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September 14, 2015

Luly E. Massaro, Clerk
Division of Public Utilities and Carriers
89 Jefferson Boulevard
Warwick, RI 02888

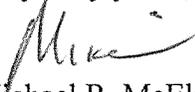
RE: RHODE ISLAND FAST FERRY, INC.
Docket No. D-13-51

Dear Luly:

Enclosed for filing are an original and five copies of Intervenors' Motion to Modify Procedural Schedule.

If you have any questions, please feel free to call.

Very truly yours,


Michael R. McElroy

MRMc:tmg
cc: Service List (attached)

Interstate/Donadio/Motion to Modify Procedural Schedule

Rhode Island Fast Ferry (RIFF) – CPCN Application Docket No. D-13-51
Updated 11/7/14

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	Jhall@apslaw.com	
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	jlg@BlockIslandFerry.com	
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	wedge@beconsulting.biz	
	Megan@BlockIslandFerry.com	
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Nancy Dodge, Town Manager Town of New Shoreham PO Drawer 120 Block Island, RI 02807	kpson@aol.com	401-466-3211
Richard LaCapra 5 Carmine Street New York, New York 10014	rlacapra@lacapra.com	212-675 - 8123
File original & four (4) copies w/: Luly E. Massaro, Clerk Division of Public Utilities & Carriers 89 Jefferson Boulevard Warwick, RI 02888	Luly.massaro@puc.ri.gov	401-780-2107
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	Thomas.kogut@dpuc.ri.gov	
	Terry.mercer@dpuc.ri.gov	
Interested Parties:		
Elizabeth Dolan, Town Council President Jeannette Alyward, Town Clerk Town of North Kingstown	ldolan@northkingstown.org	401-294-3331
	jalyward@northkingstown.org	

STATE OF RHODE ISLAND
DIVISION OF PUBLIC UTILITIES AND CARRIERS

IN RE: RHODE ISLAND FAST FERRY, INC. : DOCKET No. D-13-51

INTERVENORS' MOTION TO MODIFY PROCEDURAL SCHEDULE

By Order dated August 19, 2015 (Order No. 22045), the Division granted RIFF an additional two weeks, to September 11, 2015, "to submit a written declaration to the Division identifying the dock it is proposing to use on Block Island (in furtherance of its proposed ferry services) and offer proof of the dock's availability." (at 4).

In that same Order, the Division ordered that "the Division reserves the right to suspend the hearing dates in this docket if it determines that additional time for discovery would be appropriate."

On September 11, 2015, RIFF filed an affidavit of Charles A. Donadio, Jr. dated September 11, 2015 that attached as Exhibit A a Lease Option Agreement dated September 11, 2015, by and between RIFF and Bluewater LLC, whose Chief Executive Officer is Paul Filippi. In further support, RIFF attached an affidavit of Paul Filippi identifying Mr. Filippi as the principal member of Bluewater LLC and discussing alleged plans for the construction of piers at two locations in Old Harbor. The Filippi affidavit included reference to a meeting allegedly held with the Army Corps of Engineers on September 8, 2015 and stated that Bluewater planned to file applications for permits with the Army Corps of Engineers and the Coastal Resources Management Council by November 1, 2015.

The Intervenors Interstate Navigation Company and the Town of New Shoreham both believe that it is necessary to take discovery regarding the affidavit of Mr. Donadio, the affidavit of Mr. Filippi, the Lease Option Agreement, and matters related to the same. In furtherance of

this, a notice of deposition and subpoena have been prepared for the deposition of Paul Filippi (See Exhibit A attached hereto). Once this deposition is taken, additional depositions and/or other discovery methods may be used to fully explore the issues raised by RIFF and to determine whether RIFF has in fact established “proof of the dock’s availability,” as required by the Division Order.

Once discovery is complete, the Intervenors would like to file a response to RIFF’s declaration.

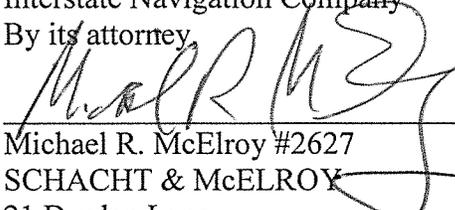
Accordingly, the Intervenors jointly request that the current procedural be modified as follows:

1. Intervenors request that they be given at least 30 days to conduct discovery.
2. Intervenors request that they be given at least 30 days after the completion of discovery to file a response to RIFF’s declaration.
3. Intervenors request that the public hearings be appropriately rescheduled to a date convenient to the Division and the parties in early 2016.

Counsel for Interstate Navigation Company represents that counsel for the Town of New Shoreham has authorized him to file this as a joint motion.

Dated: September 14, 2015

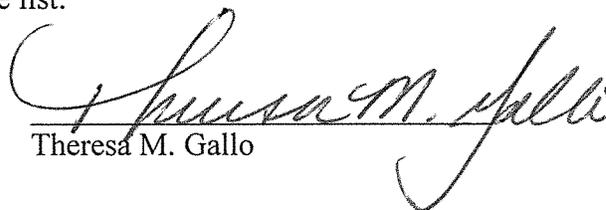
Respectfully submitted,
Interstate Navigation Company
By its attorney



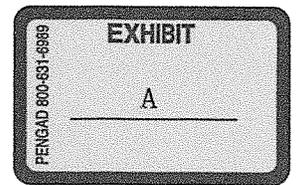
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Phone: (401) 351-4100
Fax: (401) 421-5696
Email: Michael@McElroyLawOffice.com

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of September, 2015, I mailed a true copy of the foregoing by first class mail to the attached service list:


Theresa M. Gallo

Interstate/Donadio/Motion to Modify Procedural Schedule



*STATE OF RHODE ISLAND
DIVISION OF PUBLIC UTILITIES AND CARRIERS*

IN RE: RHODE ISLAND FAST FERRY, INC. : *DOCKET NO. D-13-51*

NOTICE TO TAKE DEPOSITION

Please take notice that on Monday, September 21, 2015, at 11:00 a.m., at the offices of Merolla & Accetturo, 469 Centerville Road, Suite 206, Warwick, Rhode Island, the attorney for the Town of New Shoreham will take the deposition of Paul Filippi, Principal Member and CEO of *Blewater, LLC*.

For this deposition, the deponent shall bring with him the documents listed on the attached Subpoena.

This deposition will be taken by stenographic means for the purpose of discovery, or for use as evidence, or both, before a Notary Public in and for the State of Rhode Island, or before some other officer authorized to administer oaths.

TOWN OF NEW SHOREHAM,
by its Attorney,

/s/ Katherine A. Merolla
Katherine A. Merolla, Esq., No. 2344
MEROLLA & ACCETTURO
469 Centerville Road, Suite 206
Warwick, RI 02886
(401) 739-2900
(4010 739-2906 (Fax)

CERTIFICATION

I hereby certify that on September 14th, 2015, I served this document via e-mail on the individuals listed on the attached Exhibit A.

/s/ Katherine A. Merolla

STATE OF RHODE ISLAND
DIVISION OF PUBLIC UTILITIES AND CARRIERS

IN RE:
RHODE ISLAND FAST FERRY, INC.

DOCKET No. D-13-51

To: Paul Filippi
Principal Member and CEO
Bluewater, LLC

Subpoena Duces Tecum

X YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

Place: Office of Merolla & Accetturo, 469 Centerville Road, Suite 206, Warwick, RI 02886

Date: **September 21, 2015**

Time: **11:00 a.m.**

X YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified above (list documents or objects):
All documents referenced on *SCHEDULE A* attached hereto and incorporated herein by reference.

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf and may set forth, for each person designated, the matters on which the person will testify. Superior Court Rule of Civil Procedure, 30(b)(6).

September 12, 2015

(Date)

/s/ Katherine A. Merolla

Officer: Katherine A. Merolla, Esq.,

No. 2344

469 Centerville Road, Suite 206

Warwick, RI 02886

401-739-2900

Return of Service

Date: _____ Place: _____

Served On: _____ Manner of Service: _____

Served By: _____ Title: _____

Declaration of Server

I declare under penalty of perjury that the foregoing information contained in the Return of Service is true and correct.

Executed On

Signature of Server

Subscribed and sworn to before me this ____ day of _____, 2015.

Notary Public

Rule 45, Superior Court Rules of Civil Procedure. Parts C &D

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iii) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) *Duties in Responding to Subpoena.*

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**SCHEDULE A
TO
SUBPOENA DUCES TECUM**

DEFINITIONS:

For purposes of this *subpoena duces tecum* the following definitions shall apply:

"**RIFF**" shall refer to the Rhode Island Fast Ferry, Inc. References to RIFF shall include its officers, directors, shareholders, agents and attorneys.

"**Bluewater**" shall refer to Bluewater, LLC, a Rhode Island limited liability company. References to RIFF shall include its members, officers, agents and attorneys.

"**Paul Filippi Affidavit**" shall refer to that certain affidavit executed by Paul Filippi on September 11, 2015 and submitted to the Division of Public Utilities and Carriers in the matter of: IN RE: RHODE ISLAND FAST FERRY, INC. Docket No.: D-13-51.

"**Ballard's Companies**" shall refer to Ballard Realty, LLC, Ballard's Inn Realty, LLC and Ballard's Wharf Realty, LLC and shall include their officers, directors, shareholders, agents and attorneys.

"**Lease Option Agreement**" shall refer to that certain Lease Option Agreement dated September 11, 2015 by and between RIFF and Bluewater.

"**Proposed Piers**" shall refer to the two proposed piers as referenced in the Paul Filippi Affidavit.

"**Army Corps**" shall refer to the United States Army Corps of Engineers.

"**Documents**" means any and all handwritten material, typewritten material, printed material, emails, texts, photocopies, photographs, letters, correspondence, and memos, together with any form of communication or other representation which would constitute a document under Rhode Island law.

DOCUMENTS SUBJECT TO SUBPOENA:

1. All Documents by and between RIFF and Bluewater pertaining to the Lease Option Agreement.
2. All Documents by and between RIFF and Bluewater pertaining to the Paul Filippi Affidavit.
3. All Documents by and between RIFF and Bluewater pertaining to the Proposed Piers.
4. All Documents by and between Bluewater and the Army Corps pertaining to the Lease Option Agreement.
5. All Documents by and between Bluewater and the Army Corps pertaining to the Paul Filippi Affidavit.
6. All Documents by and between Bluewater and the Army Corps pertaining to the Proposed Piers.

7. All Documents by and between Bluewater and the Ballard's Companies pertaining to the Lease Option Agreement.
8. All Documents by and between Bluewater and the Ballard's Companies pertaining to the Paul Filippi Affidavit.
9. All Documents by and between Bluewater and the Ballard's Companies pertaining to the Proposed Piers.
10. All Documents by and between Bluewater and Blake and/or Steve Filippi pertaining to the Lease Option Agreement.
11. All Documents by and between Bluewater and Blake and/or Steve Filippi pertaining to the Paul Filippi Affidavit.
12. All Documents by and between Bluewater and Blake and/or Steve Filippi pertaining to the Proposed Piers.
13. All Documents by and between Bluewater and St. Jean Engineering, LLC pertaining to the Proposed Piers.
14. All Documents by and between Bluewater and the Rhode Island Coastal Resources Management Council pertaining to the Proposed Piers.
15. All Documents by and between Bluewater and the Rhode Island Department of Environmental Management pertaining to the Proposed Piers.
16. All Documents pertaining to the alleged rights to "wharf out at two locations" as referenced in paragraph 2 of the Paul Filippi Affidavit.
17. All Documents not previously produced pertaining to the Lease Option Agreement.
18. All Documents not previously produced pertaining to the Paul Filippi Affidavit.
19. All Documents not previously produced pertaining to the Proposed Piers.

EXHIBIT A

Rhode Island Fast Ferry (RIFF) – CPCN Application Docket No. D-13-51
Updated 11/7/14

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Nancy Dodge, Town Manager Town of New Shoreham PO Drawer 120 Block Island, RI 02807	kpson@aol.com	401-466-3211
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Interested Parties:		
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