



NEW ENGLAND BACKCOUNTRY HUNTERS & ANGLERS

January 31, 2024

To: RI Coastal Resources Management Council
Ben Goetsch, CRMC Aquaculture Coordinator
Jeffrey Willis, CRMC Executive Director
RI Department of Environmental Management
Terrence Gray, Director
Jason McNamee, Deputy Director, Bureau of Natural Resources
Philip Edwards, Chief, Division of Fish and Wildlife

Re: New England BHA Opposition to Aquaculture Lease Application 2023-10-067

Backcountry Hunters & Anglers seeks to ensure North America's outdoor heritage of hunting and fishing in a natural setting. Backcountry Hunters & Anglers' members recognize that our participation in, and the perpetuation of, our outdoor traditions requires on two things – access to places to hunt and fish, and abundant populations of fish and wildlife to pursue.

With these things in mind, **the New England Chapter of Backcountry Hunters and Angler (BHA) opposes aquaculture application 2023-10-067**, which seeks to establish a 10-acre kelp farm in waters adjacent to Dutch Island in the West Passage of Narragansett Bay. During the preliminary determination process BHA raised several concerns related to the specific requirements of CRMC's aquaculture application process (preliminary determination correspondence is included below in Appendix A), and application 2023-10-067 neither includes alterations sufficient to address these concerns, nor does it provide rationale that alleviates them.

As a result, BHA contests that the application fails to fulfill the requirements for a Category B Assent, and also fails to provide the Council with information necessary to make an informed decision, which is required by 650-RICR-20-00-1. We will further detail our rationale below.

Impacts to the Abundance and Diversity of Animal Life

650-RICR-20-00-1 A.1.e requires that persons applying for a Category B Assent *“demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life.”* In correspondence related to 2023-02-080 (Appendix A), the preliminary determination application from which 2023-10-067 arose, BHA detailed concerns related to the proposal's impact on several species of wildlife that likely inhabit the area in relatively high abundance. We reinforced our concerns with academic literature and references to management plans such as RI's Wildlife Action Plan, and related those concerns to the area where activities are proposed to occur by providing GIS data. During the preliminary determination process BHA also detailed *how* the proposed activities would negatively impact wildlife in relatively specific terms.

At the center of our concerns is the fact that benthic habitat surveys of the waters surrounding Dutch Island revealed, at several points through history, that the area holds one of the largest blue mussel beds within Narragansett Bay. Several of the species that rely upon mussel beds as a food source,

along with blue mussels themselves, are listed as ‘species of greatest conservation need’ in RI’s Wildlife Action Plan and are likely to inhabit the area during the seasons when the proposal would be active. During the preliminary determination process BHA suggested that an environmental impact study should be conducted to better understand the types and abundance of wildlife that currently inhabit the area, because understanding this information with relative certainty is necessary to demonstrate that significant negative impacts would not occur, as required by 650-RICR-20-00-1

We emphasize that the application does not to provide any study or analysis of the area proposed in application 2023-10-067 or the adjacent waters related to wildlife habitat, abundance or species, nor does the application provide any rationale beyond ‘anticipating’ that the operation will have no negative effect on the abundance of whatever plant and animal life currently occurs there. In addition, the application fails to provide any rationale whatsoever to highlight the value of this site for kelp farming compared to any other, less ecologically sensitive location within Narragansett Bay, although we do acknowledge that the location of the proposed site was modified slightly, presumably to avoid the boundary of the area that was historically surveyed as mussel bed habitat (illustrated in Appendix B). In prior correspondence BHA asserted that wildlife does not follow surveyed boundaries, and given the proposed site’s proximity to a rare and ecologically important benthic habitat type there is a reasonable likelihood that some or all the species we are concerned with *do* inhabit the proposed area and could be negatively affected, and we re-iterate that point here.

With all of this in mind, we contest that the application fails to adequately demonstrate that the proposed activities will not result in significant negative impacts to the abundance and diversity of animal life in the area, as is required by CRMC’s Red Book for the Council to grant a Category B Assent.

Impacts to Current Use and Potential Conflicts

Several sections of 650-RICR-20-00-1 require that applications for Category B Assents provide the Council with information on potential impacts to current use of coastal waters. A.1.f requires that applicants “*demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore*”. A.1.j requires that applicants “*demonstrate that the alteration or activity will not result in significant conflicts with water dependent uses and activities such as recreational boating, fishing, swimming, navigation, and commerce*”. K.3.a(4)(AA) requires that applicants “*provide such other information as may be necessary for the council to determine... the compatibility of the proposal with other existing and potential uses of the area and areas contiguous to it, including navigation, recreation, and fisheries*.”

In correspondence related to 2023-02-080 (Appendix A), the preliminary determination application from which 2023-10-067 arose, BHA not only expressed concerns that the proposed activities and equipment would lead to interference and conflicts with sea duck hunters who currently utilize the area, but also detailed *how* the proposed operation could create conflicts. While we appreciate that the application proposes limited working hours (although the exact terms of this restriction are described inconsistently throughout 2023-10-067), the concerns that BHA expressed previously were not limited to conflicts that might arise from the presence of aquaculture workers at the facility. The installation of heavy, submerged lines that span several hundred feet between surface markers could result in the entanglement of anchored decoys and vessels, especially when hunters are navigating and setting up, moving, or removing equipment in the dark, which is a relatively common occurrence.

BHA has also detailed *why* the area that the proposed activities would occur within is uniquely appealing to waterfowl hunters relative to other locations in Narragansett Bay. As proposed, 2023-10-067 seeks to occupy a considerable area southeast of Dutch Island, which is often the lee side of the

island during winter months when winds are primarily out of the North and West. Because Dutch Island is managed as a conservation area and remains undeveloped waterfowl hunters can pursue game in its vicinity without disturbing residential and commercial developments, which are prevalent elsewhere on the coasts of Narragansett Bay. During the preliminary determination process it was also apparent that use of the area for aquaculture was concerning not only for recreational hunters, but also for hunting guides who operated their businesses in the vicinity.

At several points 2023-10-067 asserts that conflicts are not ‘anticipated’ with current users of the area, but the application fails to provide any actual rationale demonstrating that the proposed activities would not interfere with current use of the area, and that significant conflicts are unlikely to occur based on the concerns that have been raised. Further, CRMC’s Red Book explicitly requires that applicants *“provide such other information as may be necessary for the council to determine... the compatibility of the proposal with other existing and potential uses of the area and areas contiguous to it, including navigation, recreation, and fisheries.”* During the preliminary determination process BHA detailed concerns both in writing and during a public hearing, most of which were subsequently left out of the application such that they could be known to the Council when considering the application.

With all of this in mind, we contest that the application fails to adequately demonstrate that the proposed activities will not impact current uses or cause significant conflicts. Additionally, the application fails to provide the Council with the information necessary to make an informed determination.

When BHA weighed in on the preliminary determination application proposal from which 2023-10-067 arose we urged CRMC and the other Councils, Commissions and Agencies that advise the aquaculture permitting process to recommend denial of the application unless impacts were better understood and/or significant changes were made. Unfortunately, as this proposal has moved forward little progress has been made towards addressing the concerns that that BHA and others have raised, and we have detailed the multitude of requirements that we feel the application fails to adequately meet. **As a result, the New England Chapter of Backcountry Hunters & Anglers objects to application 2023-10-067. Additionally, we request a hearing on the matter, where we will be prepared to attend and provide sworn testimony, and we urge CRMC to deny the application.**

Sincerely,

Michael Woods
Saunderstown, Rhode Island
rhodeisland@backcountryhunters.org
Chair, New England Chapter Board
Backcountry Hunters and Anglers



NEW ENGLAND BACKCOUNTRY HUNTERS AND ANGLERS

April 12, 2023

To: Jamestown Harbor Commission C/O Joan Rich, Jamestown Harbor Clerk
Ben Goetsch, CRMC Aquaculture Coordinator, RI Coastal Resources Management Council (CRMC)

CC: Jeffrey Willis, Executive Director, RI CRMC
Terrence Gray, Director, RI Department of Environmental Management (DEM)
Jason McNamee, Deputy Director, RI DEM Bureau of Natural Resources
Philip Edwards, Chief, RI DEM Division of Fish and Wildlife

Re: BHA Opposition to Proposed Aquaculture Leases near Dutch Island
CRMC File No 2023-02-080 & 2023-02-078

Backcountry Hunters & Anglers (BHA) seeks to ensure North America's outdoor heritage of hunting and fishing in a natural setting. BHA's members recognize that our participation in, and the perpetuation of, our outdoor traditions requires on two things – access to places to hunt and fish, and abundant populations of fish and wildlife to pursue.

With these things in mind, BHA opposes aquaculture lease applications 2023-02-078 and 2023-02-080, located in waters adjacent to Dutch Island, and we **urge CRMC and the other Councils, Commissions, and Agencies that advise the aquaculture leasing process to recommend denial of these leases until environmental impacts are better understood and/or significant changes are made by the applicants.**

To be clear, BHA does not oppose aquaculture in general, and we acknowledge that appropriately sited aquaculture operations can deliver economic, ecological, and societal benefits to Rhode Island. However, we believe that both applications fail to adequately demonstrate that the proposed activities would not result in significant impacts to the abundance and diversity of animal life in the area, and that the proposed activities would not impact existing use of the area or result in conflicts with current users. While the "preferred alternative" location submitted for application 2023-02-078 through CRMC's Aquaculture Listserv on April 6th addresses some of BHA's concerns related to habitat immediately adjacent to Dutch Island, it still includes information associated with both proposed sites (original and preferred alternative) and fails to provide rationale beyond speculation regarding environmental and usage impacts to the proposed area.

Adverse Impacts to the Abundance and Diversity of Plant and Animal Life

Section 8 (5) of CRMC's Aquaculture Preliminary Determination Request Form requires applicants to *"demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life"*. Both applicants assert that they *"anticipate that the kelp operations will benefit surrounding habitats and should increase the diversity of animal and plant life"*, but do not provide any data or examples to reinforce this assertion. Respectfully, we disagree and feel that the proposed activities could and likely will significantly impact the abundance and diversity of animal life in the area, and we will detail our concerns below.

Blue Mussels

According to *An Ecological Profile of the Narragansett Bay National Estuarine Research Reserve*¹ the waters surrounding Dutch Island are classified as “mussel bed” habitat (see Appendix 1). Specifically, “*Blue mussels (Mytilus edulis) are abundant intertidally, in shallows with hard substrates (French et al., 1992), and in two big commercial beds in the lower West Passage at depths of 12–18 m (40–60 feet) (S. Nixon, personal communication)*” (pg. 93). This habitat classification is also reflected in a 2018 GIS Layer published by URI’s Coastal Resources Center entitled “*Sediment types and benthic habitat within Narragansett Bay*” (see Appendix 2).

As proposed, the aquaculture activities described in the original applications would occur almost entirely (see Appendix 3) within one of the few areas within Narragansett Bay that is geographically mapped as “mussel bed” habitat (i.e. one of the two prominent “commercial beds” mentioned in the NBNERR profile). Blue mussels are listed as “*species of greatest conservation need*” in RI’s Wildlife Action Plan², likely due to habitat loss and/or disruption of their preferred habitat by development. Further, we doubt that the actual inhabitation or habitat value ends at the mapped line, and we feel an actual study of the area is needed to accurately evaluate the potential wildlife abundance impacts to the area before proceeding.

While the applicants have “*anticipated*” no detrimental effects from the proposed activities, we are concerned with the lack of real studies or evidence in the application to predict the impact of commercial kelp farming in the area. Practically speaking, we are also concerned that each proposal’s annual placement and removal of 18 250-lb cement mooring weights will disturb wild shellfish at a rate that exceeds their ability to repopulate areas of disruption.

Sea Ducks

There are currently several species of sea ducks listed as “*species of greatest conservation need*” in RI’s Wildlife Action Plan. On Page 9 of Chapter 1, the Plan states that “*In 2009, the North American Bird Conservation Initiative identified threats to wintering habitats as one possible reason for the population declines of several species of sea ducks*”. Potential threats are further outlined in the Journal of Fish and Wildlife Management³, stating that “*Along the U.S. Atlantic coast, an important sea duck wintering area, energy production (e.g., proposed wind farms), coastal development, sand mining, shipping, and aquaculture all have the potential to alter sea duck habitats and affect migrating and wintering birds.*”

Of prominent concerns to BHA’s members, species such as Common Eider⁴, Black Scoter⁵, White-winged Scoter⁶, and Surf Scoter⁷ rely on access to mussel beds as a primary food source during winter months. Further, some species of sea ducks exhibit high fidelity to specific wintering areas⁸, so disturbing the

¹ Narragansett Bay National Estuarine Research Reserve. 2009. *An Ecological Profile of the Narragansett Bay National Estuarine Research Reserve*. K.B. Raposa and M.L. Schwartz (eds.), Rhode Island Sea Grant, Narragansett, R.I. 176pp

² Rhode Island Department of Environmental Management Division of Fish and Wildlife, Rhode Island Chapter of The Nature Conservancy. 2015. Rhode Island Wildlife Action Plan.

³ Journal of Fish and Wildlife Management, 2013 4 (1): 178–198. “Wintering Sea Duck Distribution Along the Atlantic Coast of the United States”. Silverman, E.D. et. al.

⁴ Sea Duck Joint Venture Information Series – Common Eider - seaduckjiv.org

⁵ Sea Duck Joint Venture Information Series – Black Scoter - seaduckjiv.org

⁶ Sea Duck Joint Venture Information Series – White-winged Scoter - seaduckjiv.org

⁷ Sea Duck Joint Venture Information Series – Surf Scoter - seaduckjiv.org

⁸ Journal of Fish and Wildlife Management, Volume 81, Issue 7. 2017. “Habitat use and movements of common eiders wintering in southern New England. Beuth, J.M. et. al.

availability of priority forage and access to it presents an acute disruption to the ducks that winter annually in the waters surrounding Dutch Island.

While the applications have *anticipated* no detrimental effects from the proposed activities, we are concerned with the lack of real studies or evidence to predict the impact of commercial kelp farming on sea ducks. Practically speaking, the activities proposed are likely to have a detrimental effect on the abundance of sea ducks that winter adjacent to Dutch Island because activities will both disrupt a primary food source (as described above), and obfuscate access to approximately ten acres each of already limited primary habitat by installing ropes, suspended vegetation, floats, and moorings during the time of year that the area is used by wintering ducks.

Adverse Impacts to Current Use

Sections 8 (6) of CRMC's Aquaculture Preliminary Request Form requires applicants to "*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*". Additionally, Section 8 (10) requires applicants to "*demonstrate that the alteration or activity will not result in significant conflicts with water-dependent uses and activities such as recreational boating, fishing, swimming, navigation and commerce*". Each application asserts that no conflicts are anticipated because the proposed areas are several hundred feet from shore and occupied only during the winter months. Respectfully, we disagree with the application's assertion that the proposed activities will not unreasonably interfere with current use of the area, and that the proposed activities will not result in significant conflicts, and will detail our concerns below.

Seasonal Use

While the applicants are correct that some uses of the coastal waters in question, like recreational and commercial fishing, boating, etc. are reduced during the winter months we are concerned that the proposed activities occur almost entirely within the open hunting season for sea ducks. Currently, the largest portion of RI's waterfowl hunting season, which includes species such as Common Eider, Black Scoter, White-winged Scoter, and Surf Scoter, occurs from approximately Thanksgiving through the end of January. In simple terms – the only time of year that hunters *can* use the coastal waters of the state to pursue waterfowl is within the proposed timeframe of lease application.

Usage of Location

The abundant priority forage under the waters surrounding Dutch Island attracts relatively high concentrations of sea ducks. Subsequently, the area is popular with waterfowl hunters because it is more effective to hunt where the pursued species is attracted to natural feed than trying to lure them to other areas using decoys and calls. Unlike other species of waterfowl that prefer shallow water and the protection of the shore, sea ducks are large, robust, and prefer to spend their time on open water feeding, loafing and roosting. In this case, the mussel beds in the area of the proposed activities are precisely where waterfowl want to be, and where hunters prefer to set up. In addition to individual hunters, Rhode Island has several guiding businesses that operate by chartering hunting trips to pursue Common Eider, Black Scoter, White-winged Scoter, and Surf Scoter the vicinity of the applications.

The waters around Dutch Island are also popular with waterfowl hunters because they are relatively remote compared to other areas in Narragansett Bay. Many of the other large mussel beds are effectively closed to hunting because of their proximity to development, or present potential conflicts with hunting because of their relatively close proximity to other activities. Because Dutch Island is owned entirely by the Department of Environmental Management and is managed as a conservation area it is one of the last

places where hunters can pursue concentrations of sea ducks without concerns related to shooting near developed, populated areas.

Conflicts with Hunting Equipment

While shooting hours for waterfowl hunting run from 30 minutes prior to sunrise to sunset, most duck hunters choose to begin setting up their hunts well in advance of opening light so they can capitalize on ducks relocating to feed at dawn. As a result, most of the setup activities for a sea duck hunt occur under the darkness of night, and with minimal light so as not to disturb roosting birds.

A typical setup for sea duck hunting involves deploying several “long lines”, each of which can extend over one hundred feet to position a dozen or more floating decoys between two bottom anchors. Hunters then wait in an anchored boat with a blind or hide for waterfowl to move into shooting range. When ducks are taken they are retrieved either by boat or by a swimming dog. Quick retrieves can be important, as downed sea ducks can be an easy meal for hungry seals. While sea ducks don’t mind rough seas and heavy winds these things can complicate hunting setups and retrievals, and make maneuvering precisely around both marked and submerged obstacles difficult. When a hunt is concluded all equipment is removed from the area.

Typically, pot-to-bouy type obstructions don’t present a significant navigational obstacle to sea duck hunters because the location of the submerged obstacle is relatively straightforward and can be avoided. We are concerned that navigating and anchoring in close proximity to thousands of feet of submerged heavy rope that extends dozens or hundreds of feet laterally, sometimes across currents and prevailing winds, from marking buoys presents an unreasonable obstruction to sea duck hunters using the area. Many might choose to simply stop using the area rather than risk damaging or losing their equipment if it becomes entangled in aquaculture gear. It is unclear how entanglements that result in damage might be resolved if sea duck hunters engaging in legal hunting activities, in an area they have used for generations, damage either their own gear or aquaculture gear if they become entangled. It is unreasonable to expect sea duck hunters to enter the water to untangle anchor and decoy lines during the winter months, and in some situations the only reasonable option might be to cut lines to separate entanglements.

Respectfully, we do not feel that applications 2023-02-078 and 2023-02-080 adequately address the concerns that BHA has raised with regard to wildlife impacts and conflicts with current use of the area. Further, we are not confident that modification to the terms of the application short of conducting environmental impact studies and/or relocating the proposed area of activities entirely has the potential to address our concerns. As a result, we **urge CRMC and the other Councils, Commissions, and Agencies that advise the aquaculture leasing process to recommend denial of lease applications 2023-02-078 and 2023-02-080 until impacts are better understood and/or significant changes are made by the applicants.**

Sincerely,

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Rhode Island State Leadership Team Chair
New England Chapter Board
Backcountry Hunters and Anglers

Appendix 1: An Ecological Profile of the Narragansett Bay National Estuarine Research Reserve

from Chapter 8: Estuarine Habitats of Narragansett Bay, pg. 90

<http://nbnerr.org/wp-content/uploads/2016/12/Ecol-Profile-CH08-Estuarine-Habitats.pdf>

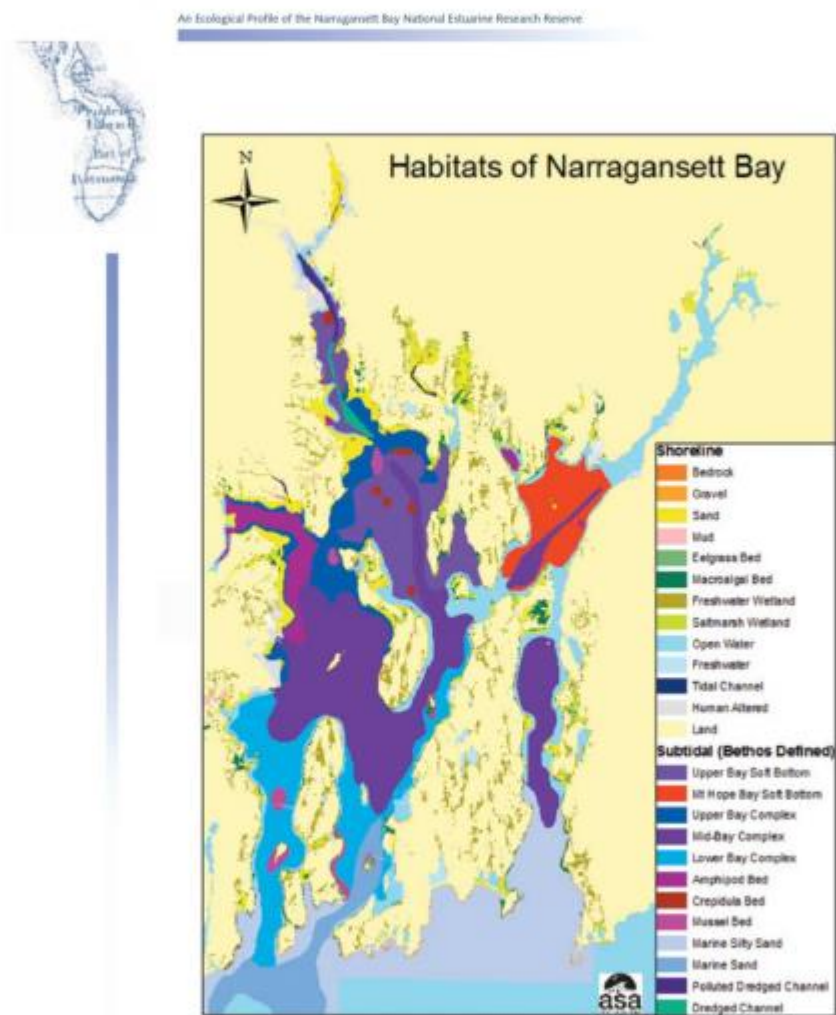
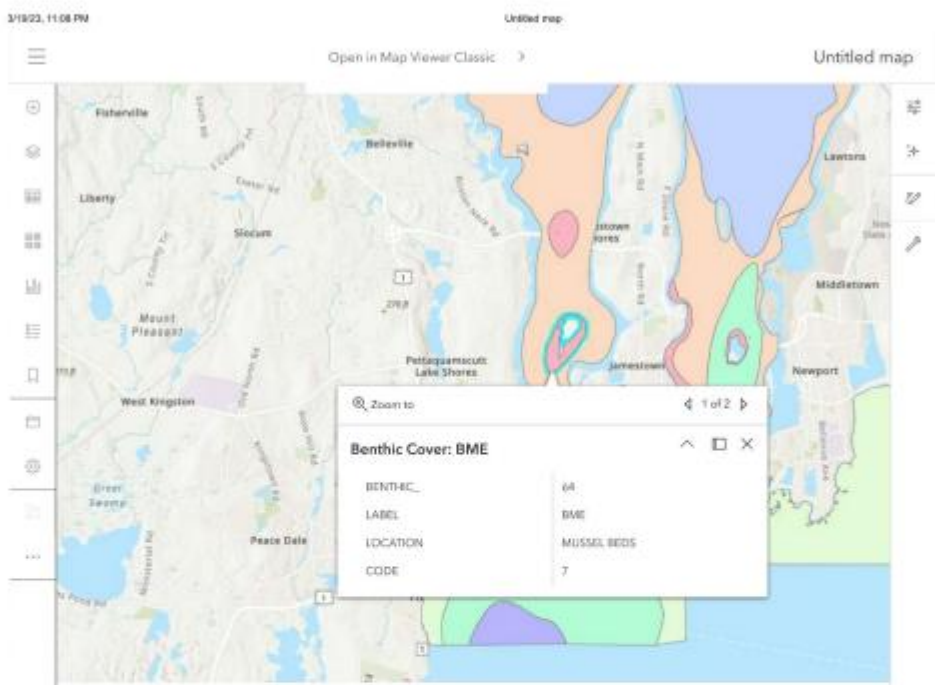


Figure 8.1. Estuarine habitats of Narragansett Bay. Source: French et al., 1992. Image courtesy Applied Science Associates.

Appendix 2: URI CRC GIS Layer: Sediment types and benthic habitat within Narragansett Bay (2018)

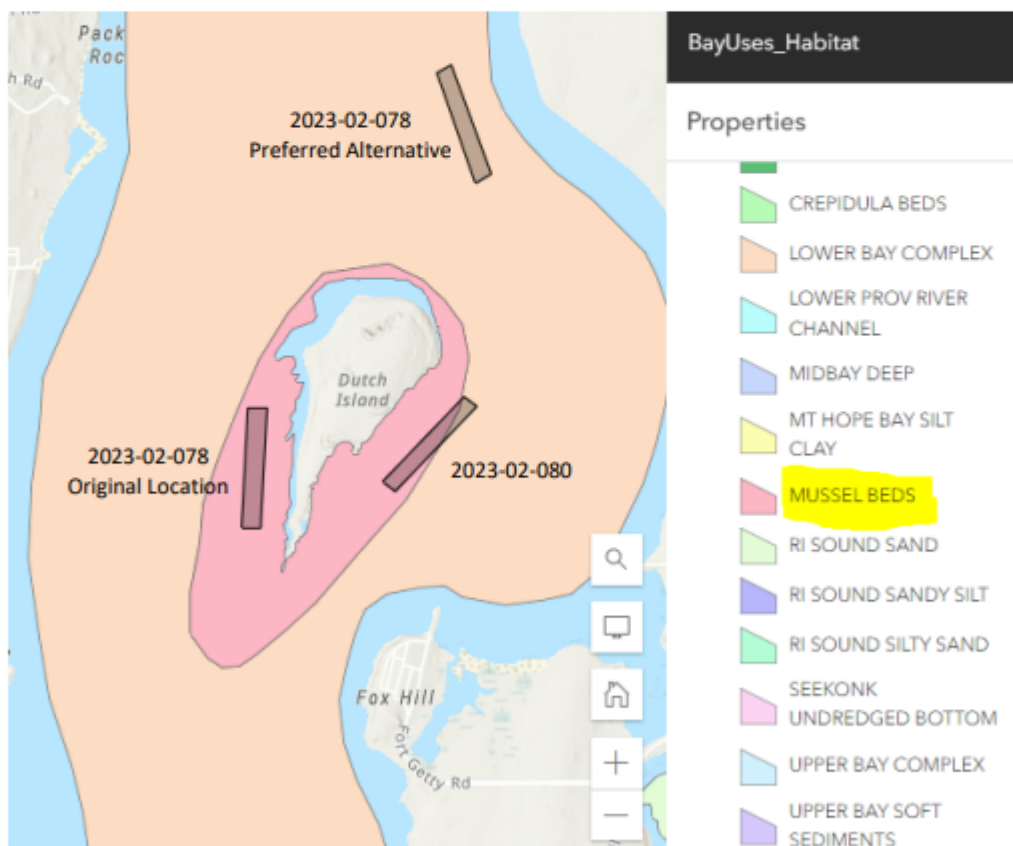
<https://www.arcgis.com/home/item.html?id=98f5c7d76e6843089f9e04edff07e9d6>



Appendix A – Preliminary Determination Correspondence – 2023-02-080

Appendix 3: Approximate Lease Locations on URI CRC GIS Layer

- **Application GPS Coordinates for 2023-02-078 (Original)**
 - 41° 30.14' N, 071° 24.41' W
 - 41° 30.14' N, 071° 24.35' W
 - 41° 29.85' N, 071° 24.37' W
 - 41° 29.85' N, 071° 24.43' W
- **Application GPS Coordinates for 2023-02-078 (Preferred Alternative 4/6)**
 - 41° 30' 56.7" N, 071° 23' 48.3" W
 - 41° 30' 58" N, 071° 23' 45.3" W
 - 41° 30' 42.2" N, 071° 23' 37.6" W
 - 41° 30' 41.1" N, 071° 23' 40.5" W
- **Application GPS Coordinates for 2023-02-080**
 - 41° 30' 10" N, 071° 23' 42.8" W
 - 41° 30' 8.6" N, 071° 23' 40.3" W
 - 41° 29' 56.4" N, 071° 23' 56.1" W
 - 41° 29' 57.9" N, 071° 23' 58.7" W



Appendix B – Comparison of Preliminary Determination & Full Applications

GIS Source - URI CRC GIS Layer: Sediment types and benthic habitat within Narragansett Bay (2018)
<https://www.arcgis.com/home/item.html?id=98f5c7d76e6843089f9e04edff07e9d6>

Application GPS Coordinates for 2023-02-080 (Preliminary Determination)

- 41° 30' 10" N, 071° 23' 42.8" W
- 41° 30' 8.6" N, 071° 23' 40.3" W
- 41° 29' 56.4" N, 071° 23' 56.1" W
- 41° 29' 57.9" N, 071° 23' 58.7" W

Application GPS Coordinates for 2023-10-067 (Full Application)

- 41.50285402, -71.39437203
- 41.50252458, -71.39364247
- 41.4985069, -71.39683966
- 41.49893278, -71.39765506

