



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

June 7, 2021 – 6:00 PM

Virtual public meeting only

Zoom webinar:

<https://us02web.zoom.us/j/86905636356>

Meeting ID: 869 0563 6356

Dial in: 1-929-205-6099

AGENDA

Agenda item	Recommended action(s)	ePacket Attachment(s)
1. Tonight's agenda	Approval of agenda	• Tonight's meeting agenda
2. Meeting minutes from last meeting (May 3, 2021)	Approval of meeting minutes	• Draft meeting minutes
3. Public comment on any matters not on the agenda	Discussion and/or recommendations for future action.	
4. Aquaculture lease application review (John and Patrick Bowen)	Provide recommendation to the CRMC	• Lease application 2020-04-037 (as modified) • Lease application 2020-04-037 (original) • Council letter to CRMC 11-16-2020 • Council meeting minutes 11-2-2020 • SAP meeting minutes 9-2-2020 • DEM review letter 6-2-2021 • DEM review letter 6-25-2020
5. Any other matters?	FYI or recommendations for future action.	
6. Adjourn		

All RIMFC Meetings are open to the public

Posted to Sec. of State Open Meetings pursuant to R.I. Gen. Laws § 42-46-6



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

MEETING SUMMARY

May 3, 2021 – 6:00 PM

Zoom webinar:

<https://us02web.zoom.us/j/81340984296>

Meeting ID: 813 4098 4296

Dial in: 1-929-205-6099

Chairperson: B. Ballou

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

Division: C. McManus, S. Olszewski, J. Lake, N. Costa, M. Bucko, A. Williams, E. Schneider, C. Truesdale, P. Duhamel

DEM Legal: J. LoBianco

Public: Approximately 10 persons in attendance.

1. Approval of the agenda: The Chair inquired to any objections to approving the agenda or if there were any requests for modifications. Hearing no objections or requests for modifications, the agenda was approved by consent.
2. Approval of minutes from meeting on March 1, 2021: The Chair inquired to any objections to approving the minutes or if there were any requests for modifications; hearing no objections or requests for modifications, the minutes were approved by consent.
3. Public comments regarding any other matters not on agenda: No comments were offered.
4. Shellfish Advisory Panel (SAP) membership applications: Motion made by A. Dangelo to appoint all three applicants (D. Erkan, C. Sperry, C. Ennis) to the SAP; 2nd by K. Eagan. The motion passed 6 – 0 (M. Rice not yet present)
5. Shellfish Advisory Panel meeting minutes (March 24 & April 14, 2021): The Chair inquired to any objections to approving the minutes. Hearing no objections or requests for modifications, the minutes were approved by consent.
6. Proposed amendments to Shellfish Management Area regulations:

- a. Providence River shellfish harvest schedule: A. Gerber Williams provided background regarding water quality improvements in the area and an overview of the Division proposal for a shellfish harvest season.
- Public comments:
 - J. Grant: Not in support of the proposed quota or a closure based on the quota. In support of the proposed schedule with 27 open days. Wants the stock assessment available for public review.
 - C. Sperry: Did not support restricted recreational shoredigging
 - G. Schey: Did not support the proposed quota or a closure based on the quota. In support of the proposed schedule with 27 open days. Wants the stock assessment available for public review.
 - M. McGiveney: Not in support of the proposed quota or a closure based on the quota. In support of the proposed schedule with 27 open days. Supported adding September 1 and 3 to the alternate days open as supported by the SAP. Did not support prohibition of soft-shell clam harvest. Did not support prohibition of recreational shoredigging. In support of the commercial shoredigging schedule to sync with the proposed schedule.
 - Officer Adam Hill, Division of Law Enforcement, offered that recreational harvesters will be unaware of the restricted schedule and that efforts should be made to inform the public. He offered that it will be difficult for DLE to monitor.

A motion was made by D. Monti to recommend to the Director adoption of the Providence/Seekonk River Shellfish Management Area regulations as proposed, with DMF to further explore a provision for recreational shellfishing; 2nd by M. Rice. The Division clarified that September 1 and 3 were accidentally omitted from the proposed schedule and the RIMFC amended the proposal by consent to add these dates. The motion to amend was approved by consent.

A motion to amend was then made by K. Eagan to strike the proposed provision regarding the quota and 90% quota trigger; 2nd by J. Jarvis. The motion to amend the motion passed 4-3 (T. Barao, D. Monti, M. Rice opposed)

The main motion as amended: To recommend to the Director adoption of the Providence/Seekonk River Shellfish Management Area regulations as proposed with the following provisions:

- DMF to further explore a provision for recreational shellfishing
- Strike the language regarding the quota and 90% quota trigger

Motion to amend made by M. Rice to amend the motion to provide for recreational and commercial shoredigging when the area is open per the proposed schedule; 2nd by J. Jarvis. The motion to amend was approved by consent.

The main motion as amended: To recommend to the Director adoption of the Providence/Seekonk River Shellfish Management Area regulations as proposed with the following provisions:

- Allow recreational digging and commercial shore digging whenever the area is open according to the proposed schedule
- Strike the language regarding the quota and 90% quota trigger

The motion passed 7-0.

C. McManus noted that updated tagging area maps are to be provided in the immediate future.

- b. Quonochontaug Pond oyster moratorium: Motion made by D. Monti to recommend to the Director adoption of the Quonochontaug Shellfish Management Area regulations as proposed (to extend the oyster harvest moratorium to November 15, 2023); 2nd by T. Barao. The motion passed 7 – 0.
7. Summer Flounder and Black Sea Bass – Transiting Provision Mass. Pilot Program (proposed amendments to the transiting language): Motion made by A. Dangelo to recommend to the Director not to adopt the Summer Flounder and Black Sea Bass – Transiting Provision for the Mass. Pilot Program as proposed; 2nd by D. Monti. The motion passed 7 – 0.
8. RI Saltwater Recreational Fishing License Program Report for 2020: J. Lake provided an overview of the updated report. The Chair inquired to any objections to approving the report. Hearing none, the report was approved by consent.
9. FYI Items: C. McManus provided an overview of the NOAA Additional Assistance Funding Under the Consolidated Appropriations Act of 2021. B. Ballou provided an enthusiastic overview of RI Quahog week
10. Any Other matters: No other matters were discussed.
11. Adjournment: The meeting was adjourned by the Chair at @ 8:15pm.

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

CRMC AQUACULTURE APPLICATION FOR STATE ASSENT

Applicant Name and Mailing Address:

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

CRMC File Number: 2020-04-037

DEM License Number: Application Pending

Type of Facility: Commercial lease site

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



Size of Proposed Aquaculture Site: 0.95 acres

Latitude /Longitude of Proposed Aquaculture Site:

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

Signature of Requestor: _____ Date: _____

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

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

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

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

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

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

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

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

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

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

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

As stated in the CRMC Preliminary Determination Report of Findings,

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

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

OPERATIONAL PLAN:

1. Name and Address:

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

2. CRMC File Number: 2020-04-037

3. DEM Aquaculture License Number: To be determined

4. Type of Facility: Commercial Aquaculture Lease Site

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

Setbacks:

- 260' from Northeasterly corner to Mean Low Water (MLW) (nearest point of the site)
- 260' from the Southeast Corner to Mean Low Water (MLW)
- 400' from a point on the SW corner of the Seapowet Bridge to the NE corner of the site
- 560' from a point on the SW corner of the Seapowet Bridge to the NW corner of the site.

Longitude/Latitude of Proposed Aquaculture Site:

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



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

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

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

8. Identifying Markers

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

9. DEM Shellfish Harvesting Classification:

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

10. Description of Practices and Procedures:

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

11. Harvest, Storage, and Transportation:

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

12. Time Table of Work

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

13. Record Keeping:

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

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

An upweller will not be used.

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

Seed will not be obtained from prohibited waters.

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

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

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

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

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

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

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

Latitude/Longitude of Proposed Aquaculture Site:

Northwest: 41.580613, -71.210130

Northeast: 41.580819, -71.209384

Southwest: 41.580130, -71.209870

Southeast: 41.580180, -71.209238

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

Setbacks:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

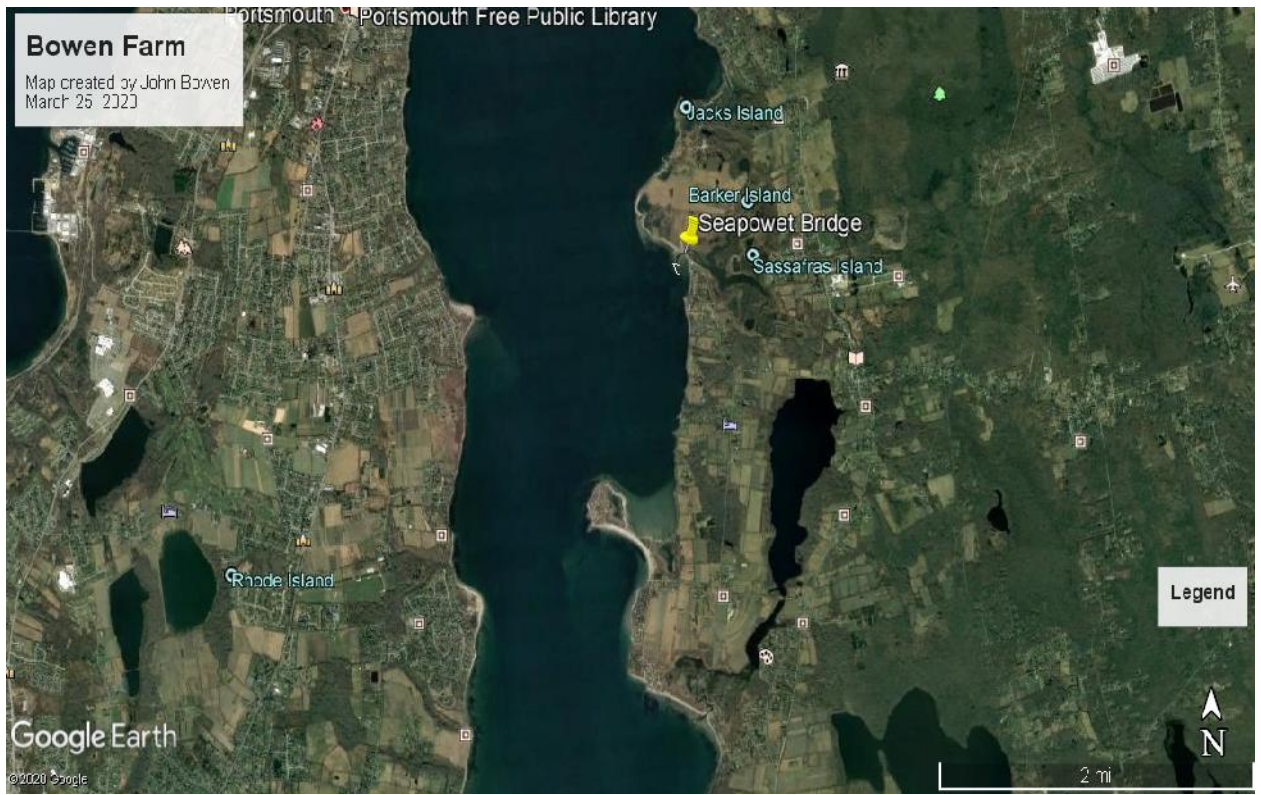
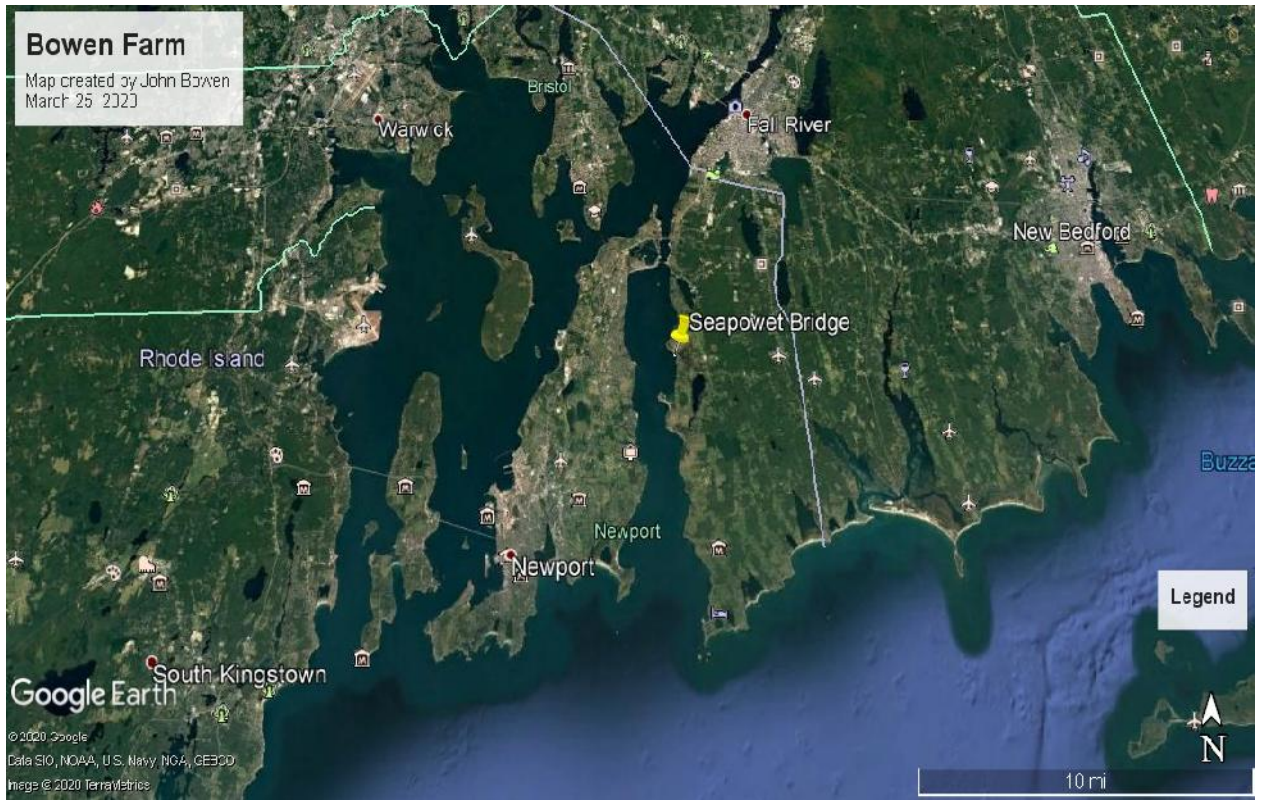
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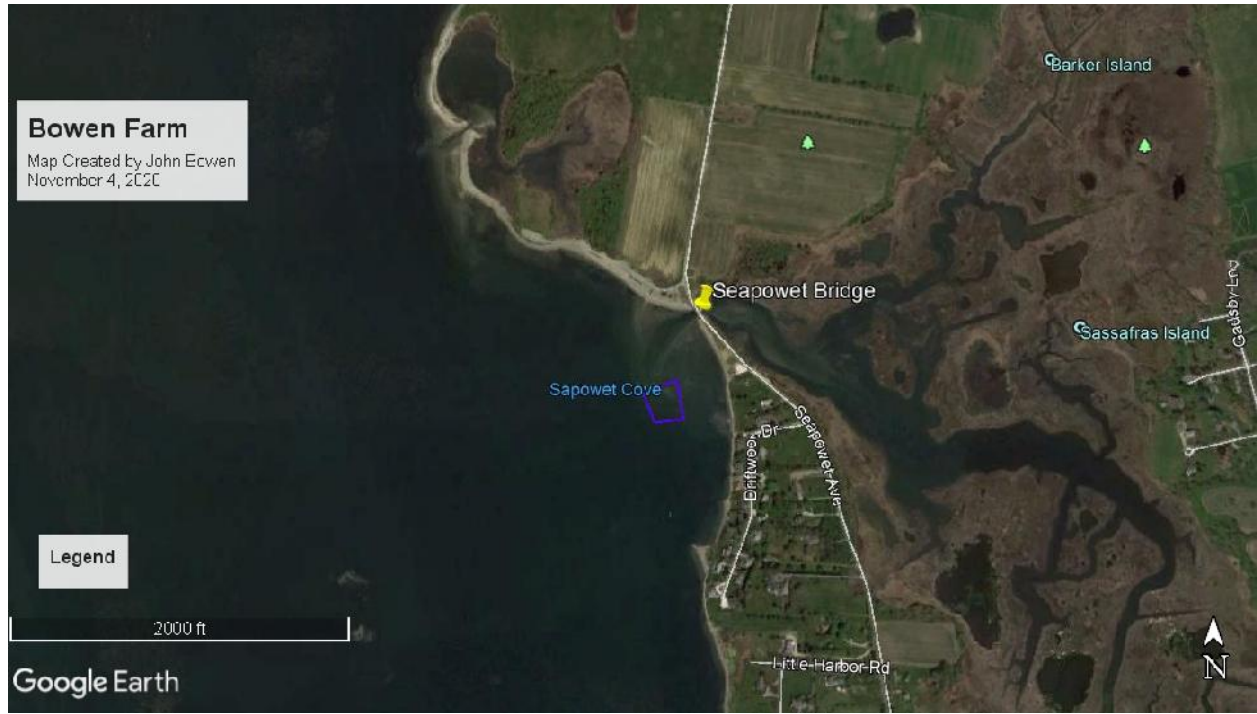
*TIVERTON HARBOR AND COASTAL WATERS MANAGEMENT PLAN: II(A)(3)(e)

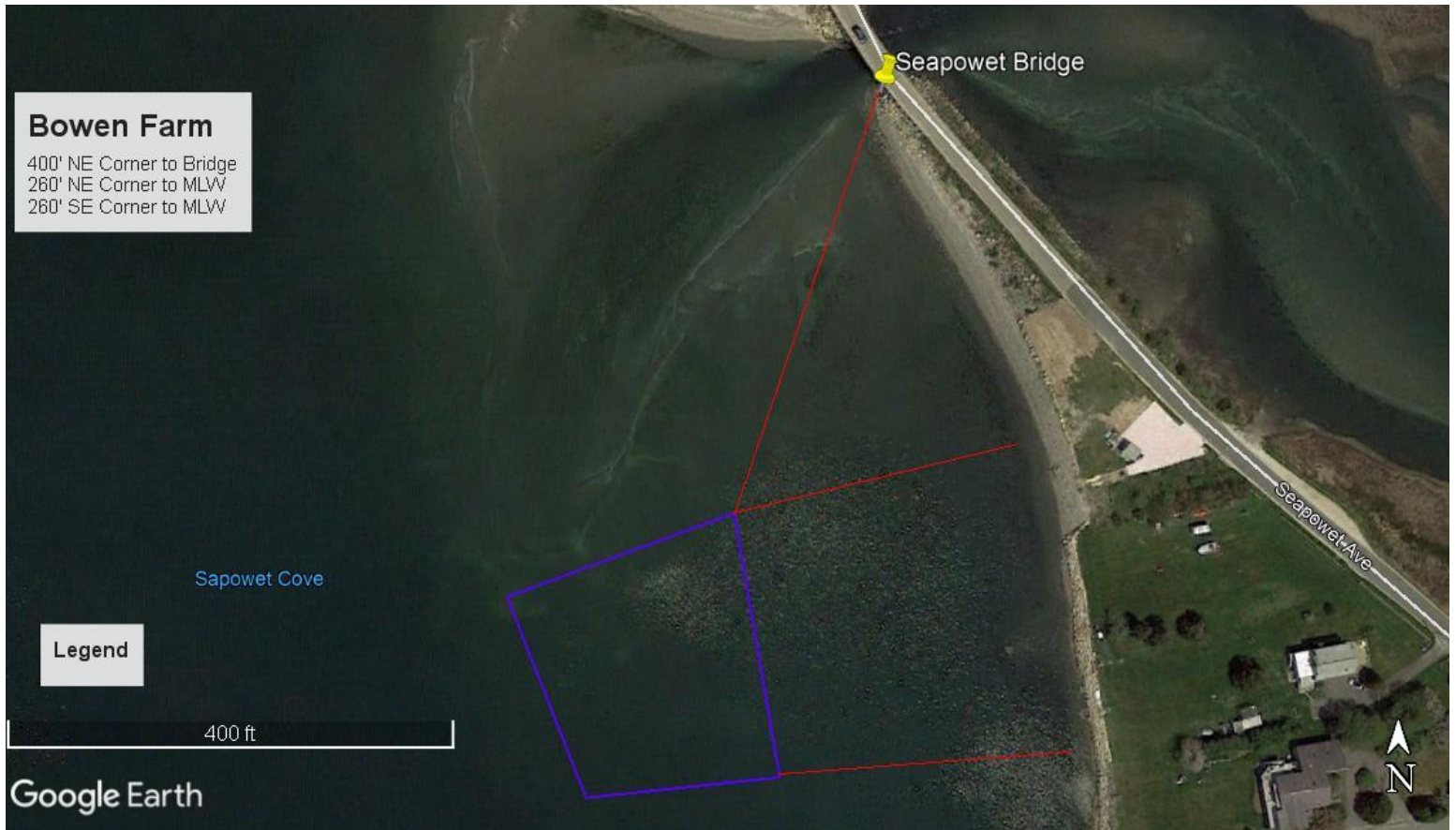
** *CODE OF ORDINANCES, TOWN OF TIVERTON, Chapter 14, Article II, Section 14-193*

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

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







North



South



East



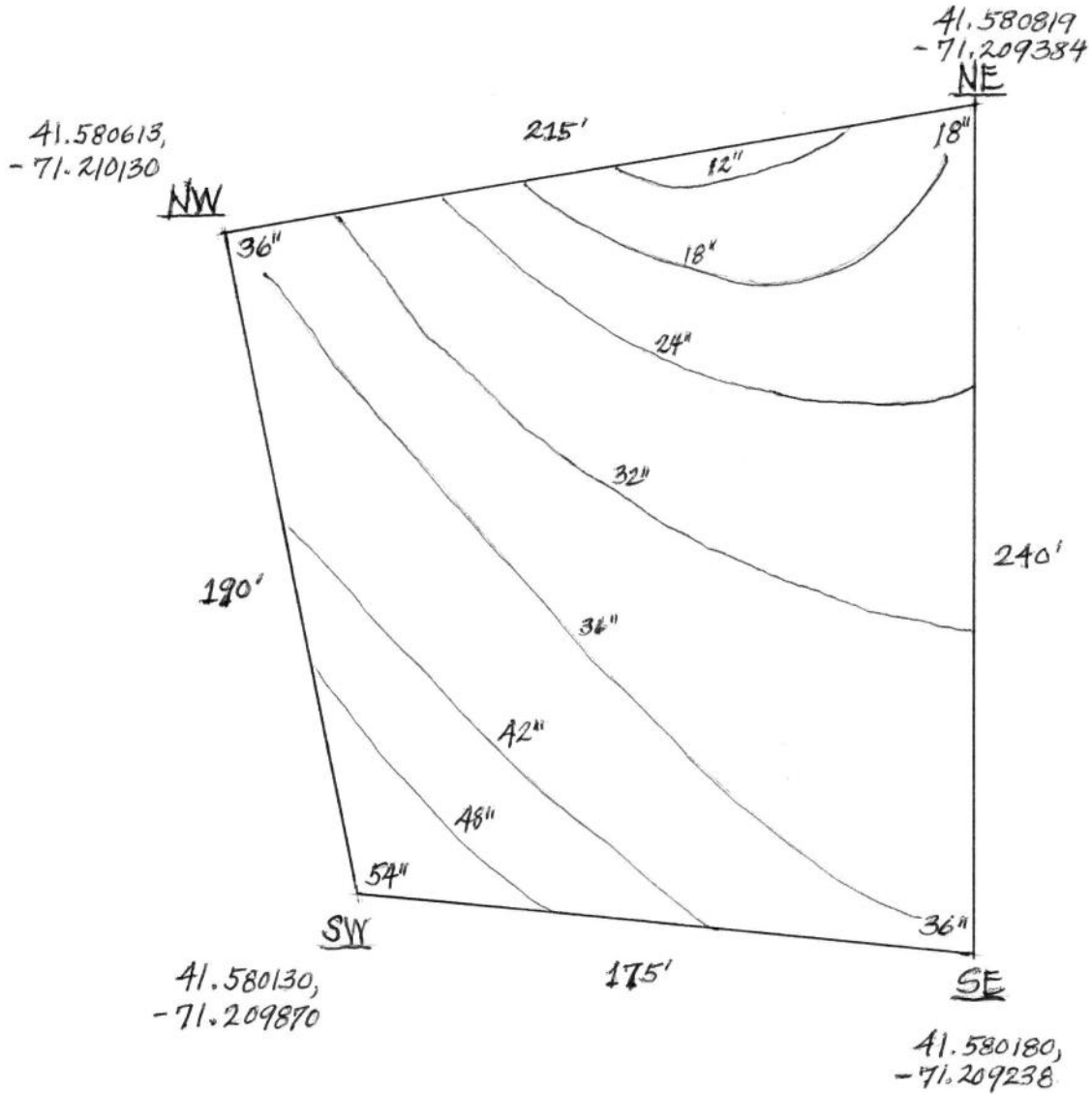
West



BOWEN OYSTER FARM
NOV. 2020
P. BOWEN



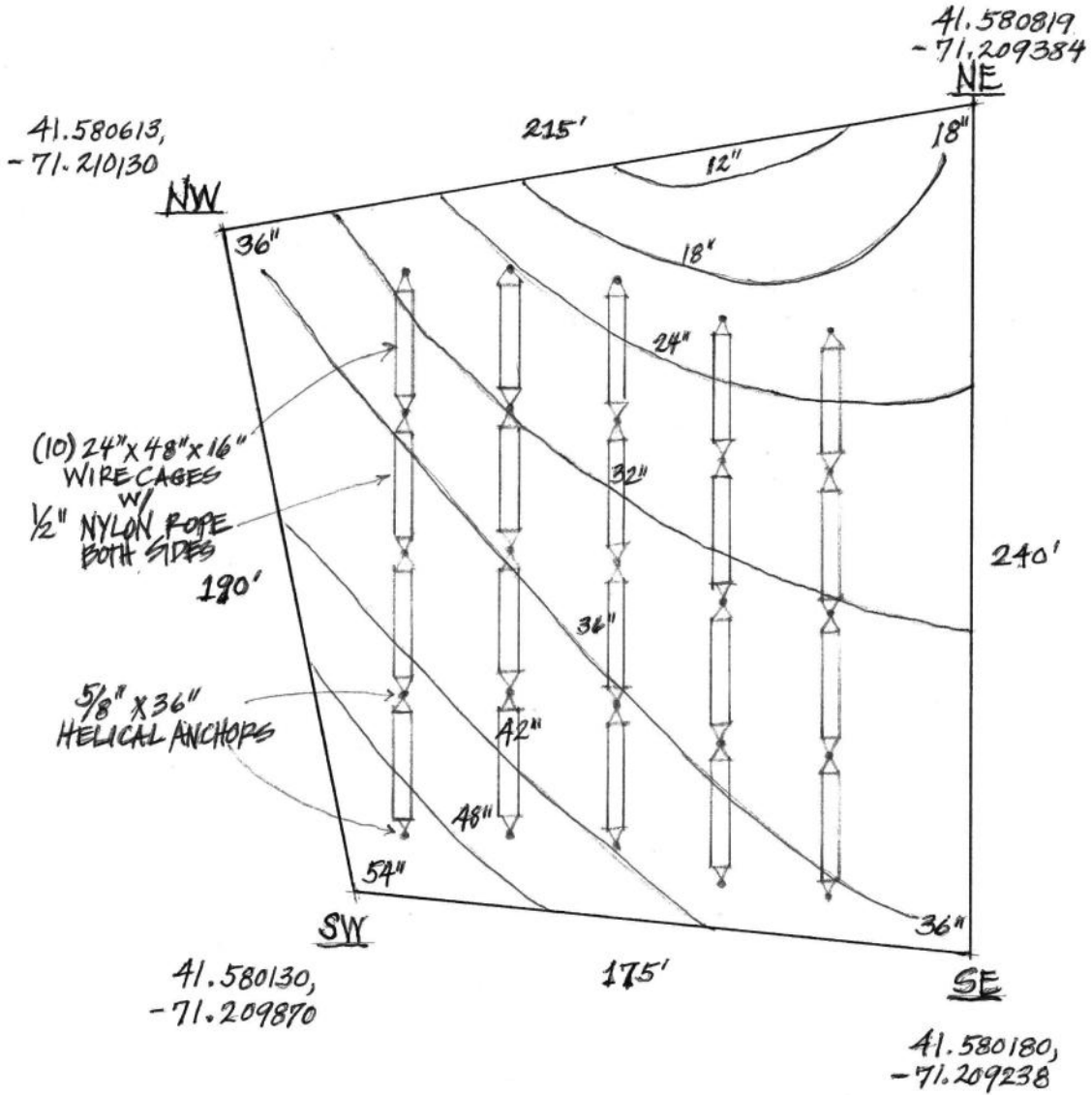
SITE PLAN
MODIFIED
SCALE: 1/4" = 10'-0"
DEPTH CONTOURS @ MLW



BOWEN OYSTER FARM
NOV. 2020
P. BOWEN



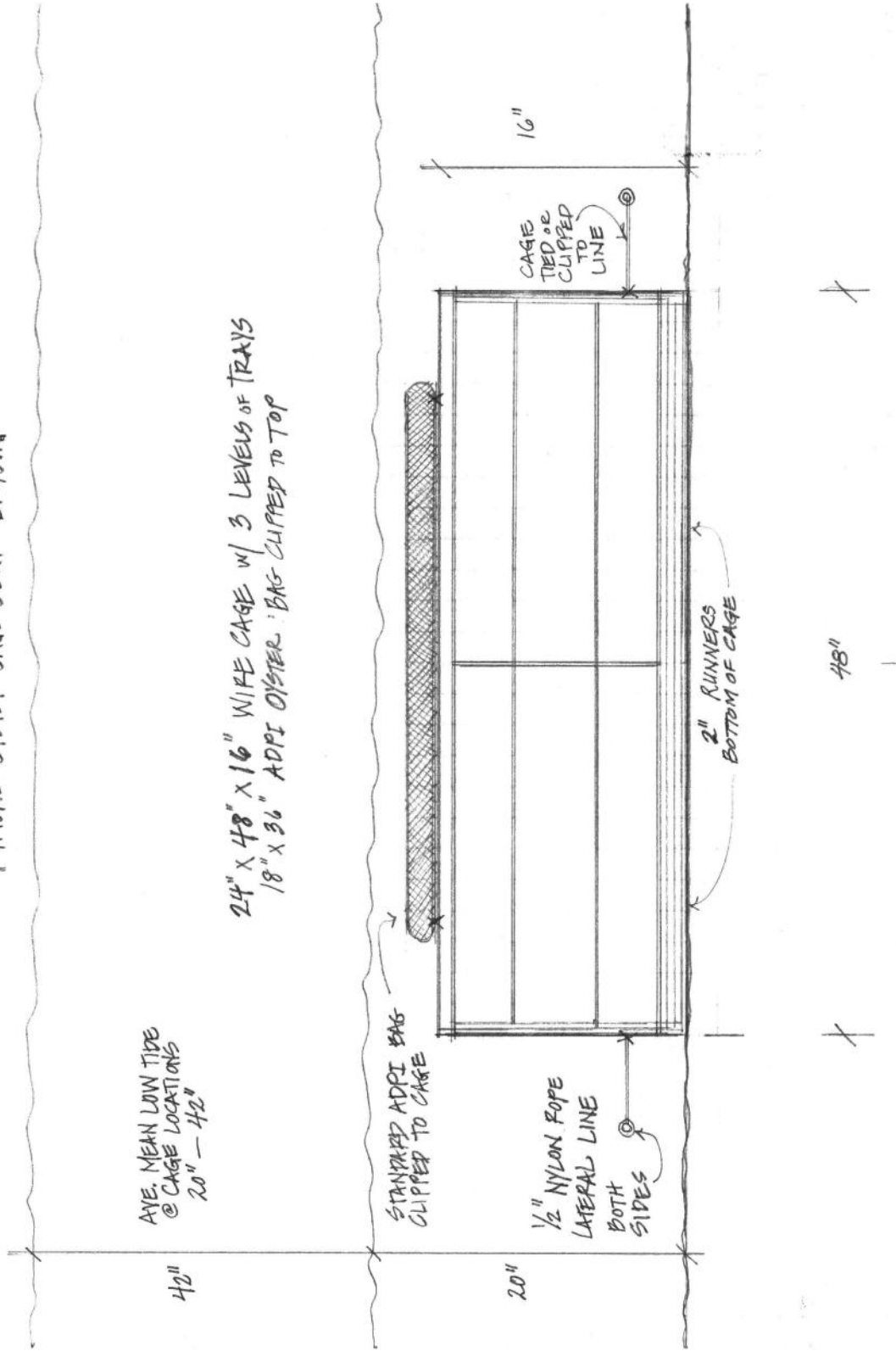
SITE PLAN
MODIFIED
SCALE: 3/4" = 10'-0"
DEPTH CONTOURS @ MLW
W/ PROPOSED GEAR LAYOUT



SCALE 1/8" = 1"

SECTION VIEW (SIDE)
TYPICAL OYSTER CAGE GEAR LAYOUT

BOWEN OYSTER FARM
MARCH 2020
P. BOWEN

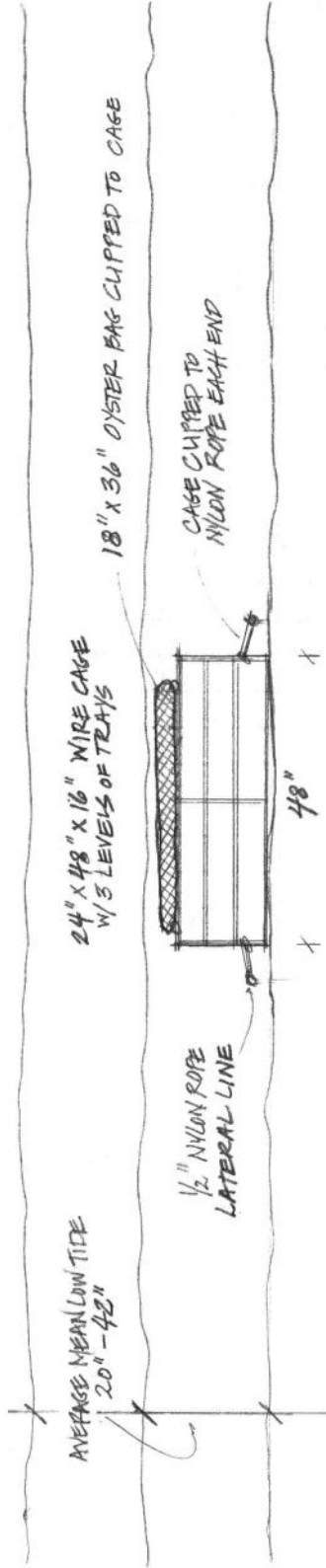


BOWEN OYSTER FARM
MARCH 2020
P. BOWEN

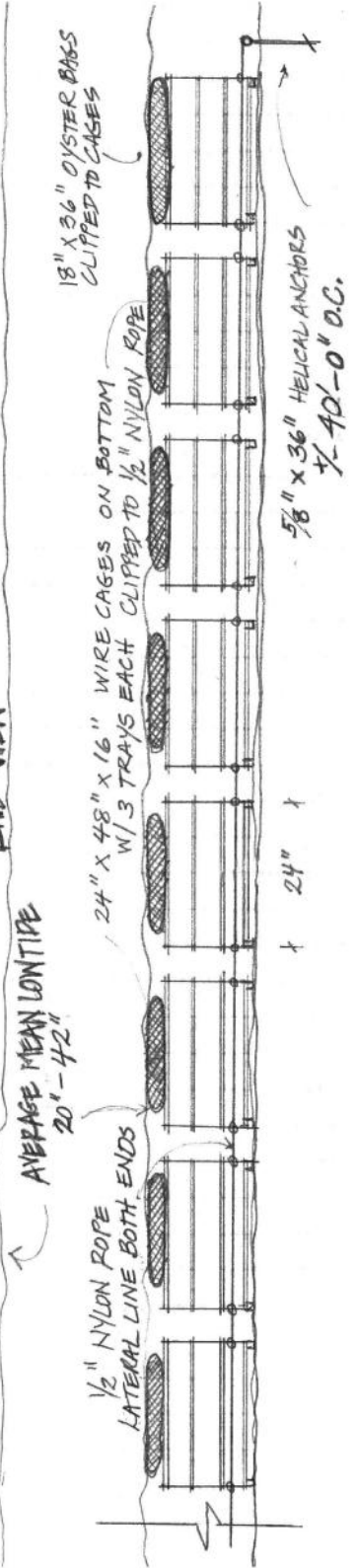
SCALE
 $\frac{1}{2}'' = 1'-0''$

SECTION VIEW
TYPICAL OYSTER-CAGE
GEAR LAYOUT

SIDE VIEW



END VIEW

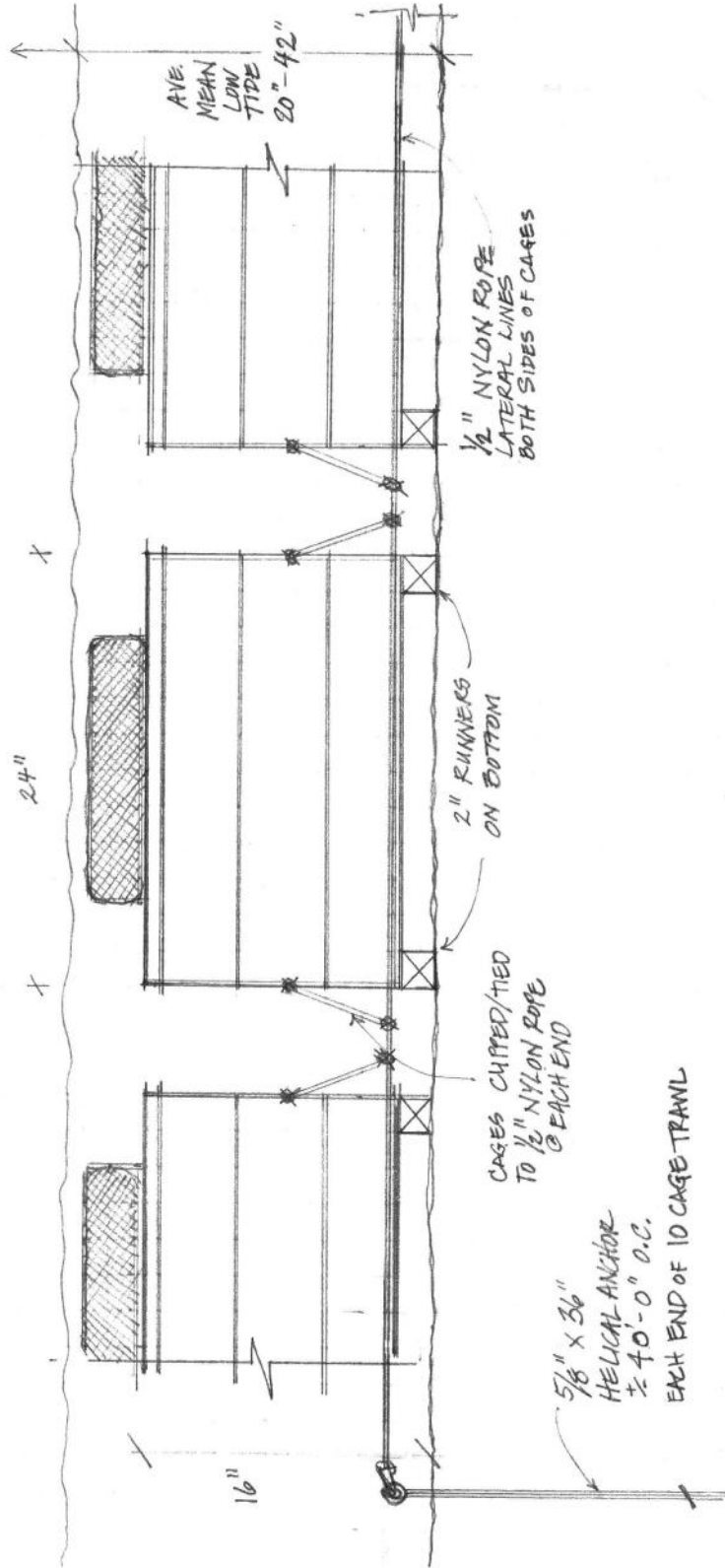


BOWEN OYSTER FARM
 MARCH 2020
 P. BOWEN

SCALE: 1/8" = 1"

SECTION VIEW (END)
 TYPICAL OYSTER CAGE GEAR LAYOUT

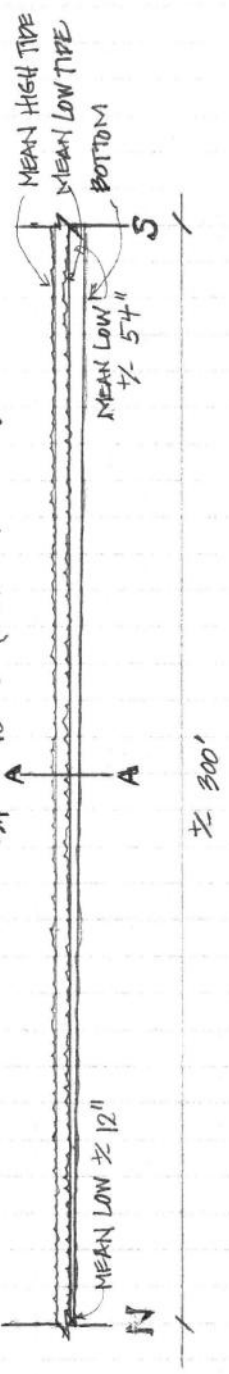
- 24" x 48" x 16" WIRE CAGE W/ 3 LEVELS TRAYS
- 18" x 36" OYSTER BAG CLIPPED TO CASE



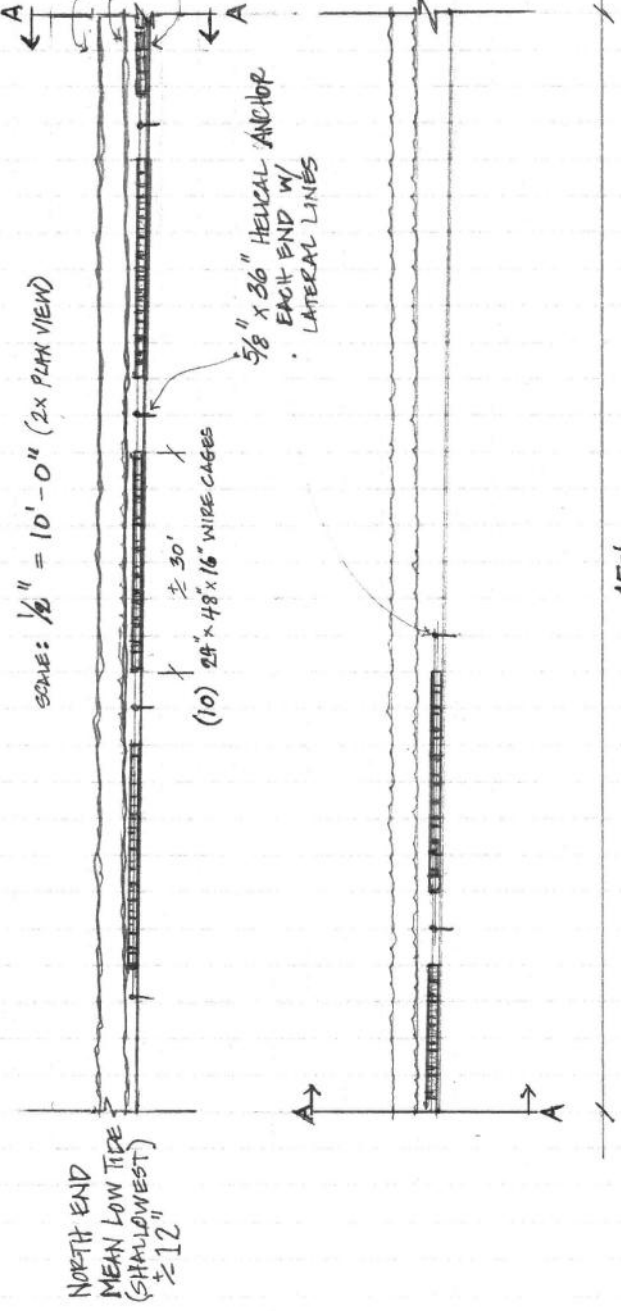
POWEN OYSTER FARM
 MARCH 2020
 P. POWEN

SITE CROSS SECTION

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



± 300'



150'



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) 2020-04-037
Owner's Name John Bowen, Patrick Bowen	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 N/A Address	Tel. No.
Name of Waterway Sakonnet River	Estimated Project Cost (EPC): Application Fee:
Describe accurately the work proposed. (Use additional sheets of paper if necessary and attach this form.) Oyster aquaculture farm in Sakonnet River, Latitude/Longitude coordinates: Northeast Corner: 41.580836; -71.209611 Northwest Corner: 41.580975; -71.210326 Southwest Corner: 41.580122; -71.209876 Southeast Corner: 41.580026; -71.209485	

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

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

Is this site within a designated historic district? YES NO

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

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

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

This application is for submerged state property.

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

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

08/04


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

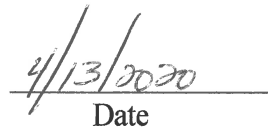
PLEASE REVIEW REVERSE SIDE OF APPLICATION FORM

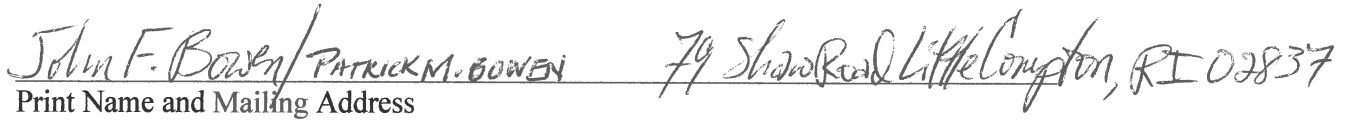
STATEMENT OF DISCLOSURE AND APPLICANT AGREEMENT AS TO FEES

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.

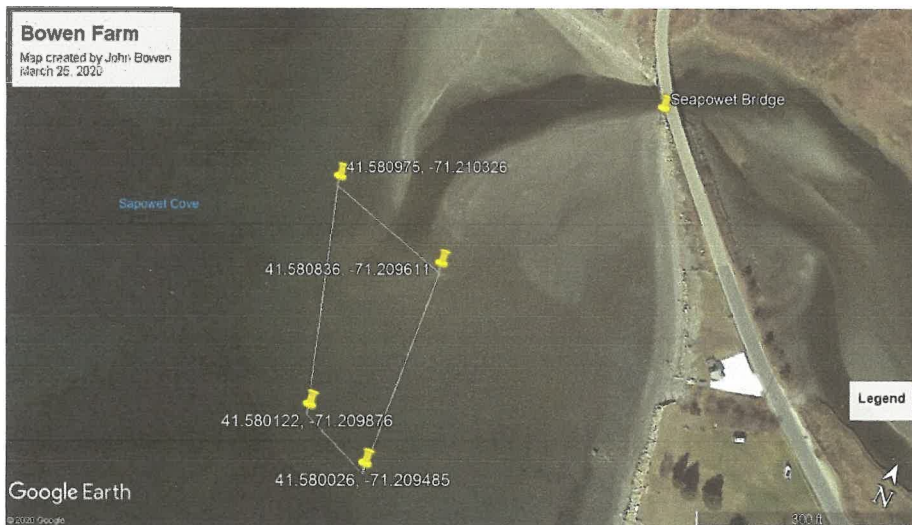
Longitude/Latitude of Proposed Aquaculture Site:

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.

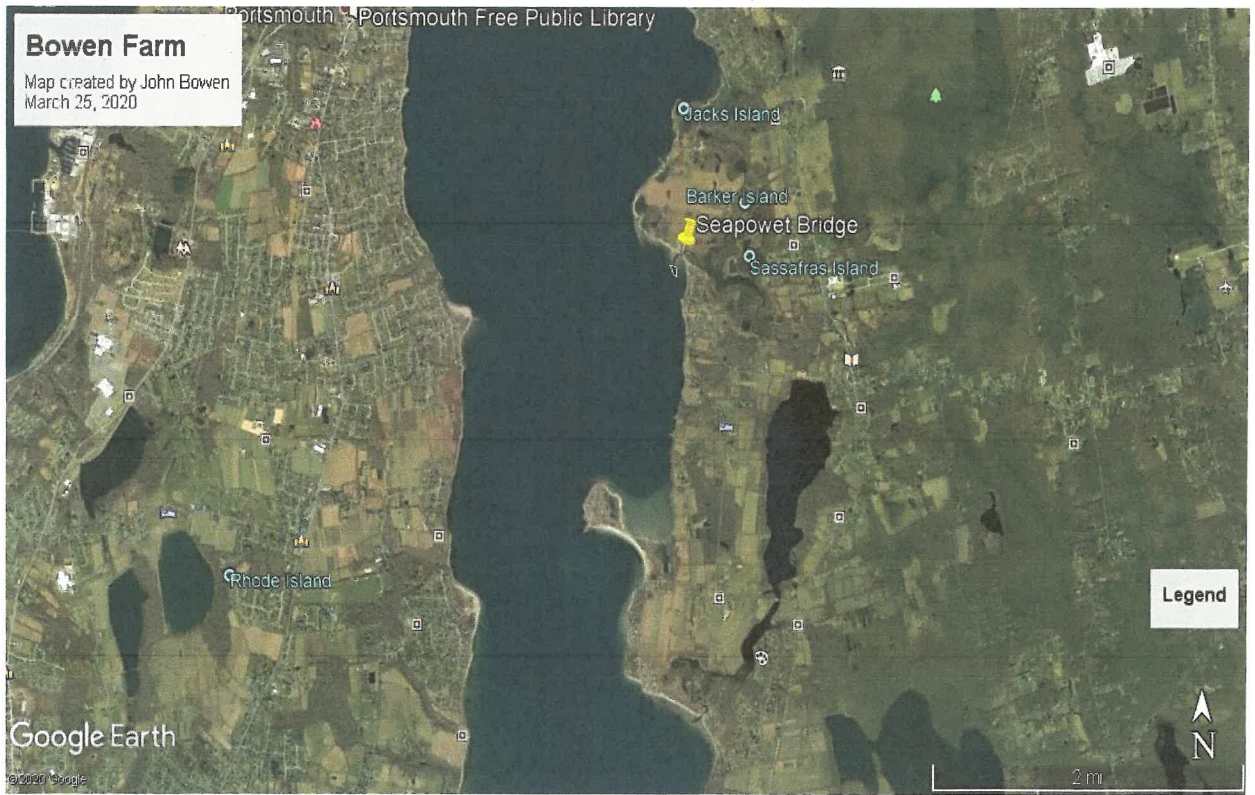
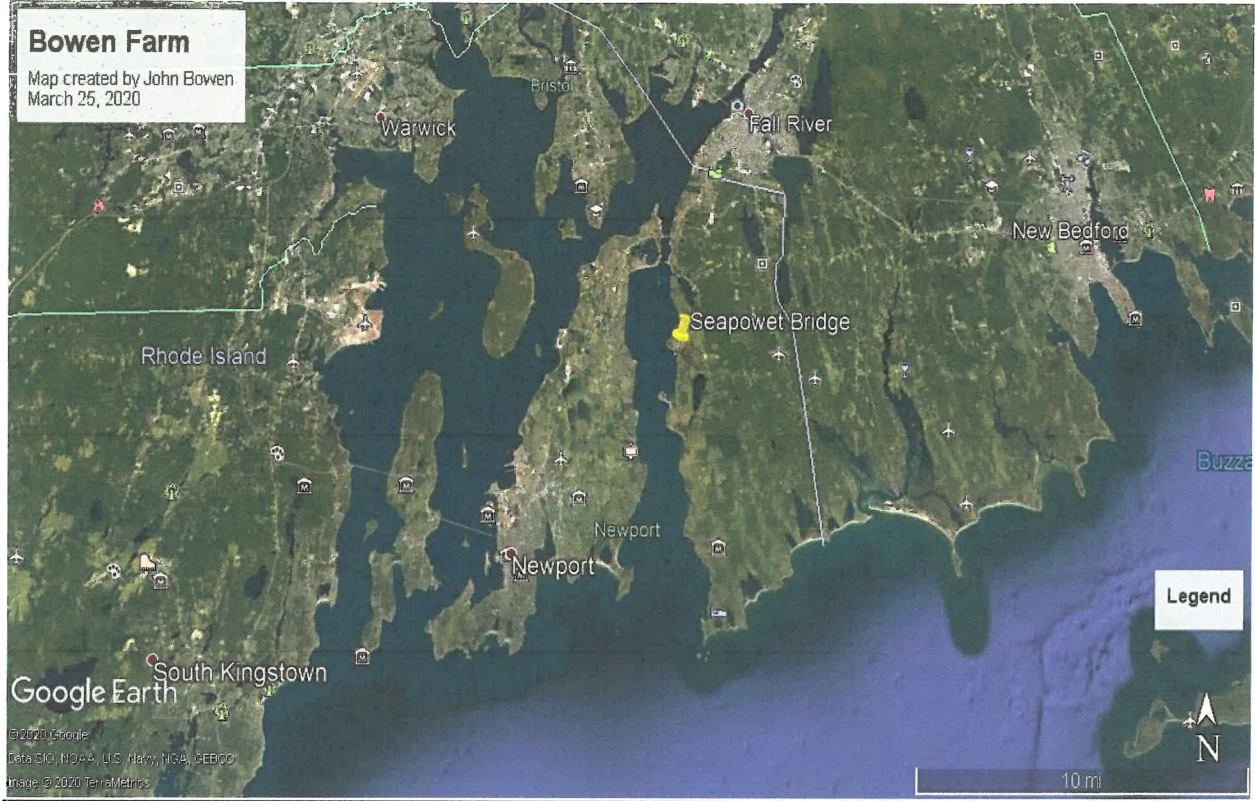
The site is located in the Sakonnet River, on the southwest side of Seapowet Creek. The water depth and coarse sand/gravelly bottom are not conducive to boating*, swimming** or fishing, and there is no significant hardshell clam resource on the site. **The area SW of Seapowet Point is extremely shallow 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.

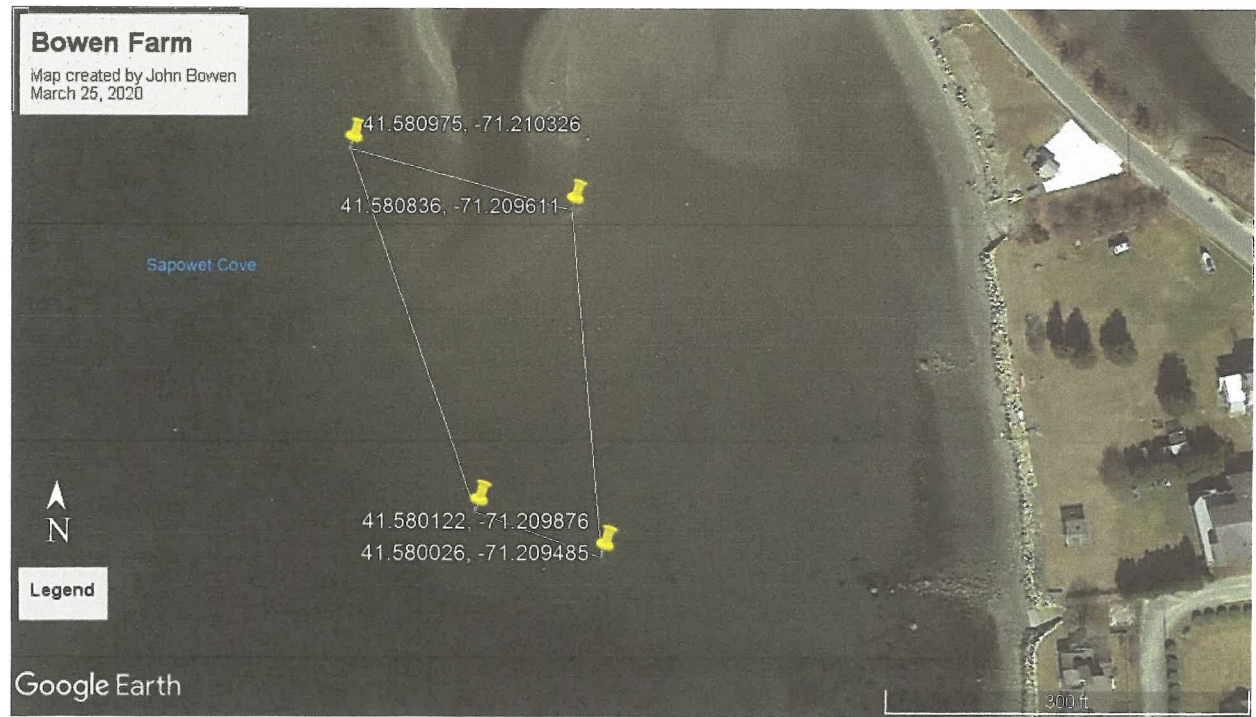
*TIVERTON HARBOR AND COASTAL WATERS MANAGEMENT PLAN: II(A)(3)(e)

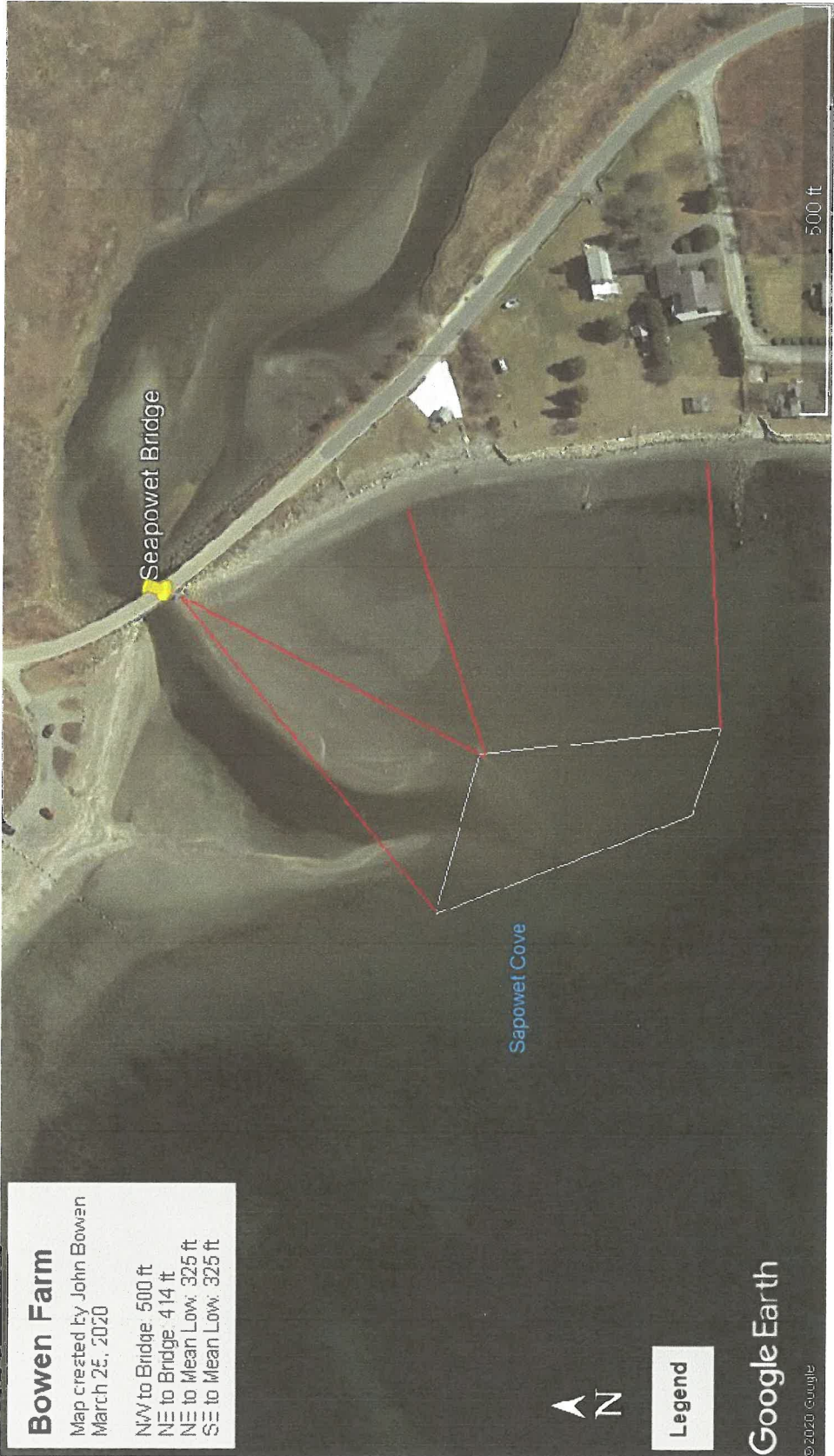
** *CODE OF ORDINANCES, TOWN OF TIVERTON, Chapter 14, Article II, Section 14-193*

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

SECTION VIEW (SIDE) TYPICAL OYSTER CAGE GEAR LAYOUT

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

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

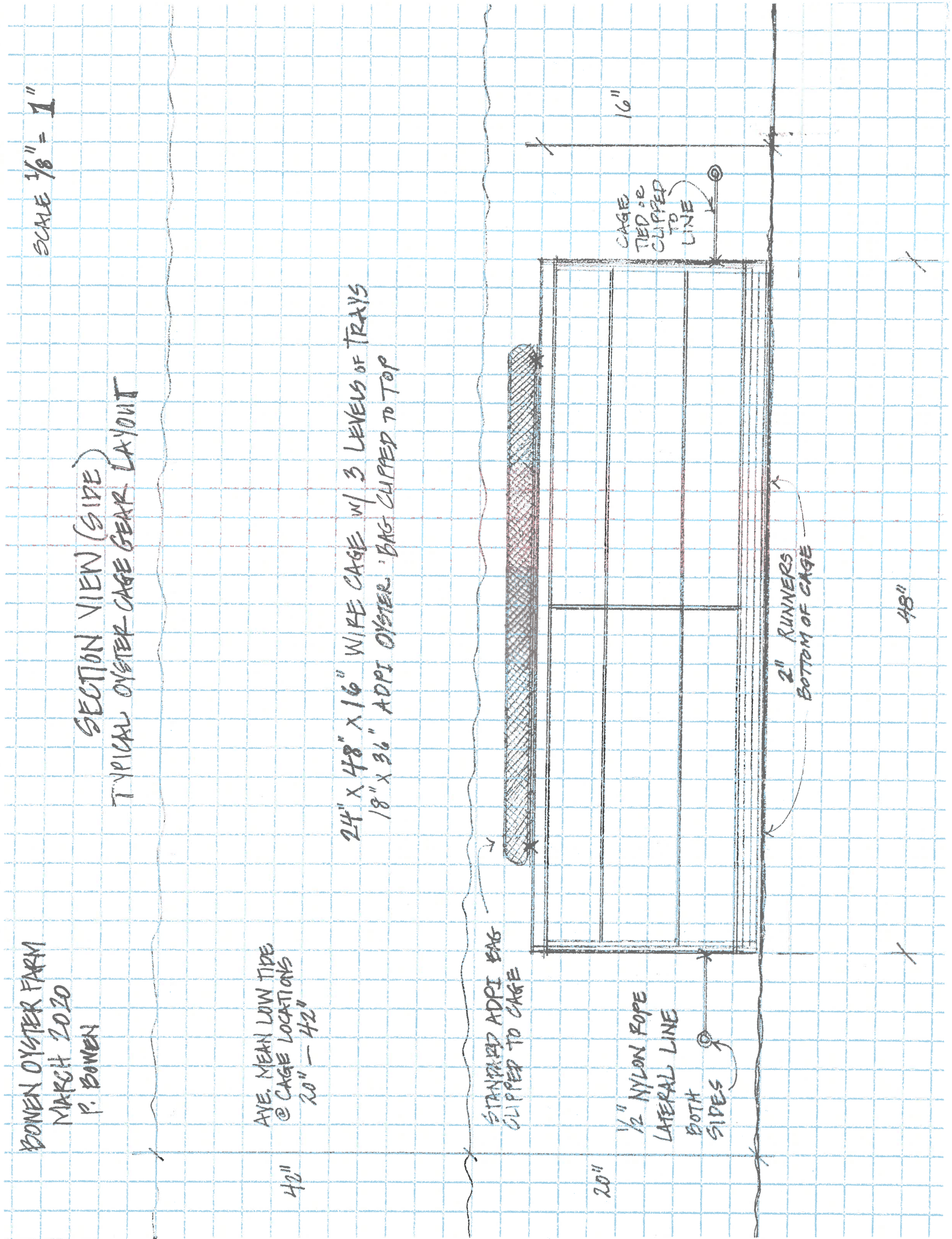
STANKED ADPI BAG
CLIPPED TO CAGE

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

CAGE
TIED TO
CLIPPED
TO
LINE

2" RUNNERS
BOTTOM OF CAGE

48"

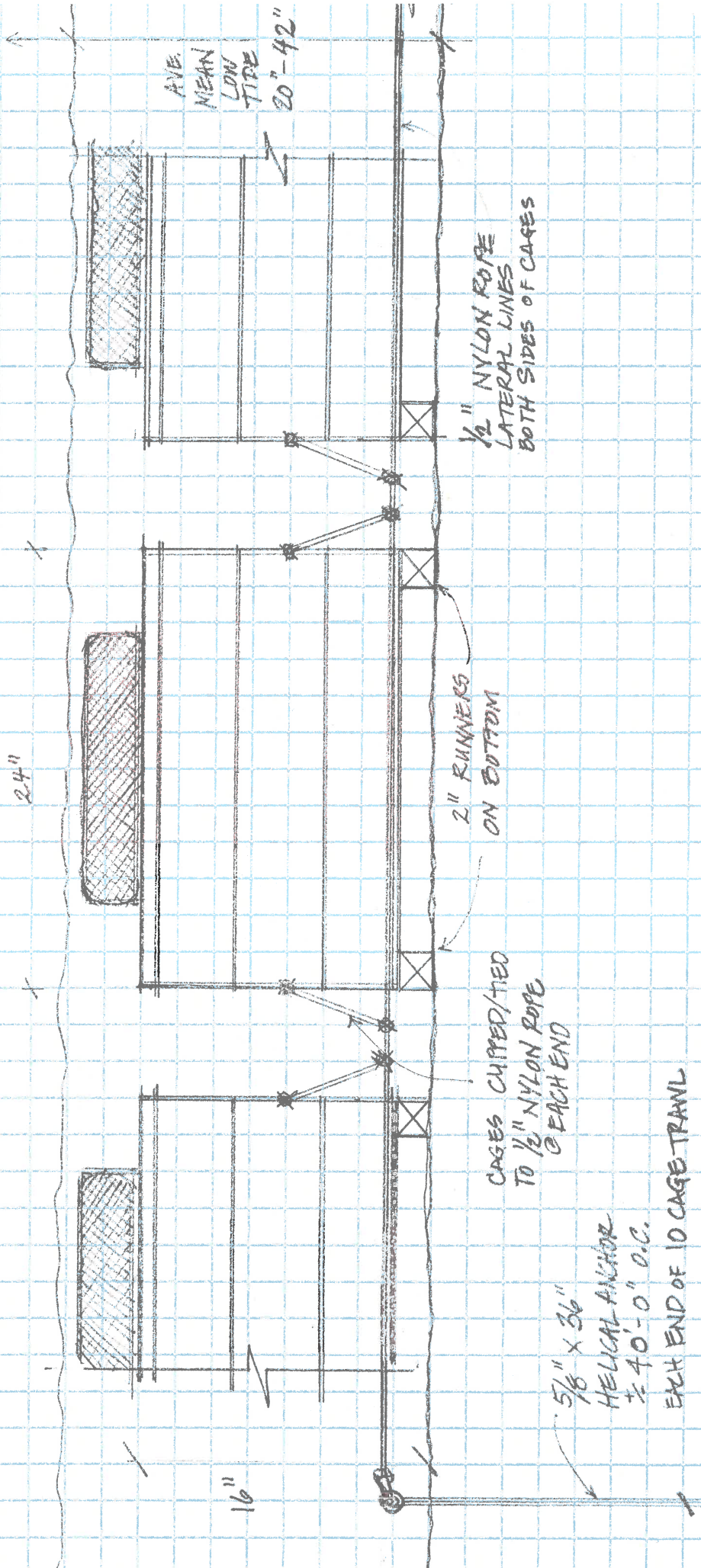


BOWEN OYSTER FARM
MARCH 2020
P. BOWEN

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

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



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"

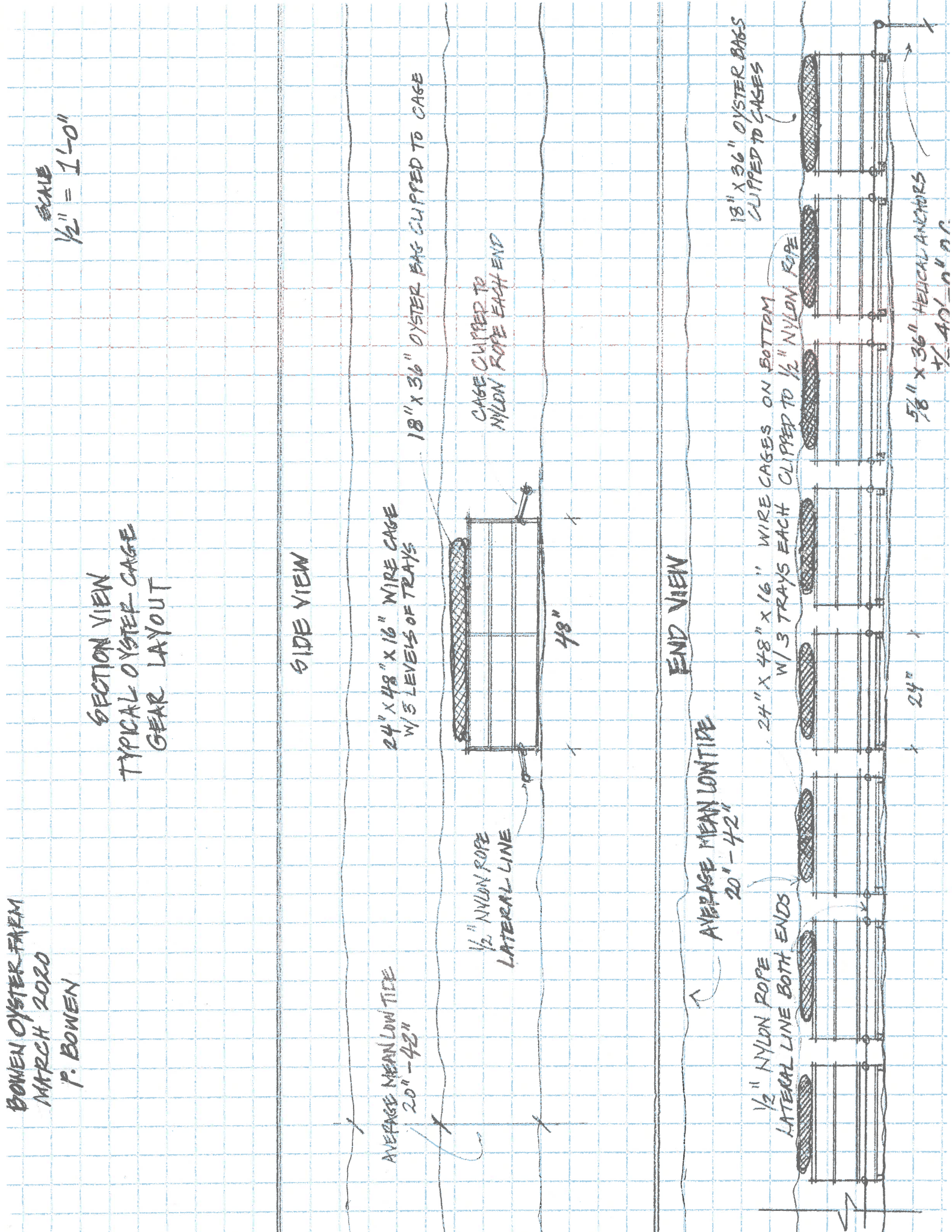
$\frac{1}{2}''$ NYLON ROPE
LATERAL LINE BOTH ENDS

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"

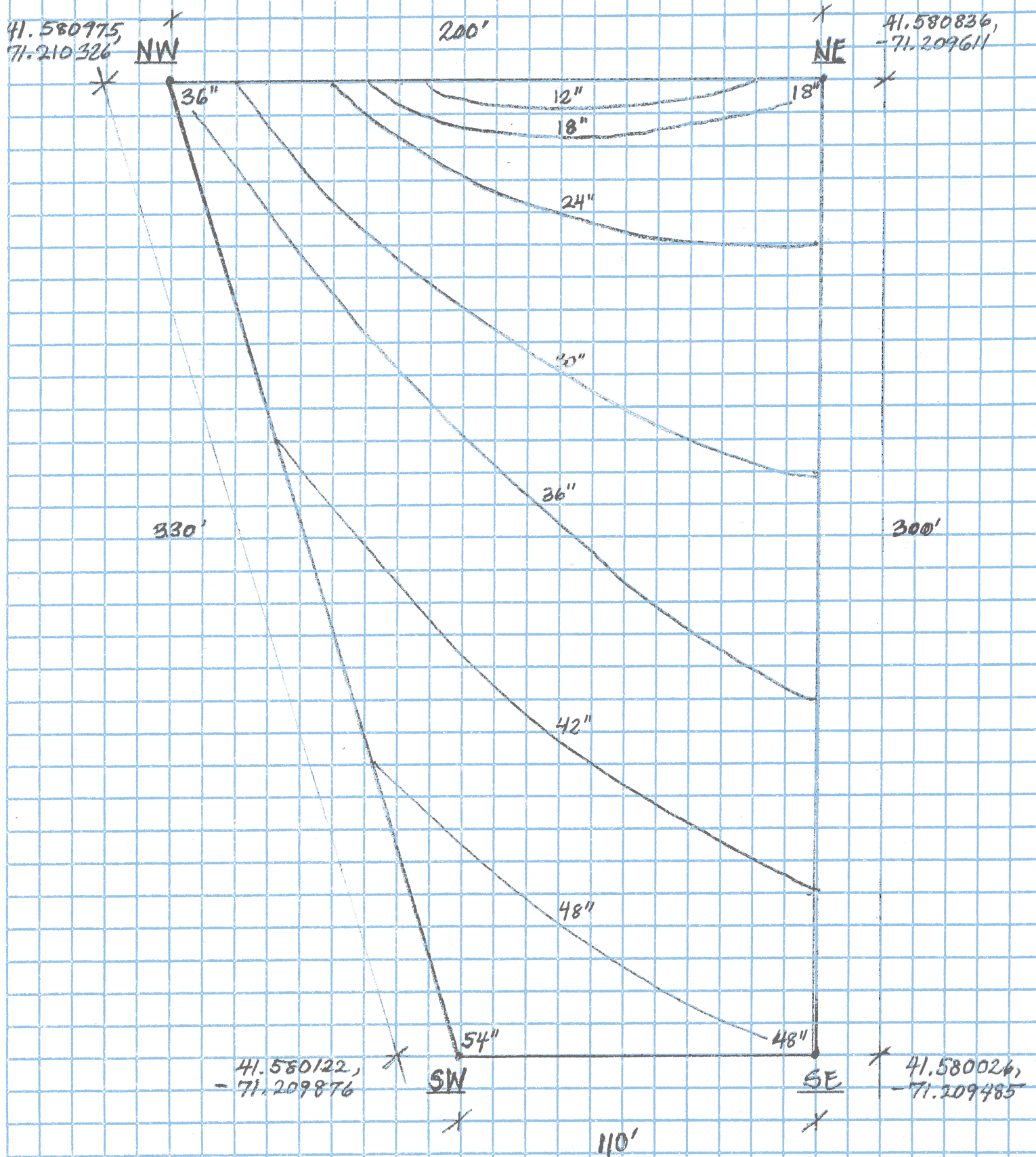
$\frac{5}{8}''$ X 36" MEDICAL ANCHORS
 $\frac{1}{2}''$ 401 0000



BOWEN OYSTER FARM
MARCH 2020
P. BOWEN



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



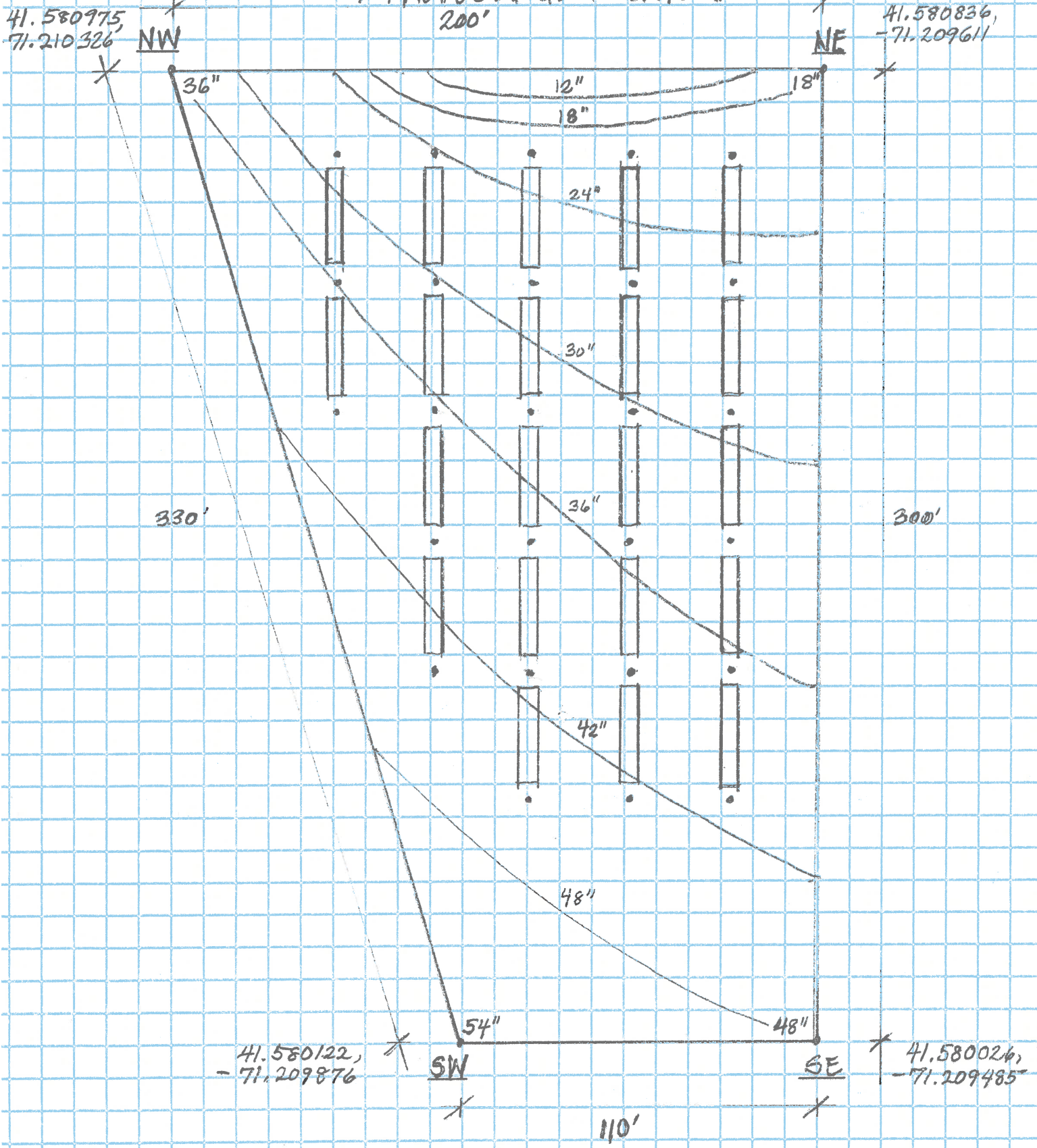
BOWEN OYSTER FARM
MARCH 2020
P. BOWEN



SITE PLAN

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

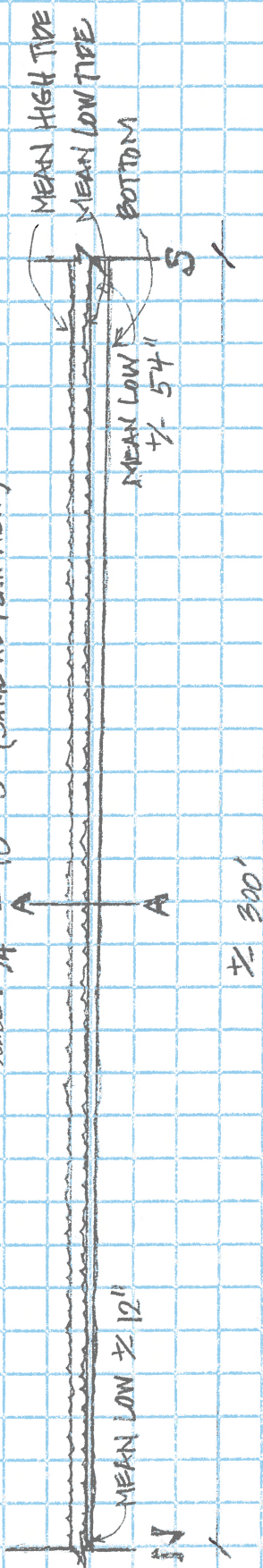
DEPTH CONTOURS @ MEAN LOW TIDE
w/ PROPOSED GEAR LAYOUT
200'



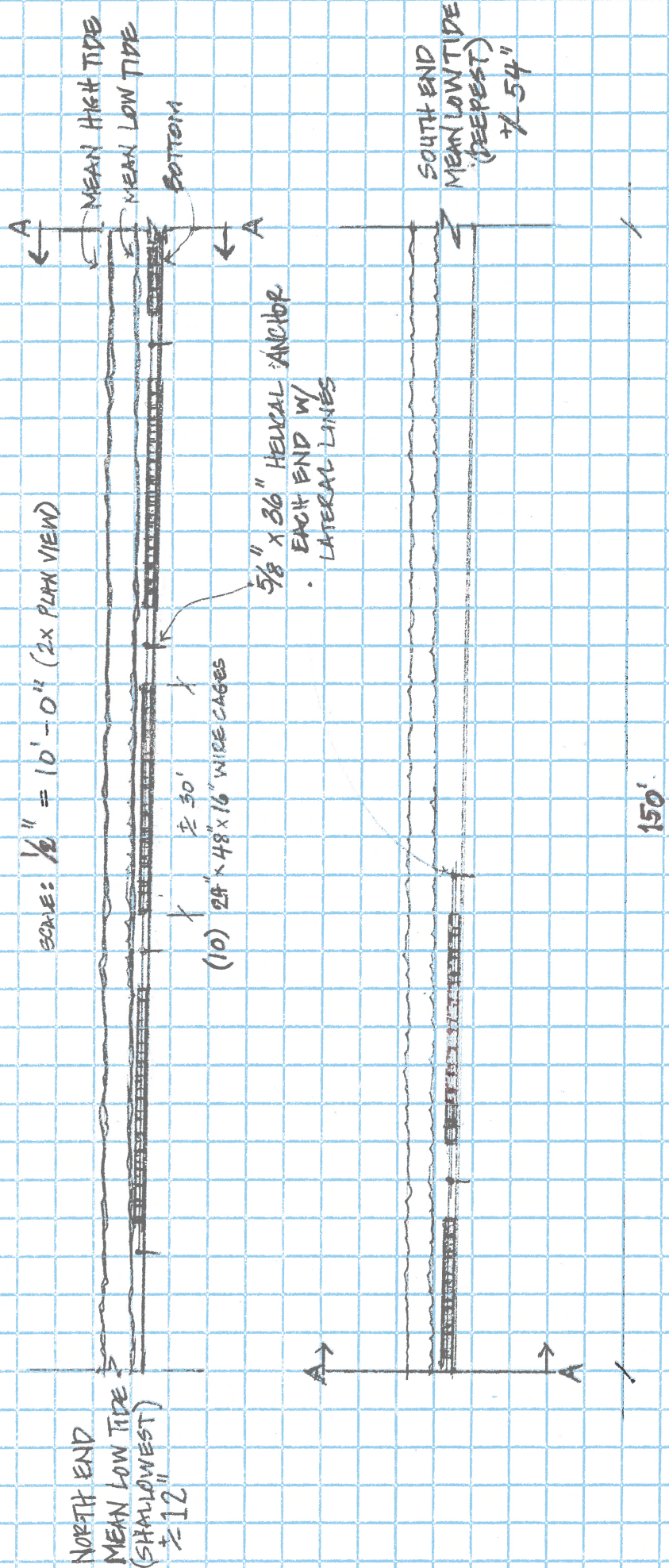
BOWEN OYSTER FARM
MARCH 2020
P. BOWEN

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 Marine Fisheries Council

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

Robert Ballou
Chairman

David Monti
Vice Chair

Travis Barao

Andrew Dangelo

Katie Eagan

Jason Jarvis

Christopher Rein

Michael Rice,
Ph.D.

Michael Roderick

November 16, 2020

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

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

Dear Mr. Goetsch:

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

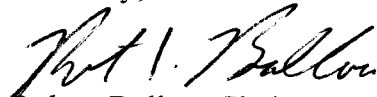
At the request of the applicants, the application was brought before the full Council at the Council's meeting on November 2, 2020. The Council deliberated upon the recommendation of the SAP, as well as additional input provided by you on behalf of the applicants, and additional input from the applicants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

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

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

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

Sincerely,



Robert Ballou, Chair
RIMFC

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



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

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

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

MEETING SUMMARY

November 2, 2020

Zoom webinar virtual meeting

Chairperson: B. Ballou

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

Director's office: J. McNamee

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

DEM Legal: J. LoBianco

Public: Approximately 10 persons in attendance.

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

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

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

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

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

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

7. Shellfish harvest schedules in Greenwich Bay and Bissel Cove/Fox Is. Shellfish Management areas: Motion by K. Eagan to recommend to the Director adoption of the proposed amendments to the December 2020 harvest schedules as recommended by the Shellfish Advisory Panel; 2nd by J. Jarvis, as follows:

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

The motion passed 8-0.

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

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

Shellfish Advisory Panel

September 2, 2020; 4:00PM

Virtual public meeting

Zoom webinar

MEETING SUMMARY

RIMFC members: K. Eagan (Chair)

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

CRMC: B. Goetsch;

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

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

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

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

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

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

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

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

- **Motion made by *R. Pastore* to recommend to CRMC that the aquaculture activities proposed in the application is consistent with competing uses engaged in the exploitation of marine fisheries; 2nd by *D. 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/m². The site would be accessed using a boat or private property. *B. Goetsch* stated that CRMC received a letter of objection from the Harbor Commission stating that the site location was in too shallow of water. An additional two letters of objection were received regarding conflicting use of the channel for recreational fishing. Due to the recreational fishing objection, CRMC proposed an amended site, which moves the location further south out of the channel and in closer to shore. *R. Pastore* asked whether there is a lot of boating traffic in the area and whether hi fliers were required for these applications. *B. Goetsch* stated that there is some boating traffic to the town boat ramp and that all applications require buoys with assent numbers. *J. Gardner* stated that the sites northwest point could be hard to navigate around and that he proposes moving it further south. *J. Gardner* would not object to the application if the currently proposed northwest corner was shifted down to the northwest corner on the proposed amended site. The applicant, *J. Bowen* clarified that the current proposed lease location on the application out for public notice is the footprint that is located closer to the channel and further outside of the DEM recreational shellfishing layer (purple outline on the map) and that the alternate location (green outline on the map) is what 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; 2nd by *G. Schey*. The motion passed with a vote of 6-0 (*J. Gardner* abstained).**

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

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

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

5. **Providence River Transplant:**

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

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

Prepared by: A. Gerber-Williams



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF MARINE FISHERIES/DIVISION OF FISH AND WILDLIFE

3 Fort Wetherill Road
Jamestown, Rhode Island 02835

June 2, 2021

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 0.95 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.

The application was further revised after Shellfish Advisory Panel and Rhode Island Marine Fisheries Council review. The new site layout, which is a slightly smaller footprint at 0.95 acres does overlap the recreational shellfishing layer. However, the CRMC site assessment of quahog densities was 0 m²; thus, the DMF does not have concerns with competing uses or impacts to the shellfish resource.

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, flowing style.

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.



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

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Jason McNamee,
Deputy Director, Bureau of Natural Resources

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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.