

STATE OF RHODE ISLAND

DIVISION OF PUBLIC UTILITIES AND CARRIERS

IN RE: RHODE ISLAND FAST FERRY, INC.:

Docket No.: D-13-51

**RHODE ISLAND FAST FERRY, INC. RESPONSES TO
THE TOWN OF NEW SHOREHAM'S FIRST SET OF DATA REQUESTS**

- TNS 1-1 State the following as to each ferry RIFF plans to operate to Block Island.
- (a) Length;
 - (b) Beam;
 - (c) Tonnage;
 - (d) Draft;
 - (e) Turning radius;
 - (f) Number of engines;
 - (g) Horsepower of each engine;
 - (h) Whether it has bow thrusters and, if so, the horsepower of each bow thruster engine;
 - (i) Passenger capacity; and
 - (j) Freight capacity.

- ANSWER:** Millennium
- (a) 110 ft.
 - (b) 32.6 ft.
 - (c) 98 GRT
 - (d) 5 ft.
 - (e) Complete 360 in place
 - (f) 4
 - (g) 1300 Bhp
 - (h) N/A
 - (i) 400
 - (j) None

- Ava Pearl
- (a) 102.3 ft.
 - (b) 31.7 ft.
 - (c) 93 GRT
 - (d) 6.5 ft.
 - (e) Complete 360 in place
 - (f) 2
 - (g) 1850 Bhp
 - (h) N/A
 - (i) 150
 - (j) None

TNS 1-2 Describe in detail the plan for moving, directing and controlling RIFF passengers and their belongings from an RIFF ferry onto Block Island and from Block Island onto an RIFF ferry.

ANSWER: RIFF has not determined where it will dock on Block Island at this time. There is no need for RIFF to plan how its passengers will disembark on Block Island, as it will not be carrying vehicles. Generally speaking, RIFF's practice is to load bikes first and unload them last. Passengers carry their own luggage on and off, unless assistance is required. The dockworker(s) will manage formation of lines. Most passengers arrive within 30 minutes of a departure. RIFF will spend less than 1 hour total at the dock on Block Island on any given day. RIFF's operation in and around the piers is and will be very low impact.

TNS 1-3 Based upon the information available, it appears that RIFF plans to run a seasonable ferry operation; state between which dates RIFF plans to operate a ferry or ferries to Block Island.

ANSWER: See Pre-filed Testimony of Charles A. Donadio, Jr. at Q&A 19.

TNS 1-4 How many ferries does RIFF plan to operate to Block Island and what is the planned number of trips to and from Block Island per day?

ANSWER: See Pre-filed Testimony of Charles A. Donadio, Jr. at Q&A 19.

TNS 1-5 Provide the anticipated RIFF ferry schedule.

ANSWER: See Pre-filed Testimony of Charles A. Donadio, Jr. at Q&A 19.

TNS 1-6 State whether RIFF is planning on carrying freight to Block Island and, if so, state:

- (a) Anticipated amount of freight per ferry trip;
- (b) Describe the manner by which the freight will be loaded and unloaded on the Block Island side;
- (c) Describe the machinery and equipment which will be used for such loading and unloading;
- (d) Describe the location(s) where such machinery and equipment will be kept; and
- (e) The planned routes for such machinery and equipment from the docked RIFF ferry to Block Island.

ANSWER:

- (a) None.
- (b) Not applicable.
- (c) Not applicable.
- (d) Not applicable.
- (e) Not applicable.

TNS 1-7 State whether RIFF plans to have a ticket booth/office on Block Island and, if so, state the anticipated location of such booth/office and the hours and days of operation of such booth/office.

ANSWER: No.

TNS 1-8 State whether RIFF plans to have RIFF personnel on Block Island and, if so, state the number of personnel to be located on Block Island, the job description of each such person and the anticipated location of each such person on Block Island.

ANSWER: RIFF plans to have on Block Island dockworker and may hire Block Island based Captains.

TNS 1-9 Based upon the information available, it appears to be RIFF's intention to operate a ferry (ferries) to Old Harbor. Given the relatively small size of this harbor, as to each of the following, state in detail RIFF's plan to avoid conflicted with:

- (a) Interstate's High-Speed ferries;
- (b) Interstate's Traditional ferries;
- (c) New London ferries;
- (d) Commercial fishing vessels; and
- (e) Recreational boats.

ANSWER: (a) RIFF does not agree with the characterization of Old Harbor as "relatively small in size". Old Harbor is relatively large in size compared to Oak Bluffs in Martha's Vineyard, where the Ava Pearl operates. RIFF's Captains, as certificated professional mariners responsible for the safety of their vessels, crew and passengers, will follow navigational rules of the road. They will use the radio to communicate intended course when entering or leaving a harbor entrance. RIFF expects that Interstate's, Cross Sound's and commercial fishing boat Captains will exercise the same degree of professionalism. RIFF will plan its schedule to avoid such conflicts to the extent possible.

- (b) See answer to TNS 1-9 (a) above.
- (c) See answer to TNS 1-9 (a) above.
- (d) See answer to TNS 1-9 (a) above.
- (e) Conflict with recreational boats is often unpredictable and is handled on a case by case basis.

TNS 1-10 State RIFF's plans for security on its ferry (ferries).

ANSWER: Objection. RIFF's Vessel Security Plan is Confidential Security Information, which RIFF is prohibited from disclosing pursuant to the provisions of the Maritime Transportation Security Act and implementing regulations.

TNS 1-11 Describe in detail the plan for parking, moving, directing and controlling RIFF passengers' vehicles.

ANSWER: None.

TNS 1-12 This data request pertains to Dock #1 as referenced on the Plan. If RIFF has had any Communication and/or negotiations with the owner(s) or lessee(s) of this dock, or any agents of such owner(s) or lessee(s), concerning RIFF's use of this dock as part of its planned ferry operations, state the following as to each such Communication or negotiation.

- (a) date and place of Communication or negotiation;
- (b) whether such Communication or negotiation took place in person or electronically;
- (c) name and address of all persons participating in such Communication or negotiation;
- (d) what was discussed or conveyed during such Communication or negotiation; and
- (e) the name and address of each witness to such Communication or negotiation

ANSWER: (a) There have been no negotiations. During May of 2012 Charles Donadio placed one telephone call to Adam Wronowski. Donadio asked whether Wronowski's company would be interested in leasing RIFF dock space on Block Island. Wronowski replied that it would not.
(b) See answer to TNS 1-12 (a) above.
(c) See answer to TNS 1-12 (a) above.
(d) See answer to TNS 1-12 (a) above.
(e) See answer to TNS 1-12 (a) above.

TNS 1-13 If any of the Communications and/or negotiations identified above pertaining to Dock #1 were reduced to writing or are contained in a written instrument, attach copies of such Documents to RIFF's responses to these data requests.

ANSWER: There were none.

TNS 1-14 This data request pertains to Dock #2 as referenced on the Plan. If RIFF has had any Communication and/or negotiations with the owner(s) or lessee(s) of this dock, or any agents of such owner(s) or lessee(s), concerning RIFF's use of this dock as part of its planned ferry operations, state the following as to each such Communication or negotiation.

- (a) date and place of Communication or negotiation;
- (b) whether such Communication or negotiation took place in person or electronically;
- (c) name and address of all persons participating in such Communication or negotiation;
- (d) what was discussed or conveyed during such Communication or negotiation; and
- (e) the name and address of each witness to such Communication or negotiation

- ANSWER:**
- (a) There have been no negotiations. During May of 2012 Charles Donadio placed one telephone call to Adam Wronowski. Donadio asked whether Wronowski's company would be interested in leasing RIFF dock space on Block Island. Wronowski replied that it would not.
 - (b) See answer to TNS 1-14 (a) above.
 - (c) See answer to TNS 1-14 (a) above.
 - (d) See answer to TNS 1-14 (a) above.
 - (e) See answer to TNS 1-14 (a) above.

TNS 1-15 If any of the Communications and/or negotiations identified above pertaining to Dock #2 were reduced to writing or are contained in a written instrument, attach copies of such Documents to RIFF's responses to these data requests.

ANSWER: There were none.

- TNS 1-16 This data request pertains to Dock #3 as referenced on the Plan. If RIFF has had any Communication and/or negotiations with the owner(s) or lessee(s) of this dock, or any agents of such owner(s) or lessee(s), concerning RIFF's use of this dock as part of its planned ferry operations, state the following as to each such Communication or negotiation.
- (a) date and place of Communication or negotiation;
 - (b) whether such Communication or negotiation took place in person or electronically;
 - (c) name and address of all persons participating in such Communication or negotiation;
 - (d) what was discussed or conveyed during such Communication or negotiation; and
 - (e) the name and address of each witness to such Communication or negotiation

- ANSWER:**
- (a) There have been no negotiations. During 2013 Charles Donadio had a few casual telephone conversations with Paul Filippi regarding possible use of Ballards Pier for RIFF's proposed ferry operations. Mr. Filippi also visited RIFF's Quonset facility in early May 2013 because he had never been to it before. Nothing of any significance was discussed, other than RIFF's intention to apply for a CPCN and its interest in possible use of the pier at some point in the future. Paul Filippi followed up his visit in May with an e-mail to Mr. Donadio in August 2013 referenced in the answer to TNS 1-17 below.
 - (b) See answer to TNS 1-16 (a) above.
 - (c) See answer to TNS 1-16 (a) above.
 - (d) See answer to TNS 1-16 (a) above.
 - (e) See answer to TNS 1-16 (a) above.

TNS 1-17 If any of the Communications and/or negotiations identified above pertaining to Dock #3 were reduced to writing or are contained in a written instrument, attach copies of such Documents to RIFF's responses to these data requests.

ANSWER: There were no negotiations. The only written communication was an e-mail from Paul Filippi to me forwarding a copy of Ballard's CRMC Assent and Army Corps of Engineers permits. See Exhibit "A".

TNS 1-18 This data request pertains to Dock #4 as referenced on the Plan. If RIFF has had any Communication and/or negotiations with the owner(s) or lessee(s) of this dock, or any agents of such owner(s) or lessee(s), concerning RIFF's use of this dock as part of its planned ferry operations, state the following as to each such Communication or negotiation.

- (a) date and place of Communication or negotiation;
- (b) whether such Communication or negotiation took place in person or electronically;
- (c) name and address of all persons participating in such Communication or negotiation;
- (d) what was discussed or conveyed during such Communication or negotiation; and
- (e) the name and address of each witness to such Communication or negotiation

ANSWER: (a) There have been no negotiations. During 2012 Charles Donadio placed one telephone call to the U.S. Army Corps of Engineers. Donadio. He has no record of the name of the person he spoke with. Donadio asked whether the dock identified as #4 could be used by RIFF for its proposed operations on Block Island. Donadio was informed that it could, subject to receiving approval of the lessee, the Town of New Shoreham.

- (b) See answer to TNS 1-18 (a) above.
- (c) See answer to TNS 1-18 (a) above.
- (d) See answer to TNS 1-18 (a) above.
- (e) See answer to TNS 1-18 (a) above.

TNS 1-19 If any of the Communications and/or negotiations identified above pertaining to Dock #4 were reduced to writing or are contained in a written instrument, attach copies of such Documents to RIFF's responses to these data requests.

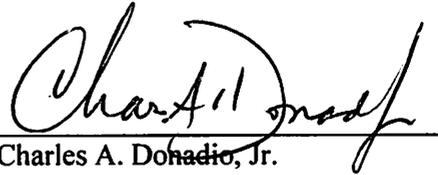
ANSWER: There were none.

TNS 1-20 Please identify (name, address, phone number, date of birth) each expert witness RIFF plans to present at the Division hearing on your application. Describe in detail the subject matter upon which each expert is expected to testify. State the substance of the facts and opinions to which the expert is expected to testify, summarize grounds for each opinion and provide a copy of all of the exhibits the expert witness will sponsor, studies done, workpapers and documents furnished to the expert for evaluation, and provide a copy of that witness' direct testimony and exhibits, in question and answer form.

ANSWER: See Pre-filed testimony of Lawrence Kunkel, which has be previously supplied to the Town.

TNS 1-21 Old-Harbor is designated as a "Harbor of Refuge." State all plans of RIFF to insure that its operations do not interfere with the use of Old Harbor as a designated Harbor of Refuge.

ANSWER: If there is a hurricane or other extreme weather event, RIFF plans to seek shelter in its own harbor at Quonset Point and thus will not interfere with other vessels seeking refuge in Old Harbor. With that being said, Old Harbor is not the ideal location to seek refuge from such events, since it is on the windward side of the Island.

A handwritten signature in black ink, appearing to read "Charles A. Donadio, Jr.", written over a horizontal line.

Charles A. Donadio, Jr.
President
Rhode Island Fast Ferry, Inc.

Exhibit “A”

Charles A. Donadio

Subject: Wharf
Attachments: Army Core Permit.pdf; Untitled attachment 01128.htm; CRMC assent.pdf; Untitled attachment 01131.htm

From: Paul Filippi <paulfilippi@aol.com>
Date: August 14, 2013 at 2:27:11 PM EDT
To: Charlie Dinadio <charlie@vineyardfastferry.com>
Subject: Fwd: Wharf

Dear Charlie,

Attached are the CRMC and Army Corp. permits. As you can see, both permits restrict our facility to recreational uses. Accordingly, these stipulations must be changed before CRMC and the Army Corp. prior to landing a ferry. In order for us to provide you with a letter of intent to permit your vessel to dock at our facility, you must first agree to have your law firm (AP&S) seek to change these permits -- and pay for any and all expenses therein. Luckily, the foremost expert in Marina permitting in Rhode Island, Joe DeAngelis, is a partner at AP&S, and is intimately familiar with our facility (indeed, he was the Attorney who obtained our permits).

Thank you,
Paul



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL

Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, R.I. 02879-1900

(401) 783-3370
FAX: (401) 783-3767

ASSENT

CRMC File No.: 2003-12-061 CRMC Assent No.: B2003-12-061

Whereas,

**Marion C. Filippi
Ballards Wharf Realty, LLC
1092 Great Road
Lincoln, RI 02865**

of

has applied to the Coastal Resources Management Council for assent to construct and maintain a new 8 slip marina with 6 tie off piles, one 3 pile cluster and rehabilitate an existing bulkhead by installing a new steel bulkhead in front of an existing timber wall. The proposed marina basin requires dredging of approximately 2,800 CY of sand, which is proposed to be placed on the nearby Ballards Beach. The dredging is proposed to be accomplished hydraulically. The applicant represents that she is the owner of the riparian rights attached to the property involved and submitted plans of the work to be done.

Now, said Council, having fully considered said application in accordance with all the regulations as set forth in the Administrative Procedures Act does hereby authorize said applicant, subject to the provisions of Title 46, Chapter 23 of the General Laws of Rhode Island, 1956, as amended, and all laws which are or may be in force applicable thereto **construct and maintain a new 8 slip marina with 6 tie off piles, one 3 pile cluster and rehabilitate an existing bulkhead by installing a new steel bulkhead in front of an existing timber wall. The proposed marina basin requires dredging of approximately 2,800 CY of sand, which is proposed to be placed on the nearby Ballards Beach. The dredging is proposed to be accomplished hydraulically. The project is located at plat 6, lot 159; 42 Water Street, New Shoreham, RI, in accordance with said plans submitted to this Council and approved by this Council. All work being permitted must be completed on or before October 28, 2008 after which date this assent is null and void, (unless written application requesting an extension is received by CRMC sixty (60) days prior to expiration date).**

Applicant agrees that as a condition to the granting of this assent, members of the Coastal Resources Management Council or its staff shall have access to applicant's property to make on-site inspections to insure compliance with the assent.

Licensee shall be fully and completely liable to State, and shall waive any claims against State for contribution or otherwise, and shall indemnify, defend, and save harmless State and its agencies, employees, officers, directors, and agents with respect to any and all liability, damages (including damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs (including testing, auditing, surveying, and investigating costs), fees (including attorneys' fees and costs), penalties (civil and criminal), and response, cleanup, or remediation costs assessed against or imposed upon Licensee, State, or the Property, as a result of Licensee's control of the Property, or Licensee's use, disposal, transportation, generation and/or sale of Hazardous Substances or that of Licensee's employees, agents, assigns, sublicensees, contractors, subcontractors, permittees, or invitees.

Nothing in this assent shall be construed to impair the legal rights of this granting authority or of any person. By this assent the granting authority by no manner, shape, or form assumes any liability or responsibility implied, or in fact, for the stability or permanence of said project; nor by this assent is there any liability implied or in fact assumed or imposed on the granting authority. Further, the granting authority by its representatives or duly authorized agents shall have the right to inspect said project at all times including, but not limited to, the construction, completion, and all times thereafter.

This Assent is granted with the specific proviso that the construction authorized therein will be maintained in good condition by the owner thereof, his heirs, successors, or assigns for a period of fifty (50) years from the date thereof, after which time this permission shall terminate necessitating either complete removal or a new application.

Permits issued by the CRMC are issued for a finite period of time, confer no property rights, and are valid only with the conditions and stipulations under which they are granted. Permits imply no guarantee of renewal, and may be subject to denial, revocation, or modification.

If this matter appeared before the full Council, a copy of the legal decision from this proceeding may be acquired by contacting the CRMC office in writing.

A copy of this Assent shall be kept on site during construction.

Application for future alteration of the shoreline or other construction or alteration within the CRMC jurisdiction shall be submitted to the CRMC for review prior to commencing such activity.

All applicable policies, prohibitions, and standards of the RICRMP shall be upheld.

All local, state or federal ordinances and regulations must be complied with.

Please be advised that as a further conditions of this Assent, it is hereby stipulated that you and/or your agents shall comply at all times with Federal and State Water Quality Standards and other State standards and regulations regarding water quality, and shall exercise such supervision over and control of these facilities to prevent the dumping or discarding or refuse, sanitary wastes and other pollutants in the tidal waters, either from vessels docked at said facilities or from land adjacent thereto.

No work that involves alteration to wetlands or waters of the United States shall be done under this Assent until the required Federal Permit has been obtained.

Non-compliance with this assent shall result in legal action and/or revocation of this permit.

CAUTION:

The limits of authorized work shall be only for that which was approved by the CRMC. Any activities or alterations in which deviate from the approved plans will require a separate application and review. If the information provided to the CRMC for this review is inaccurate or did not reveal all necessary information or data, then this permit may be found to be null and

void. Plans for any future alteration of the shoreline or construction or alteration within the 200' zone of CRMC jurisdiction or in coastal waters must be submitted for review to the CRMC prior to commencing such activity.

Permits, licenses or easements issued by the Council are valid only with the conditions and stipulation under which they are granted and imply no guarantee of renewal. The initial application or an application for renewal may be subject to denial or modification. If an application is granted, said permit, license and easement may be subject to revocation and/or modification for failure to comply with the conditions and stipulations under which the same was issued or for other good cause.

ATTENTION: ALL STRUCTURES AND FILLED AREAS IN THE TIDAL, COASTAL, OR NAVIGABLE WATERS OF THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS ARE SUBJECT TO:

1. The Superior Property Rights of the State of Rhode Island and Providence Plantations in the Submerged and Submersible Lands of the Coastal, Tidal, and Navigable Waters;
2. The Superior Navigation Servitude of the United States;
3. The Police Powers of the State of Rhode Island and the United States to regulate Structures in the Tidal, Coastal, or Navigable Waters.

THE SUBMERGED AND SUBMERSIBLE LANDS OF THE TIDAL, COASTAL, AND NAVIGABLE WATERS OF THE STATE ARE OWNED BY THE STATE AND HELD IN TRUST FOR THE PUBLIC. CONVEYANCE OF THESE LANDS IS ILLEGAL; TITLES PURPORTING TO TRANSFER SUCH LANDS ARE VOID. ASSENTS THAT INVOLVE THE FILLING OR USE OF THE STATES SUBMERGED LANDS ARE GRANTED WITH THE PROVISIO THAT IT IS SUBJECT TO THE IMPOSITION OF A USAGE FEE TO BE ESTABLISHED BY THE COASTAL RESOURCES MANAGEMENT COUNCIL.

SPECIFIC STIPULATIONS OF APPROVAL

General Stipulations

A. The applicant shall record this assent in its entirety in the land evidence records of the Town of New Shoreham within thirty (30) days of the date of assent issuance. Certification by the Town Clerk's office that this stipulation has been complied with shall be furnished to Coastal Resources Management Council by the applicant within fifteen (15) days thereafter. Failure to comply with provision will render this assent null and void.

B. For the purpose of this permit, the coastal feature shall be the bulkhead and rock jetty.

C. The approved bulkhead and dredge plans have been prepared by two different engineers. The first set of drawings are entitled, Application by Mrs. Filippi, Ballard's Inn in New Shoreham, dated 9/22/03 and revised 2/07/05 sheets 1-5 prepared by Bourne Consulting Engineering and stamped by Ronald Bourne, PE (#7696). The second set of plans are entitled Proposed Marina and Dredge, Marion C. Filippi, AP Lot 23, Sheets 1-9, dated 9/27/2003 without revision, prepared by Warren Hall, Civil Engineer and stamped by Warren F. Hall, PE (#5174). Except as stipulated or modified herein, all details and specifications thereon shall be strictly adhered to. Any and all changes require written approval from this office.

D. The applicant shall notify CRMC staff at least 48 business hours in advance of the approximate date of the start of construction.

E. Prior to initiation of construction, the applicant is required to schedule a meeting between the contractor and the CRMC staff. This meeting will be held to clarify and stress the terms of the permit, and to discuss details of erosion and sedimentation controls, methods of construction, construction timing, dewatering, etc.

F. Unless specifically approved as being within the accepted limits of disturbance, no alterations or activities shall be allowed in an area of beach grass; nor shall materials be stockpiled nor disposed of on the area of beach grass, nor shall any heavy machinery operate within this area.

G. No alterations (vegetative or otherwise) or activities are allowed on the coastal feature(s) or in the waterway adjacent to the site other than shown on the approved plan.

Bulkhead Stipulations

- A. The new sheet pile wall shall be located as close as practicable to the existing timber wall but in no case greater than 24".

Marina Perimeter Certification Stipulations

- A. The approved marina perimeter limit shall be that shown on the approved plan.
- B. The assented capacity of the marina shall be 8 boats.
- C. This marina and its facilities are subject to whatever public trust rights exist at this site.
- D. This marina and its facilities are subject to whatever public rights-of-way exist at this site.
- E. The seaward 2 boats shall be limited to 26' in length.

Marina Stipulations

- A. All metal connection hardware shall be hot dipped galvanized. However, when utilizing dissimilar metals, caution must be used, as galvanic corrosion should be avoided.

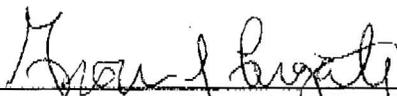
- B. No creosote shall be applied to any portion of the structure.
- C. Floation devices shall be securely contained. No foam billets or bead shall be used, only PVC encased foam, specifically manufactured for marine float use or equal shall be utilized.
- D. Floats, ramps, and other marine appurtenances or equipment shall not be stored on a coastal wetland, shoreline embankment, nor in any area designated as a buffer zone.
- E. This recreational boating facility shall not be used to unload catches by commercial fishing vessels.
- F. The owner is required to maintain this facility in good working condition. This facility may not be abandoned. The owner shall remove from tidal waters and coastal features any structure or portions of structures which are destroyed by any natural or man-induced manner.
- G. U. S. Army Corps of Engineers permit is required.
- H. A marine pump out shall be available to all vessels and a clear location shall be provided, at all times, to allow pump out. A location for pump out shall be designated and appropriate signage installed that is visible from the water and the shore.
- I. A marina operations and maintenance plan shall be submitted and approved prior to any marina operations.
- J. There are no water or electrical connections allowed under the approved plans.
- K. There shall be no rafting of vessels at this marina. Signs to this effect shall be conspicuously posted.
- L. Marina shall only allow privately owned recreational vessels to utilize the facility, any commercial vessel use is prohibited.
- M. Prior to any dredging, a location for the eel grass mitigation shall be determined or a \$30,000 bond shall be posted.
- N. All stipulations contained within the water qualify certificate related to eel grass mitigation are included into this Assent by Reference (stipulations 16 of WQC dated 2/21/2005).
- O. Use of anchors by any vessel is prohibited while utilizing the facility.

Dredging Stipulations

- A. The dredging depths (s) shall be -6' MLW with 1' over depth.

- B. The method of dredging shall be hydraulic.
- C. The route to the draining area shall be as shown on the approved plans. The pipe line shall be securely weighted on the bottom in the Channel area and in the vicinity of Old Harbor Basin entrance.
- D. All dredging shall be performed only during the period October 15 through January 31.
- E. Shellfish dredged from this waterway shall not be made available for human consumption.
- F. The final location of the dredged material shall be Ballards Beach. Placement shall be in conformance with the project narrative and approved plans. Any change in the location or method of final disposal must be reviewed and approved by CRMC.
- G. Should sediment or turbidity discharge become excessive, the dredging operation shall cease until the discharge of sediment and turbidity is reduced to an acceptable level, as determined by CRMC staff.
- H. Turbidity/silt curtains shall be installed in the dredge area as proposed. CRMC/DEM shall be notified 48 business hours prior to dredging to inspect the silt curtain installation. A contractor representative shall be available during the inspection for any corrective actions required.
- I. A post dredge/as built marina survey including the beach nourishment area shall be submitted to CRMC prior to any marina operations. The hydrographic data shall be obtained no later than 3 weeks from the conclusion of dredging. All structures and the approved marina perimeter limit shall be shown with state plane coordinates.

In Witness Whereof, said Coastal Resources Management Council have hereto set their hands and seal this 28th day of October in the year two-thousand-five.



Grover J. Fugate, Executive Director
Coastal Resources Management Council

/lam

State of Rhode Island and Providence Plantations

COASTAL RESOURCES MANAGEMENT COUNCIL

NOTICE OF

ASSENT

CRMC Assent No.: B2003-12-061

Date: October 28, 2005

This certifies that Marion C. Filippi /Ballard's Wharf Realty, LLC
has permission to construct and maintain a new 8 slip marina with tie off piles and rehabilitate an existing bulkhead by installing a new steel bulkhead in front of an existing timber wall. The proposed marina basin requires dredging approximately 2,800 CY of sand, which is proposed to be placed on the nearby Ballard's Beach. The dredging is proposed to be accomplished hydraulically.

situated at 42 Water Street

Plat No. 6

Lot No. 159

Said construction operations to be done in accordance with an approved assent on file in the Offices of the Coastal Resources Management Council and subject further to all the provisions of the building ordinances of the :

City/Town of _____

New Shoreham

and to all the applicable State, Local and Federal provisions. This assent shall expire three (3) years from date of issuance.

Lisa A. Mattiacheck

Official Designee

Coastal Resources Management Council

**THIS CARD MUST BE DISPLAYED IN A CONSPICUOUS PLACE ON THE PREMISES.
FAILURE TO DISPLAY WILL RESULT IN LEGAL ACTION.**



REPLY TO:
ATTENTION OF:

Regulatory Branch
NAE-2004-436

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

September 13, 2005

*For to
Paul - clipped
J. D. Lynch
file*

Marion C. Filippi
Ballard's Wharf
1092 Great Road
Lincoln, Rhode Island 02865

Dear Ms. Filippi:

Enclosed are two copies of a Department of the Army permit authorizing the work described therein. Your signature is necessary to execute this permit. The authorized work cannot start until we receive a complete, signed copy of the permit. If the conditions are acceptable, please sign both copies and return one signed copy of the entire permit to "Regulatory Division" at the address above. A fee of \$100.00 is required. Please enclose a check made payable to "FAO New England District", and return it with the signed permit copy. Please ensure your address and social security number, or tax identification number for businesses, are on the check.

Please post the enclosed ENG form 4336 (i.e., Notice of Authorization) in a conspicuous location at the job site whenever work is ongoing. You are required to notify us before beginning work so that we may inspect the project. Therefore, please complete and return the attached Work Start Notification Form to this office no later than two weeks before the anticipated starting date.

If the plans or construction methods (i.e., for work in our jurisdiction) need to be changed, please contact us immediately to discuss modification of your permit prior to undertaking these changes.

This permit is a limited authorization containing a specific set of conditions. Please read the permit thoroughly to familiarize yourself with those conditions. If a contractor does the work for you, both you and the contractor are responsible for ensuring that the work is done in compliance with the permit's terms and conditions, as any violations could result in civil or criminal penalties.

Please note that the Department of the Army permit process does not supersede any other agency's jurisdiction. Hence, if other federal, state, and/or local agencies have jurisdiction over your project, you must receive all applicable permits before you may begin work.

The Corps of Engineers has implemented an administrative appeals process for permit denials, proffered permits that you object to the terms and conditions of and jurisdictional determinations. A Notification of Administrative Appeal Options form and flow charts are enclosed with this letter, which explains the appeals process and your options. However, in order to retain your right to appeal, you must submit the attached NAAO form within 60 days of this letter's date. For this Initial Proffered Permit, please send the completed form to me, Regulatory Division Chief, at 696 Virginia Road, Concord, Massachusetts 01742. Direct questions regarding the Corps of Engineers appeals process to Ms. Ruth Ladd, Acting Chief, Policy and Technical Analysis Branch at (978) 318-8818 or at the above address.

If you have any questions regarding this correspondence, please contact Michael Elliott at (978) 318-8131, (800) 343-4789, or use (800) 363-4367 within Massachusetts.

Sincerely,



Christine Godfrey
Chief, Regulatory Division

Enclosures

Copy Furnished:

✓ Ken Kubic
Kubic & Conradi Consultants
P.O. Box 1028
Charlestown, RI 02813

DEPARTMENT OF THE ARMY PERMIT

Permittee Marion C. Filippi/Ballard's Wharf

Permit No. NAE 2004-436

Issuing Office New England District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: Construct a new recreational boat marina by dredging and installing a pile-secured float system to dock 8 boats. The authorized work includes:

1. Perform new dredging to -7 feet at mean low water from a 10,000 square foot area. Approximately 2800 cubic yards of dredged material, primarily sand, will be hydraulically dredged. The material will be placed on Ballard's beach above the high tide line as beach nourishment.

2. Install a ramp, pile-secured floats and tie-off pilings for 8 boats. Specifically, install a 4' x 30' ramp to access the 8' x 110' main float and a 4' x 52' float.

(Project description continued on page 4)

Project Location:

Old Harbor on Block Island in New Shoreham, Rhode Island

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on DECEMBER 31, 2010. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. The permittee shall ensure that a copy of this permit is at the work site whenever work is being performed and that all personnel performing work at the site of the work authorized by this permit are fully aware of the terms and conditions of the permit. This permit, including its drawings and any appendices and other attachments, shall be made a part of any and all contracts and sub-contracts for work which affects areas of Corps of Engineers jurisdiction at the site of the work authorized by this permit. This shall be done by including the entire permit in the specifications for work.

(Special Conditions continued on Page 4)

Further Information:

1. **Congressional Authorities:** You have been authorized to undertake the activity described above pursuant to:

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

Section 404 of the Clean Water Act (33 U.S.C. 1344).

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. **Limits of this authorization.**

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

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. **Limits of Federal Liability.** In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

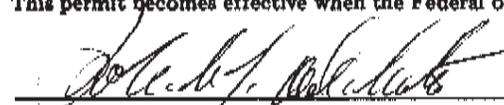
6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

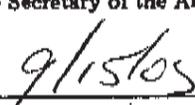
(PERMITTEE)

(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



(DISTRICT ENGINEER)



(DATE)

CURTIS L. THALKIN, COLONEL
CORPS OF ENGINEERS

~~When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.~~

(TRANSFEREE)

(DATE)

Project Description (continued from page 1):

3. Install 150 linear feet of steel sheet-pile bulkhead to replace the existing wooden bulkhead.
4. Establish a marina perimeter limit to enclose the new marina called Ballard's Wharf.

In accordance with the plans titled "MK. FILIPPI, BALLARD'S INN" dated "9/22/03" revised "2/07/05" and "PROPOSED MARINA AND DREDGE, MARION C. FILIPPI, AP 6, LOT 159, NEW SHOREHAM, RI" dated "9-27-03".

(Special Conditions continued from Page 2)

If the permit is issued after the construction specifications but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. If the permit is issued after receipt of bids or quotes, the entire permit shall be included in the contract or sub-contract as a change order. The term "entire permit" includes permit amendments. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions of the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps jurisdiction.

2. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

3. The authorized use of this marina is for recreational boats only. Any change to any commercial use such as ferries will require a new Corps permit.

4. No boats shall be rafted or moored at the marina such that the vessel encroaches into the Federal project limits.

5. The permittee shall remove these structures, if necessary, to allow performance of periodic hydrographic surveys and maintenance dredging.

6. The permittee shall not hold the Government, or its contractor, responsible for damage(s) to these structures, or any vessels tied to them, during surveying or dredging operations.

7. The dredged material must be placed above the high tide line on the property known as Ballard's beach.

8. The permittee shall be responsible for any damage caused to the stone breakwater located along the eastern edge of the property. The damage could be caused by dredging, prop-washing from boats or any other reason. If any damage occurs, the permittee is responsible for restoring the breakwater to its preconstruction condition.

9. Boat length in the most waterward boat slips labeled 1 and 2 shall not exceed 26-feet in length.