or multipurpose dealer.
  - b. A commercially licensed fisherman shall not sell, deliver, or otherwise transfer shellfish taken from Rhode Island waters to a licensed shellfish or multipurpose dealer without first presenting said dealer, a valid shellfish license issued by the DEM.

#### **4.8 Equipment Provisions and Harvest Methods**

- A. SCUBA prohibition: The taking of shellfish by the use of a self-contained underwater breathing apparatus (SCUBA) from Green Hill Pond, Quonochontaug Pond, Ninigret Pond, and Potter Pond is prohibited (R.I. Gen. Laws § 20-6-30).
- B. The use of a diving apparatus is prohibited while recreational shoredigging.
- C. Use of devices capable of harvesting shellfish while in polluted areas: No person shall work, cast, haul, or have overboard a dredge, pair of tongs, rake or rakes, air-assisted equipment, water-assisted equipment, or any other implement capable of harvesting shellfish, except for the taking of whelk in pots and the use of an implement commonly employed for the taking of bay scallops (within established bay scallop harvest seasons), in waters declared polluted by the Director (R.I. Gen. Laws § 20-8.1-6).
- D. Power hauling of tongs and bullrakes: Power hauling of tongs and bullrakes for any purpose other than the removal and retrieval of bullrakes and tongs from the benthic sediments is prohibited.
- E. Method of harvest of oysters, bay quahaugs, soft-shell clams: No person shall dig and/or take any oysters, bay quahaugs, or soft-shell clams from the waters of

this State by dredge(s), rakes, or other apparatus operated by mechanical power or hauled by power boats, unless as provided for in these regulations.

- F. Dimensions for bullrakes and tongs when using power hauling equipment: No person shall use any power hauling equipment in the operation of bullrakes and tongs with dimensions exceeding the following:
1. Maximum width measured along a line parallel to the tooth bar: Thirty-one and one-half inches (31 ½");
  2. Maximum tooth length: Four and one-half inches (4 ½");
  3. Maximum basket depth: Twelve inches (12"), measured along a line perpendicular to the tooth bar and extending from the tooth bar to any point on the basket.
  4. Possession of bullrakes and tongs in excess of these size restrictions shall be prohibited aboard vessels equipped with any power hauling equipment.
  5. Except as required for safety or to avoid property loss, no vessel involved in the harvest of bay quahaugs or oysters by use of bullrakes or tongs may be moved or propelled by any source of mechanical power at any time when any bullrakes or tongs operated from such vessel are submerged in the waters of the state.
- G. Tong construction: No person shall take shellfish, or attempt to take shellfish, or have in his possession while on the waters of this State, with tongs not meeting the following dimensions:
1. Minimum tooth gap: Not less than one inch (1") apart.
  2. Heads: Heads on the bar or heads constructed with wires, rods, cross-bars, or reinforcement that will form a rectangle shall not be less than one inch (1") by two and one-half inches (2½").
  3. A tolerance of one sixteenth of an inch (1/16") is allowed.
- H. Bullrake construction: No person shall take shellfish, or attempt to take shellfish, or have in his possession while on the waters of this State, with a bullrake not meeting the following dimensions:
1. Minimum tooth or tine gap: Not less than one inch (1") apart.
  2. Crossbars or reinforcement that will form a rectangle shall not be less than one inch (1") by two and one-half inches (2½").
  3. A tolerance of one sixteenth of an inch (1/16") is allowed.

- I. Bay quahaug diving basket construction: No commercially licensed diver shall take or attempt to take bay quahaugs from the waters of the State of Rhode Island with a diver's bay quahaug harvesting basket, bag, or combination of basket and bag, or similar device not meeting the following dimensions:
  - 1. Bar spacing: Not less than one inch (1") by two and one half inches (2½"). A tolerance of one sixteenth inch (1/16") is allowed.
  - 2. Bag mesh on the bay quahaug harvesting basket: Not less than two inches (2") when measured on the stretch (from inside of knot to inside of the knot). A tolerance of one eighth inch (1/8") for variance in the twine is allowed. The bag shall be hung on the square so that when held by the mouth, the twine forms fully opened squares.
  
- J. Dredging of bay scallops:
  - 1. Maximum number of single dredges used: Six (6) single dredges.
  - 2. Maximum width of dredge blades: Twenty-eight inches (28").
  - 3. Maximum length of bag: Thirty-six inches (36").
  - 4. Each single dredge shall be towed and hauled aboard the registered vessel individually. All oysters, soft-shell clams, or bay quahaugs shall be immediately returned to the waters from which they were taken (R.I. Gen. Laws §§ 20-6-7 and 20-6-19).
  - 5. Areas where bay scallop dredging is prohibited: The use of bay scallop dredges is prohibited in closed areas of Shellfish Management Areas.
  
- K. Dredging of blue mussels:
  - 1. When dredging for blue mussels, all bay scallops, oysters, or bay quahaugs shall be immediately returned to the waters from which they were taken (R.I. Gen. Laws § 20-6-7).
  - 2. Blue Mussel Dredging Permit: A permit issued from the Director is required for the commercial dredging for blue mussels. Applications shall be made annually on forms prescribed by the Director (R.I. Gen. Laws § 20-6-7).
  
- L. Dredging of surf clams and ocean quahaugs:
  - 1. Surf clam gear restrictions:
    - a. Hydraulic dredging: The maximum width of a dredge blade, knife or manifold is forty-eight inches (48").

- b. Multiple dredge restriction: It is unlawful for any vessel to operate more than one (1) dredge while harvesting for surf clams.
  - 2. Areas prohibited for the dredging of surf clams or ocean quahaugs: All waters north of a line extending from Church Point in the town of Little Compton, to Flint Point in the town of Middletown; and north of a line extending from Castle Hill Point in the city of Newport, to Southwest Point in the town of Jamestown and to Bonnet Point in the town of Narragansett.
  - 3. Tagging of cages: Shellfish cages must be tagged in accordance with the United States Food and Drug Administration/RIDOH regulations before being off-loaded in Rhode Island.
- M. Dredging for sea scallops:
- 1. Maximum dredge size for a vessel in possession of sea scallops: Ten and one-half feet (10½').
  - 2. Minimum dredge ring size: Four inches (4").
  - 3. The minimum mesh size of a net, net material or any other material on the top of a sea scallop dredge (twine top) possessed or used by vessels fishing with sea scallop dredge gear/net size of twine top is ten-inch (10") square or diamond mesh.

#### **4.9 Minimum Sizes**

- A. Bay quahaug: One inch (1") shell thickness (hinge width) (R.I. Gen. Laws § 20-6-11).
- B. Soft-shell clam: Two inches (2") measured as the shell diameter or parallel to the long axis of the clam (R.I. Gen. Laws § 20-6-11).
- C. Oyster: Three inches (3") measured parallel to the long axis of the oyster (R.I. Gen. Laws § 20-6-11).
- D. Bay scallop: The taking or possession of a seed Bay scallop is prohibited. Seed bay scallops shall be immediately returned to their natural beds in the water from which taken (R.I. Gen. Laws § 20-6-17).
- E. Surf clam: Five inches (5") measured parallel to the long axis of the clam.
- F. Sea scallop: Three and one-half inches (3½"), measuring in a straight line from the hinge to the part of the shell furthest from the hinge, whether caught within the jurisdiction of this State or otherwise.
- G. Whelk: Two and one-quarter inches (2¼") shell height. Shell height shall be the distance along a straight perpendicular line from a point on the opercular side of

the shell to the farthest point of the top of the shell. This distance is measured with the whelk retracted, and shell placed with the operculum stably positioned against a flat surface. To properly measure shell height using a gauge: Minimum legal shell height shall be the two and one-quarter inches (2¼") distance between opposing parallel surfaces, measured with the whelk retracted and shell placed with the operculum stably positioned against one (1) of the parallel surfaces. The whelk is legal-sized if it does not fit between the opposing parallel surfaces.

#### **4.10 Seasons**

- A. Bay quahaug, soft-shell clam, blue mussel, sea scallop, whelk, surf clam, and ocean quahaug:
  - 1. Open daily in waters other than Shellfish Management Areas, unless otherwise closed due to pollution or other management purposes.
- B. Oyster: September 15 through May 15 annually.
- C. Bay scallop:
  - 1. Dip-netting from a boat: Open only from the first Saturday in November through December 31 annually.
  - 2. Dredging: Open only from December 1 through December 31 annually.

#### **4.11 Daily Possession Limits in Waters Other Than Shellfish Management Areas**

- A. Recreational – R.I. resident:
  - 1. Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One half (½) bushel per person per day (R.I. Gen. Laws § 20-6-1).
  - 2. Bay scallop: One (1) bushel per person per day (R.I. Gen. Laws § 20-6-1).
  - 3. Whelk: One half (½) bushel per resident per day; and maximum of one (1) bushel per vessel per day.
    - a. Whelk pot limit: Maximum of five (5) whelk pots in the water at any one time.
  - 4. Sea scallop: Forty (40) pounds shucked; or five (5) bushels of in-shell scallops per vessel per day.
- B. Recreational – Licensed non-resident:
  - 1. Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One (1) peck per person per day (R.I. Gen. Laws § 20-6-10).

2. Bay scallop: The harvest or possession of Bay scallops by non-residents is prohibited.
- C. Whelk: The harvest or possession of whelk by non-residents is prohibited.
- D. Sea scallop: Forty (40) pounds shucked; or five (5) bushels of in-shell scallops per vessel per day.
- E. Commercial:
1. Bay quahaug:
    - a. Multi-purpose (MPURP) and Principal Effort License (PEL) holders: Twelve (12) bushels per person per day (R.I. Gen. Laws § 20-6-10).
    - b. Commercial Fishing License (CFL), Student shellfish license, and Over-65 shellfish license holders: Three (3) bushels per person per day (R.I. Gen. Laws § 20-2.1-5).
  2. Soft-shell clam: Twelve (12) bushels per person per day (R.I. Gen. Laws § 20-6-10).
  3. Oyster: Three (3) bushels per person per day (R.I. Gen. Laws § 20-6-10).
  4. Bay scallop: Three (3) bushels per person per day; and maximum of three (3) bushels per vessel per day (R.I. Gen. Laws § 20-6-16).
  5. Surf clam: Two hundred (200) bushels per person per day.
  6. Ocean quahaug: Twenty-six (26) cages or eight hundred thirty-two (832) bushels per person per day.
  7. Sea scallops: For non-federally permitted vessels, four hundred (400) pounds of shucked; or fifty (50) bushels of in-shell scallops per vessel per day.
  8. Whelk: Thirty-five (35) bushels per vessel per day.
    - a. Commercial whelk pot limit: Maximum of three hundred (300) whelk pots per licensee in the water at any one time.

## **4.12 Shellfish Management Areas – Descriptions, Seasons, and Possession Limits**

### **4.12.1 General**

- A. Greenwich Bay, Conimicut Point, Potowomut, High Banks, Bissel Cove/Fox Island, Mill Gut, Bristol Harbor, Kickemuit River, Jenny Creek, Sakonnet River, Pt. Judith Pond, Potter Pond, Ninigret (Charlestown) Pond, Quonochontaug Pond, Winnapaug Pond, Green Hill Pond, Narrow River, Little Narragansett Bay/Pawcatuck River, Providence/Seekonk Rivers, Warren River, Town Pond and Jacobs Point Shellfish Management Areas pursuant to R.I. Gen. Laws § 20-3-4.
- B. Shellfish Management Areas may have additional regulations specific to the Management Area. Refer to each Management Area listed below.
- C. Shoredigging is open daily at reduced possession limits specified herein, unless closed due to pollution or other management purposes.
- D. Recommendation for a change to a commercial boat harvest default schedule must be submitted to the Director at least sixty (60) days prior to the first proposed opening date.
- E. Daily possession limits:
  - 1. Recreational – R.I. resident:
    - a. Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One (1) peck per person per day.
    - b. Bay scallop: One (1) bushel per person per day.
    - c. Whelk: One half ( $\frac{1}{2}$ ) bushel per resident per day; or if a vessel with more than one (1) resident onboard is used, a maximum of one (1) bushel per vessel per day.
    - d. Whelk pot limit: Five (5) whelk pots in the water at any one time.
  - 2. Recreational – licensed non-resident:
    - a. Bay quahaug, soft-shell clam, surf clam, blue mussel, and oyster: One half ( $\frac{1}{2}$ ) peck per person per day.
    - b. Bay scallop: The harvest or possession of Bay scallops by non-residents is prohibited.
    - c. Whelk: The harvest or possession of whelk by non-residents is prohibited.
  - 3. Commercial:



- a. Bay quahaug, soft-shell clam, blue mussel, surf clam and oyster: Three (3) bushels per person per calendar day; maximum of six (6) bushels per vessel per calendar day;
  - (1) A maximum of two (2) licensed persons per vessel is allowed.
  - (2) Possession limit for shore-digging in Greenwich Bay Management Area sub-areas 1 and 2: The possession limit is three (3) bushels per person per day whenever GB sub-area 1 is open to boat harvest, but one (1) peck per person per day whenever GB sub-area 1 is not open to boat harvest.
- b. Bay scallop: Three (3) bushels per person per day; maximum of three (3) bushels per vessel per day.
- c. Whelk:
  - (1) Thirty-five (35) bushels per vessel per day.
  - (2) Commercial whelk pot limit: Maximum of three hundred (300) whelk pots per licensee in the water at any one time.

#### **4.12.2 Shellfish Management Areas**

- A. Greenwich Bay (GB): The marine waters of Greenwich Bay in its entirety located west of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West), in the town of East Greenwich and city of Warwick.
  - 1. GB sub-area 1 (western GB): The marine waters located north of a line extending from the far northeastern section of Chepiwanoxet Point (Latitude: 41.674585 Decimal Degrees North, Longitude: -71.441152 Decimal Degrees West) to the western fixed pier on Promenade Street, Old Buttonwoods (Latitude: 41.684468 Decimal Degrees North, Longitude: -71.417575 Decimal Degrees West).
  - 2. GB sub-area 2 (mid-GB): The marine waters located west of a line extending from Sally Rock Point (Latitude: 41.671413 Decimal Degrees North, Longitude: -71.425511 Decimal Degrees West) to the western fixed pier on Promenade Street, Old Buttonwoods (Latitude: 41.684468 Decimal Degrees North, Longitude: -71.417575 Decimal Degrees West); and south of a line extending from the far northeastern section of Chepiwanoxet Point (Latitude: 41.674585 Decimal Degrees North, Longitude: -71.441152 Decimal Degrees West) to the western fixed pier on Promenade Street,

Old Buttonwoods (Latitude: 41.684468 Decimal Degrees North, Longitude: -71.417575 Decimal Degrees West).

a. Commercial boat harvest schedule for GB sub-areas 1 and 2:

(1) Default schedule when a boat harvest schedule expires: Open 8:00AM to 12:00PM on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December through the ~~last Friday in~~end of April, excluding December 25 and January 1.

(2) The schedule for the month of December may include up to forty-eight (48) hours of permitted shellfishing, spread over any number of days, excluding December 25.

(3) If weather or water quality conditions during the month of December prevent opening on two (2) or more scheduled days, the Director may modify the December schedule to allow for additional hours or days of permitted shellfishing.

(4) December ~~2019~~2020:

a. Open from 8:00 AM to 12:00 PM on December ~~11, 13, 16, 18, 20, 23, 24, 26, 27, 30, and 31~~ 9, 11, 14, 16, 18, 21, 22, 23, 24, 28, 29, 30.

b. If one of the dates in section 4.12.2(A)(2)(a)(4) are closed due to water quality impairment, December 31 will open for harvest.

~~(5) January through April 2020: Open 8:00 AM to 12:00 PM on Mondays, Wednesdays, and Fridays from January 3 through April 29.~~

~~(6) May 1 through November 30, 2020: Closed.~~

3. GB sub-area 3 (eastern GB): The marine waters located east of a line extending from Sally Rock Point (Latitude: 41.671413 Decimal Degrees North, Longitude: -71.425511 Decimal Degrees West) northward to the fixed pier on Promenade Street, Old Buttonwoods (Latitude: 41.684468 Decimal Degrees North, Longitude: -71.417575 Decimal Degrees West); and west of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West).

a. Commercial boat harvest schedule: Open daily.

B. Conimicut Point: The marine waters located south of a line extending from a pole (Latitude: 41.717493 Decimal Degrees North, Longitude: -71.357820 Decimal Degrees West) on Conimicut Point to the center of the Old Tower at Nayatt Point (Latitude: 41.725121 Decimal Degrees North, Longitude: -71.338957 Decimal Degrees West); and north of a line extending from the western most extension of Samuel Gorton Avenue in the city of Warwick (Latitude: 41.703781 Decimal Degrees North, Longitude: -71.365120 Decimal Degrees West) to the southern-most extension of Bay Road in the town of Barrington (Latitude: 41.722546 Decimal Degrees North, Longitude: -71.309105 Decimal Degrees West).

1. Harvest schedule: Open daily.
2. The reduced Shellfish Management Area possession limit applies only to soft-shell clams.

C. Potowomut: The marine waters located south of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West); and north of a line extending from the end of Pojac Point (Latitude: 41.650506 Decimal Degrees North, Longitude: -71.408400 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West) to the Warwick Lighthouse (Latitude: 41.667124 Decimal Degrees North, Longitude: -71.378385 Decimal Degrees West), including all the marine waters of the Potowomut River seaward of the Forge Road Spillway, in the town of East Greenwich and city of Warwick.

1. Potowomut sub-area 1 (western Potowomut): The marine waters located west of a line extending from the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West) to the end of Pojac Point (Latitude: 41.650506 Decimal Degrees North, Longitude: -71.408400 Decimal Degrees West).

- a. Harvest schedule: Open daily.

2. Potowomut sub-area 2 (mid-Potowomut/closed area): The marine waters within a triangular area located north of a line extending from the end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); and west of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal

Degrees North, Longitude: -71.390567 Decimal Degrees West); and east of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to the seaward end of Sandy Point on the Potowomut Shore (Latitude: 41.662997 Decimal Degrees North, Longitude: -71.408568 Decimal Degrees West).

a. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.

3. Potowomut sub-area 3 (eastern Potowomut): The marine waters east of a line extending from the flagpole at the Warwick Country Club (Latitude: 41.672412 Decimal Degrees North, Longitude: -71.389382 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); and west of a line extending from buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West) to the Warwick Lighthouse (Latitude: 41.667124 Decimal Degrees North, Longitude: -71.378385 Decimal Degrees West).

a. Harvest schedule: Open daily.

D. High Banks: The marine waters located south of a line extending from the seaward end of Pojac Point (Latitude: 41.650506 Decimal Degrees North, Longitude: -71.408400 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); and west of a line extending from buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West) to the southeast corner coordinate (Latitude: 41.635211 Decimal Degrees North, Longitude: -71.396539 Decimal Degrees West); and north of a line extending from the seaward end of the fence located between the former Davisville Navy property and Pettee Street in the Mount View section (Latitude: 41.634401 Decimal Degrees North, Longitude: -71.407115 Decimal Degrees West) to High Banks southeast corner coordinate (Latitude: 41.635211 Decimal Degrees North, Longitude: -71.396539 Decimal Degrees West), in the town of North Kingstown. The southeast corner coordinate is established at the intersection of two lines described as follows: One (1) line extends from the easternmost end of Pier 2 at Davisville (Latitude: 41.615012 Decimal Degrees North, Longitude: -71.402139 Decimal Degrees West) to buoy G1 "Round Rock" (Latitude: 41.656736 Decimal Degrees North, Longitude: -71.390567 Decimal Degrees West); The second line extends from the seaward end of the fence between the former Davisville Navy property and Pettee Street in the Mount View section (Latitude: 41.634401 Decimal Degrees North, Longitude: -71.407115 Decimal Degrees West) to buoy N6 (Latitude: 41.637323 Decimal Degrees North, Longitude: -71.369265 Decimal Degrees West), located mid-bay west of Prudence Island.

1. Harvest schedule: Open daily

E. Bissel Cove/Fox Island: The marine waters of Bissel Cove in its entirety and adjacent waters of Narragansett Bay located south of a line extending from utility pole #275 at the corner of Waldron and Seaview Avenues (Latitude: 41.553567 Decimal Degrees North, Longitude: -71.429705 Decimal Degrees West) to the southwestern-most point of Fox Island (Latitude: 41.553236 Decimal Degrees North, Longitude: -71.419937 Decimal Degrees West); and west of a line extending from the southwestern-most point of Fox Island (Latitude: 41.553236 Decimal Degrees North, Longitude: -71.419937 Decimal Degrees West) to the northern-most point of Rome point (Latitude: 41.548853 Decimal Degrees North, Longitude: -71.423836 Decimal Degrees West), in the town of North Kingstown.

1. Commercial boat harvest schedule:

a. Default schedule when a boat harvest schedule expires: Open 8:00 AM to 12:00PM on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December through the end of April, excluding December 25 and January 1.

b. December ~~2019~~2020:

(1) Open from 8:00 AM to 12:00 PM on December ~~11, 13, 16, 18, 20, 23, 24, 26, 27, 30, and 31~~ 9, 11, 14, 16, 18, 21, 22, 23, 24, 28, 29, and 30.

(2) If one of the dates in section 4.12.2(E)(1)(b)(1) are closed due to water quality impairment, December 31 will open for harvest.

~~c. January through April 2020: Open 8:00 AM to 12:00 PM on Mondays, Wednesdays, and Fridays from January 3 through April 29.~~

~~d. May 1 through November 30, 2020: Closed.~~

2. Oyster harvest moratorium: The harvest and possession of oysters in the Bissel Cove/Fox Island Shellfish Management Area is prohibited until November 15, 2025.

F. Mill Gut: The marine waters of Mill Gut in its entirety located south of the northern-most bridge on Colt Drive (Latitude: 41.681840 Decimal Degrees North, Longitude: -71.299113 Decimal Degrees West), in the town of Bristol.

1. Harvest schedule: Open for the harvesting of bay quahaugs, soft-shell clams, blue mussels, and oysters only between the second Wednesday in December and April 30 annually.

G. Bristol Harbor: The marine waters of Bristol Harbor and its tributaries located south of a line extending from the CRMC permitted dock #419 located at 163 Poppasquash Road (Latitude: 41.669558 Decimal Degrees North, Longitude: -71.288764 Decimal Degrees West) to the northwest corner of the Rockwell Pier municipal parking lot (Latitude: 41.669742 Decimal Degrees North, Longitude: -71.279250 Decimal Degrees West); and north of a line extending from the north side of CRMC Permitted Dock #1601 where it meets the shoreline (Latitude: 41.664246 Decimal Degrees North, Longitude: -71.290396 Decimal Degrees West), located at 363 Poppasquash Road to the northwest corner of the U.S. Coast Guard station pier (Latitude: 41.666268 Decimal Degrees North, Longitude: -71.278351 Decimal Degrees West); and west of a line extending from utility pole # 20 on Poppasquash Road (Latitude: 41.682529 Decimal Degrees North, Longitude: -71.285175 Decimal Degrees West) to the northern extremity of Hog Island (Latitude: 41.647959 Decimal Degrees North, Longitude: -71.279880 Decimal Degrees West) in the town of Bristol. The northeast corner coordinate is established at (Latitude: 41.669666 Decimal Degrees North, Longitude: -71.283207 Decimal Degrees West). The Southeast Corner Coordinate is established at (Latitude: 41.665503 Decimal Degrees North, Longitude: -71.282569 Decimal Degrees West).

1. Commercial boat harvest schedule:

a. Default schedule when a boat harvest schedule expires:

- (1) January 2 through January 31: Open 8:00 AM to 12:00 PM on Mondays, Wednesdays, and Fridays.
- (2) February 1 through April 30: Open daily.
- (3) May 1 through January 1: Closed.

~~b. December 2015: Closed.~~

~~c. Beginning January 11, 2016: Open 8:00 AM to 12:00 PM on Mondays, Wednesdays, and Fridays.~~

~~d. February 1 through April 30, 2016: Open daily.~~

~~e. May 1 through November 30 annually: Closed.~~

H. Kickemuit River: The marine waters of the Kickemuit River in its entirety located north of a line extending from the seaward end of Narrows Road (Latitude: 41.696927 Decimal Degrees North, Longitude: -71.246322 Decimal Degrees West) in the town of Bristol to Nun Buoy 6 (Latitude: 41.698489 Decimal Degrees North, Longitude: -71.244195 Decimal Degrees West) to a point (Latitude: 41.699115 Decimal Degrees North, Longitude: -71.243342 Decimal Degrees West) in the southwestern section of the Little Neck/Touisset section of the Town of Warren.

1. Harvest schedule: Open daily.
- I. Jenny Creek: The marine waters of Jenny Pond on Prudence Island in its entirety located north of its mouth at its inlet at Pine Hill Cove (Latitude: 41.629838 Decimal Degrees North, Longitude: -71.333696 Decimal Degrees West) in the town of Portsmouth.
    1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.
  - J. Sakonnet River: The marine waters located north of a line extending from Sachuest Point (Latitude: 41.472362 Decimal Degrees North, Longitude: -71.247257 Decimal Degrees West) in the town of Middletown to Sakonnet Light (Latitude: 41.453130 Decimal Degrees North, Longitude: -71.202434 Decimal Degrees West) in the town of Little Compton to Sakonnet Point (Latitude: 41.454587 Decimal Degrees North, Longitude: -71.195124 Decimal Degrees West) in the town of Little Compton; and south of a line extending from a point on the shoreline (Latitude: 41.519498 Decimal Degrees North, Longitude: -71.230893 Decimal Degrees West) in the town of Portsmouth to Brown Point (Latitude: 41.519896 Decimal Degrees North, Longitude: -71.204959 Decimal Degrees West) in the town of Little Compton; and east of a line extending from a point on the shoreline (Latitude: 41.504347 Decimal Degrees North, Longitude: -71.239782 Decimal Degrees West) in the town of Middletown to Flint Point (Latitude: 41.486523 Decimal Degrees North, Longitude: -71.237974 Decimal Degrees West) in the town of Middletown.
    1. The possession limit for surf clams is two hundred (200) bushels/vessel/day.
    2. An incidental catch limit of one (1) bushel of bay quahaugs for each ten (10) bushels of surf clams, not to exceed twelve (12) bushels of bay quahaugs, is allowed per vessel.
  - K. Point Judith Pond: The marine waters of Point Judith Pond in its entirety located east of the bridge at Succotash Road (Latitude: 41.386004 Decimal Degrees North, Longitude: -71.526019 Decimal Degrees West) in the town of South Kingstown; and north of the mouth of the breachway where it meets the Harbor of Refuge (Latitude: 41.375149 Decimal Degrees North, Longitude: -71.513755 Decimal Degrees West) in the town of Narragansett.
    1. Harvest schedule: Open daily.
  - L. Potter Pond: The marine waters of Potter Pond in its entirety located west of the bridge at Succotash Road (Latitude: 41.386004 Decimal Degrees North, Longitude: -71.526019 Decimal Degrees West) in the town of South Kingstown.
    1. Harvest schedule: Open daily, except for the following:

2. Potter Pond sub-area 1 (closed area): The marine waters of Sycamore Cove located north of a line extending easterly from point "A" (Latitude: 41.383435 Decimal Degrees North, Longitude: -71.537009 Decimal Degrees West) to point "B" (Latitude: 41.383661 Decimal Degrees North, Longitude: -71.533286 Decimal Degrees West); from point "B" following the Sycamore Cove shoreline approximately 638 meters back to point "A".
    - a. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.
- M. Ninigret (Charlestown) Pond: The marine waters of Ninigret Pond in its entirety located west of the bridge at Charlestown Beach Road (Latitude: 41.364173 Decimal Degrees North, Longitude: -71.625958 Decimal Degrees West) in the town of Charlestown; and north of the mouth of Charlestown Breachway (Latitude: 41.354865 Decimal Degrees North, Longitude: -71.638536 Decimal Degrees West) in the town of Charlestown.
1. Harvest schedule: Open daily, except for the following:
  2. Ninigret Pond sub-area 1 (western closed area): The marine waters within an area enclosed by the following points and boundaries: from point "A" at the north end of the Ninigret Conservation Area parking lot (Latitude: 41.344726 Decimal Degrees North, Longitude: -71.690149 Decimal Degrees West); following the Ninigret Conservation Area shoreline approximately five hundred eighty (580) meters eastward to point "B" (Latitude: 41.346815 Decimal Degrees North, Longitude: -71.683958 Decimal Degrees West); from point "B" approximately one thousand three hundred eighty-two (1,382) meters northward to point "C" at the Ninigret Landing Marina (Latitude: 41.358561 Decimal Degrees North, Longitude: -71.689409 Decimal Degrees West); from point "C" following the shoreline approximately nine hundred sixty-two (962) meters westward to "D" at the westernmost end of Reeds Point (Latitude: 41.352794 Decimal Degrees North, Longitude: -71.694621 Decimal Degrees West); from point "D" approximately nine hundred seventy-one (971) meters southward to point "A", completing the final boundary.
    - a. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.
  3. Ninigret Pond-Foster Cove sub-area 1 (northern closed area): The marine waters within an area enclosed by the following points and boundaries: from point "A" on the Foster Cove shoreline (Latitude: 41.366362 Decimal Degrees North, Longitude: -71.676036 Decimal Degrees West); from point "A" approximately forty-six (46) meters southward to point "B" (Latitude: 41.365970 Decimal Degrees North, Longitude: -71.676220 Decimal



Degrees West); from point "B" approximately eighty-two (82) meters eastward to point "C" (Latitude: 41.365690 Decimal Degrees North, Longitude: -71.675310 Decimal Degrees West); from point "C" approximately forty-six (46) meters northward to point "D" (Latitude: 41.366086 Decimal Degrees North, Longitude: -71.675128 Decimal Degrees West); from point "D" following the shoreline approximately one hundred nine (109) meters eastward to point "A" completing the final boundary.

a. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops until January 1, 2025, unless extended by the Director after RIMFC review.

4. Ninigret Pond-Foster Cove sub-area 2 (eastern closed area): The marine waters within twenty-five (25) meters of the shoreline surrounding the Ninigret National Wildlife Refuge western point enclosed by the following points and boundaries: from point "A" on the Foster Cove shoreline (Latitude: 41.363705 Decimal Degrees North, Longitude: -71.673512 Decimal Degrees West); following the shoreline approximately 209 meters westward to point "B" at the end of the point (Latitude: 41.364515 Decimal Degrees North, Longitude: -71.675236 Decimal Degrees West); from point "B" following the shoreline approximately one hundred eighty-three (183) meters eastward to point "C" (Latitude: 41.364330 Decimal Degrees North, Longitude: -71.673220 Decimal Degrees West).

a. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops until January 1, 2025, unless extended by the Director after RIMFC review.

N. Quonochontaug Pond: The marine waters of Quonochontaug Pond in its entirety located north of the mouth of Quonochontaug Breachway (Latitude: 41.330878 Decimal Degrees North, Longitude: -71.718764 Decimal Degrees West) in the towns of Charlestown and Westerly

1. Harvest schedule: Open daily, except for the following:

2. Closed areas:

a. Quonochontaug Pond sub-area 1 (western closed area): The marine waters within an area enclosed by the following points and boundaries: the waters south of a line extending approximately nine hundred eleven (911) meters easterly from "A" on the southern end of Quahaug Point (Latitude: 41.333330 Decimal Degrees North, Longitude: -71.744365 degrees West) in the town of Westerly; to "B" at the northern end of Nope's Island (Latitude: 41.334528

Decimal Degrees North, Longitude: -71.733593 Decimal Degrees West) in the town of Westerly; from "B" following the Quonochontaug Barrier shoreline generally westward, approximately one thousand five hundred forty-five (1,545) meters to "C" in the town of Westerly (Latitude: 41.330564 Decimal Degrees North, Longitude: -71.744459 degrees West); from "C" approximately three hundred seven (307) meters northward to "A" completing the final boundary, in the town of Westerly.

- b. Quonochontaug Pond sub-area 2 (eastern closed area): The marine waters within an area enclosed by the following points and boundaries: the waters east of a line extending approximately six hundred seventy-three (673) meters southerly from point "A" on the eastern end of the QYC stone pier (Latitude: 41.350312 Decimal Degrees North, Longitude: -71.709292 degrees West) in the town of Charlestown; to point "B" at the eastern end of the unnamed island (Latitude: 41.344710 Decimal Degrees North, Longitude: -71.712336 Decimal Degrees West) in the town of Charlestown; ; from point "B" following the Quonochontaug Pond shoreline generally northward, approximately one thousand one hundred twenty (1120) meters back to point "A" completing the final boundary.

3. The harvest and possession of oysters in Quonochontaug Pond is prohibited until September 15, 2021.

O. Winnapaug Pond: The marine waters of Winnapaug Pond in its entirety located north of the mouth of Weekapaug Breachway (Latitude: 41.327627 Decimal Degrees North, Longitude: -71.762913 Decimal Degrees West) in the town of Westerly.

1. Harvest schedule: Open daily, except for the following:
2. Winnapaug Pond sub-area 1 (closed area): The marine waters within an area enclosed by the following points and boundaries: the waters north of a line extending approximately one thousand two hundred thirty nine (1,239) meters easterly from point "A" on the southeastern portion of Big Rock Point (Latitude: 41.330229 Decimal Degrees North, Longitude: -71.799555 Decimal Degrees West) in the town of Westerly; to point "B" at the southern end of Larkin's Island (Latitude: 41.331958 Decimal Degrees North, Longitude: -71.784941 Decimal Degrees West) in the town of Westerly; from point "B" approximately one hundred nineteen (119) meters northwesterly to point "C" adjacent to the end of Bayside Avenue (Latitude: 41.332611 Decimal Degrees North, Longitude: -71.786066 Decimal Degrees West) in the town of Westerly; from point "C" following the shoreline generally westward, approximately one thousand five hundred ninety (1,590) meters to point "A", completing the final boundary.

- P. Green Hill Pond: The marine waters of Green Hill Pond in its entirety located east of the bridge at Charlestown Beach Road (Latitude: 41.364173 Decimal Degrees North, Longitude: -71.625958 Decimal Degrees West), in the towns of Charlestown and South Kingstown.
1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.
- Q. Narrow River: The marine waters of the Narrow River in its entirety located west and north of its mouth at the Narrows (Latitude: 41.442019 Decimal Degrees North, Longitude: -71.440679 Decimal Degrees West) in the towns of Narragansett; south of Gilbert Stuart Rd. (Latitude: 41.519845 Decimal Degrees North, Longitude: -71.444608 Decimal Degrees West) in the town of and North Kingstown; and north of Mumford Rd. (Latitude: 41.439006 Decimal Degrees North, Longitude: -71.473478 Decimal Degrees West) in the town of Narragansett.
1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.
- R. Little Narragansett Bay and Pawcatuck River: The marine waters of Little Narragansett Bay and Pawcatuck River within the State of Rhode Island located northeast of a line extending from (Latitude: 41.321703 Decimal Degrees North, Longitude: -71.878691 Decimal Degrees West) the DEM range marker on a pole near the southeastern extremity of Sandy Point to a DEM range marker on a pole (Latitude 41.310300 Decimal Degrees North, Longitude -71.877500 Decimal Degrees West) on the northern shoreline of Napatree Point, including all waters of the "Kitchen" so called, and those waters northeast of the southwest shoreline of Sandy Point to the state line (and south of the Route 1 Bridge (Latitude: 41.377688 Decimal Degrees North, Longitude: -71.831481 Decimal Degrees West) in the town of Westerly.
1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.
- S. Providence and Seekonk Rivers: The marine waters of the Providence and Seekonk Rivers and their tributaries located north of a line extending from the flagpole on Conimicut Point in the City of Warwick (Latitude: 41.717493 Decimal Degrees North, Longitude: -71.35820 Decimal Degrees West) to the center of the Old Tower at Nayatt Point in the Town of Barrington (Latitude: 41.725121 Decimal Degrees North, Longitude: -71.338957 Decimal Degrees West); and southerly and seaward of the Hurricane barrier (Latitude: 41.815785 Decimal Degrees North, Longitude: -71.401958 Decimal Degrees West) in the City of Providence; and southerly and seaward of the Main Street Dam (Latitude: 41.876594 Decimal Degrees North, Longitude: -71.383100 Decimal Degrees West) in the in the city of Pawtucket.

1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.
- T. Warren River Shellfish Management Area: The marine waters of the Warren River and its tributaries located north and east of a line extending from the flagpole at 178 Adams Point Road in Town of Barrington (Latitude: 41.716089 Decimal Degrees North, Longitude: -71.293291 Decimal Degrees West) to the DEM range marker at Jacobs Point in the Town of Warren (Latitude: 41.714306 Decimal Degrees North, Longitude: -71.286673 Decimal Degrees West); and southerly and downstream of the Main street/Route 114 bridge at its intersection with the Barrington River in the Town of Barrington (Latitude: 41.736701 Decimal Degrees North, Longitude: -71.295451 Decimal Degrees West); and southerly and downstream of the Main street/Route 114 bridge at its intersection with the Palmer River in Towns of Bristol and Warren (Latitude: 41.737396 Decimal Degrees North, Longitude: -71.289081 Decimal Degrees West).
1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.
- U. Town Pond: The marine waters of Founders Brook and Town Pond in their entirety located south of the tidal connection to Mount Hope Bay in the town of Portsmouth (Latitude: 41.638944 Decimal Degrees North, Longitude: -71.245269 Decimal Degrees West).
1. Harvest schedule: Closed except for the harvest of bay scallops by dip-netting only from a boat during the open season for bay scallops.
- V. Jacobs Point Shellfish Management Area: The marine waters of the Warren River located south of a line extending from the DEM range marker on the shore north of Jacobs Point (Latitude: 41.714306 Decimal Degrees North, Longitude: -71.286673 Decimal Degrees West) to nun buoy 12 in the Town of Warren (Latitude: 41.713780 Decimal Degrees North, Longitude: -71.291593 Decimal Degrees West); and east of a line extending from nun buoy 12 to the DEM range marker on the shore south of Jacobs Point in the Town of Bristol (Latitude: 41.710253 Decimal Degrees North, Longitude: -71.291327 Decimal Degrees West).
1. Harvest schedule: Open daily.
  2. The reduced Shellfish Management Area possession limit applies only to oysters. The commercial possession limit for oysters is one (1) peck per person per day.

#### **4.13 Wet Storage of Shellfish**

No person shall engage in wet storage of molluscan shellfish without first obtaining a dealer's license from DOH and DEM.

#### **4.14 Commercial Handling of Shellfish**

- A. Commercial shellfishermen shall conduct all activities and operations involving or relating to the possession and handling of shell stock so as to prevent contamination, deterioration and decomposition of such shell stock.
- B. Containers used for storing shell stock must be clean.
- C. Boat decks and storage bins used in the harvest or transport of shell stock shall be kept clean with potable water or water from the growing area in approved classification or the open status of conditional areas.
- D. Commercial shellfishermen using a vessel to harvest and transport shell stock shall assure that said vessel is properly constructed, operated and maintained to prevent contamination, deterioration and decomposition of shell stock.
- E. Commercial shellfishermen using a vessel to harvest and transport shell stock shall prevent bilge water from coming into contact with shell stock.
- F. Commercial shellfishermen using a boat to harvest and transport shell stock shall provide such vessel with effective drainage to avoid contact between bilge water and shell stock.
- G. Commercial shellfishermen using a vessel to harvest and transport shell stock shall locate bilge pumps so that discharge shall not contaminate shell stock.
- H. Shell stock shall be washed reasonably free of bottom sediments as soon after harvesting as possible. The harvester shall be primarily responsible for washing shell stock. If shell stock washing is not feasible at the time of harvest, the dealer shall assume this responsibility. Water used for washing shall be from a potable water source, or growing area in the approved classification or open status of the conditionally approved classification.
- I. The discharge of human sewage from a vessel used in the harvesting of shell stock, or from vessels that buy shell stock, within waters of the state is prohibited.

#### **4.15 Commercial Tagging of Shellfish**

- A. Commercial shellfishermen must place any and all shellfish taken by them (except those shellfish returned to the waters of the harvest area) into containers, and must tag each and every container with a "harvester tag" conforming to the requirements of this sub-section, prior to shellfish being placed in the container.
- B. The harvester tag shall be durable, waterproof, and sanctioned by the R.I. Department of Health. The tag shall contain the following indelible, legible information in the order specified as follows: The harvester's identification number as assigned by DEM; the date of harvest; the harvest commencement time; the harvest location as identified on the R.I. Shellfish Harvest Area Tagging

Map; the shellfish management area; the type (species) of shellfish; and the approximate quantity of shellfish. The harvest commencement time will indicate the time that the first shellfish that the harvester is currently in possession of was removed from the water and should be the same for all shellfish that the harvester is in possession of regardless of tagging area.

- C. Each tag shall also carry the following statement in bold capitalized type: "This tag is required to be attached until container is empty or it retagged and thereafter kept on file for 90 days". Commercial shellfishermen shall not place shell stock harvested from more than one growing area into the same container. When the harvester is also a dealer, the harvester has the option to tag the shell stock with a harvester tag or a dealer's tag meeting the requirements of the RIDOH regulations.
- D. Bulk tagging of shell stock will be permitted only with prior approval of the Director under the following criteria:
  - 1. When shell stock are harvested from one harvest area on a single day, multiple containers may be utilized on a wrapped pallet, in a tote, in a net brailer, or other container and the unit tagged with a single tag; and,
  - 2. A statement that all shell stock containers in this lot have the same harvest data and area of harvest; and number of containers in the unit.

#### **4.16 Commercial Temperature Control of Shellfish**

- A. Commercial shellfishermen shall not allow shell stock to deteriorate or decompose from exposure to excessive temperature and shall deliver shell stock to a licensed dealer before such deterioration or decomposition occurs.
- B. Harvest of shellfish from sunrise November 1 through sunset March 31 annually: The maximum allowable time between the commencement of harvest of shell stock and delivery to a dealer shall be twenty (20) hours. Possession of shell stock in excess of twenty (20) hours is prohibited.
- C. Harvest of shellfish from sunrise April 1 through sunset October 31 annually: The maximum allowable time between the commencement of harvest of shell stock and delivery to a dealer shall be ten (10) hours. Possession of shell stock in excess of ten (10) hours is prohibited.
  - 1. The harvester shall provide shading to all shellfish intended for harvest aboard vessels and during land-based deliveries.
  - 2. Harvest of bay quahaugs or oysters from within Designated Temperature Control Areas that exceed five hours to complete shall be placed in mechanical refrigeration or adequately iced in a storage container within five (5) hours of the commencement of harvest until the shellfish are transferred to a licensed dealer within ten (10) hours.

- D. Ocean quahaugs, surf clams, and whelks are exempt from temperature control requirements.

#### **4.17 Shellfish Transplant Regulations**

- A. The Director is authorized and directed, after requiring all necessary safeguards, to transfer shellfish from uncertified waters of the State to approved areas. The Director may make Rules and Regulations governing the re-harvest of those shellfish to the best economic benefit of the state after all necessary safeguards to insure their cleanliness (R.I. Gen. Laws § 20-6-26).
- B. Any person participating in the transplant program shall surrender his commercial license to the conservation officer or DEM employee afloat on the transplant bed or otherwise stationed to collect licenses. The license must be surrendered before the participant commences digging shellfish.
- C. The boundaries of the transplanting area shall be marked with designated corner markers. All shellfishermen participating in the transplant program shall harvest shellfish only within the boundaries of the transplant area so marked.
- D. No shellfisherman shall commence harvesting shellfish in the transplant area before the hour at which the transplant program is scheduled to commence. Hours of transplanting shall be publicized in advance.
- E. Shellfishermen participating in the transplant program shall bring no shellfish into the transplant area before beginning the transplant. Any shellfish on board a participant's boat shall be considered transplant shellfish, dug from the transplanting area.
- F. Any participant in the transplant program shall be considered to have completed his participation in the program when he presents his shellfish to the "buy boat/buy station" for counting/weighing. If the method of transplanting involves diggers planting their own catch in the transplant bed, the shellfisherman shall first present his catch to the authorized DEM officer for counting/weighing, and shall then proceed directly to the planting area. Once the shellfisherman commences to remove the shellfish from his boat to the "buy boat/buy station" or into the transplant bed, he shall remove all shellfish from his boat before changing location. Any change of location shall indicate that the shellfisherman has cleared his boat of shellfish and is ready for inspection and return of license by DEM officers. No shellfish shall be aboard any participant's boat at the time of inspection.
- G. Temporary creation of a transplanting area shall in no way affect the polluted status of the waters therein, or of any waters surrounding the transplanting area and declared polluted.

- H. Violation of any of these provisions shall be punishable by a fine of up to five hundred dollars (\$500) and/or up to thirty (30) days in jail.
- I. Agents of the DEM may limit the maximum allowable harvest by each participant in a transplant. Agents of the DEM may limit the number of participants in a shellfish transplant program provided that the limit is determined in a fair and equitable manner (R.I. Gen. Laws § 20-6-29).
- J. Dredging, Raking, and Tonging in Transplant Beds: Those areas to which the shellfish are transferred shall be marked out, and dredging, raking, or tonging on them shall be prohibited except under the special direction of the Director (R.I. Gen. Laws § 20-6-27).

#### **4.18 Commercial Whelk Pot Tagging:**

- A. Applicability: No person shall set, haul, or maintain a whelk pot unless the pot has attached a valid whelk pot tag issued by the Director.
- B. Application for whelk pot tags shall be made on forms as prescribed by the Director.
- C. Cost of tags shall be borne by the license holder and shall not exceed the cost of producing such tags by the vendor(s) selected by the Department.
- D. Tags shall be permanently attached to the pot in a location clearly visible for inspection.
- E. Tags shall be valid on an annual basis from April 1 through March 31.
- F. No person shall transfer whelk pot tags between whelk pots, or between individuals or vessels.
- G. No person shall possess at any one time more whelk pot tags than are authorized.
- H. Only tags for the current fishing year and the immediate previous or following fishing year shall be allowed to remain attached to each whelk pot.
- I. Pot tag types and issuance:
  - 1. Original tags: Eligible license holders may order up to the maximum pot limit plus a fifteen percent (15%) over-allotment to allow for replacement of tags due to routine losses. When a routine loss of an original tag occurs, the ten percent (10%) over-allotment shall be used to replace the lost tag.
  - 2. Gear rotation tags: Eligible license holders may order additional tags to be used for gear rotation and maintenance. The number of gear rotation tags issued shall not exceed the maximum pot limit or exceed the number of



original tags ordered. Gear rotation tags shall be held by the Director. The Director shall issue gear rotation trap tags on a one-for-one basis upon receipt of the original tags.

3. Catastrophic loss tags: Eligible license holders may order up to two (2) complete sets of catastrophic loss trap tags, in an amount equal to the number of original tags ordered, to be used in the event of catastrophic loss or to replace original trap tags not received.
  - a. Catastrophic loss trap tags ordered shall be held by the Director.
  - b. Issuance of catastrophic loss tags shall null and void original and gear rotation tags issued. No original tag issued may be used upon issuance of catastrophic trap tags.
  - c. Catastrophic loss trap tags shall be distinguishable from original trap tags (i.e. color).