

In The Matter Of:

*Department of Natural Resources & Environmental Control
Sargio Corporation Application*

*Public Hearing
March 14, 2019*

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DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
OF THE STATE OF DELAWARE

RE: Public Hearing Regarding)
Sargio Corporation Application)
for Bay Vista Marina Dredging)

..

Shoreline and Waterway Management
Conference Room
901 Pilottown Road
Lewes, Delaware 19958

Thursday, March 14, 2019
6:00 p.m.

..

BEFORE: Bethany Fiske, Hearing Officer

ALSO PRESENT: George Geatz, DNREC
Tyler Brown, DNREC

-- Transcript of Proceedings --

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1 MS. FISKE: Good evening. I am
2 Bethany Fiske, and I am the hearing officer for
3 tonight's proceedings.

4 We are here tonight to receive public
5 comments on a permit application to dredge material
6 from Bay Vista Marina submitted by Sargio
7 Corporation.

8 Make sure you please sign in. I
9 believe the sign-in sheet is right there in the
10 front. This allows us to have an accurate record of
11 who was present at the hearing. Also, please
12 indicate on the sign-in sheet if you would wish to
13 speak.

14 Please remember that comments need to
15 be limited solely to the subject of this hearing.
16 If you have prepared any written comments, you may
17 submit them to me at the time you speak to be
18 entered into the hearing record.

19 Please remember, whether listening or
20 speaking, it is important that everyone here is
21 respectful and considerate. You may hear opinions
22 that are different from your own, but please
23 remember to be respectful of everyone and of the
24 hearing process. On this note, please remember to



1 turn your cell phone off or to silence.

2 After these introductory remarks, I
3 will turn the hearing over to Department staff for a
4 short presentation. After that, there will be a
5 short presentation from the applicant.

6 Then I will accept comments for the
7 record for those who have indicated on the sign-in
8 sheet a desire to speak.

9 After I go through the sign-in sheet,
10 I will ask if anyone else would like to offer
11 comments.

12 The purpose of today's hearing is to
13 simply gather public comment for the record. It is
14 not a question and answer session. Please remember
15 to limit comments to the subject of the hearing. It
16 is DNREC's policy that each commentator will have
17 three minutes to speak.

18 For ease, a timer will be displayed
19 on the screen, and you can see how much time you
20 have left.

21 If you have already submitted written
22 comments to me, these comments are already in the
23 hearing record.

24 Finally, it is important to



1 understand that the ultimate decision with regard to
2 this matter will be made by the Secretary and that
3 no decision will be made tonight.

4 At this time I invite Department
5 staff, George Geatz, to provide us with information
6 regarding this permit application.

7 MR. GEATZ: Yes. Thank you, Bethany.
8 Good evening, everybody. My name is George Geatz.

9 I work as an Environmental Scientist
10 in DNREC for the Wetlands and Subaqueous Lands
11 Section.

12 I am the scientist in charge of
13 processing this subaqueous lands and water quality
14 certification permit.

15 So, before I start kind of the nature
16 of this presentation, I am going to give some very
17 short, just a timeline of how we kind of got here
18 tonight.

19 I will start off by I would like to
20 enter 12 exhibits into the record.

21 The first exhibit is the original
22 basic application submitted to us by Sargio
23 Corporation.

24 The second exhibit will be the



1 amended application.

2 The third exhibit is the public
3 notice for the original application posted into the
4 newspaper.

5 And the fourth exhibit will be the
6 public response we received for that public notice.

7 The fifth exhibit is the public
8 notice for the amended application and for the
9 public hearing we are holding tonight.

10 And the sixth exhibit will be the
11 public response we received for that public notice.

12 The seventh exhibit is the posting
13 that was on the DNREC's website for the public
14 hearing.

15 The eighth exhibit is the approved
16 Sussex County Sediment Control Stormwater Management
17 Plan.

18 The ninth exhibit is the dredge
19 sediment chemical analyses that was performed.

20 The tenth exhibit are the Regulations
21 Governing the Use of Subaqueous Lands in Delaware.

22 The eleventh exhibit is the well head
23 protection area identified by DNREC Wetland -- by
24 DNREC Division of Water hydrologists.



1 And the twelfth exhibit is a copy of
2 the DNREC public hearing presentation which I am
3 about to give.

4 MS. FISKE: Let the record reflect
5 that Department's Exhibits 1 through 12 are hereby
6 entered into the hearing record.

7 MR. GEATZ: All right. So the
8 purpose of this public hearing is to provide the
9 public an opportunity to comment on the Sargio
10 Corporation's subaqueous lands permit and water
11 quality certification for the dredging and disposal
12 of material at Bay Vista Marina in Rehoboth Beach,
13 Delaware.

14 So the area that we are going to be
15 talking about here is located in southern Delaware.
16 You can see Lewes and Rehoboth here. I'm sure you
17 are all familiar with it.

18 Kind of zooming in on this area, we
19 can see the Rehoboth Beach wastewater treatment
20 plant right here and the Bay Vista Marina here.

21 The original application that we
22 received for this project was received on August 20,
23 2018.

24 So the initial application, the



1 problem was the Bay Vista Marina has silted in,
2 making ingress and egress impossible for boats at
3 lower tides.

4 So the solution to this is the
5 mechanical maintenance dredging of 3,500 cubic yards
6 of material to a depth of 4 feet below mean low
7 water in the marina basin, and 6 feet below mean low
8 water in the access channel.

9 The dredging is proposed to be
10 conducted by land-based and barge-mounted
11 excavators.

12 Then the material, consisting
13 primarily of mud, would be placed in an adjacent
14 off-site upland disposal area to the north of the
15 marina basin, which is also owned by Sargio Corp.

16 This area will be constructed by
17 excavating a 2-foot deep cut and using the excavated
18 material to create a 3-foot high earthen berm around
19 the site.

20 So these are some maps that were
21 included in the original application. This is kind
22 of the top-down view of the marina and the access
23 channel. So you can see here where the access
24 channel would be dredged to 6 feet below mean low



1 water. And this is the marina basin which would be
2 dredged to the 4 feet below mean low water.

3 In the first go-around, the original
4 application, two dredge cells were proposed, you see
5 one here and another one over here.

6 These will be constructed by cutting
7 down two feet into the ground and then making a
8 3-foot high berm and placing it around and then
9 putting the dredge fill in that berm containment.

10 So the project was put on public
11 notice #20 from September 19 through October 9,
12 2018.

13 We received three public comments
14 during that period. Two were in favor of the
15 project, and one was against the project.

16 So, as a result of this, DNREC
17 Wetlands and Subaqueous Lands Section met in person
18 with the objector, and then we set up an on-site
19 meeting with all the parties involved.

20 Additionally, we conducted a
21 hydrologic review and determined areas that might be
22 of concern.

23 So, as far as the hydrologic review
24 goes, DNREC Division of Water hydrologists were able



1 to determine this 500-foot radius right here
2 identified by the blue hash marks, that was the
3 public groundwater withdrawal well. And they made a
4 suggestion to buffer this and to avoid this
5 indicated by this red line, putting any dredge
6 sediment to the left of this.

7 So this kind of came into play with
8 redesigning the potential for a disposal area.

9 And this one cell that we had that
10 would have been to the east was abandoned.

11 So, to protect local groundwater, the
12 smaller dredge disposal was abandoned.

13 We set up a meeting on October 25,
14 2018. In attendance we had DNREC Wetlands and
15 Subaqueous Lands staff, the consultant involved in
16 the project, the contractor, and the individual that
17 objected to the project being performed.

18 There were three outcomes that came
19 from this meeting. The first one was that we needed
20 to have site-specific, survey-level boundaries.

21 Secondly, we needed to have a
22 sediment control and stormwater management plan
23 approved by the local conservation district.

24 And the third outcome that was we



1 needed to have the dredge sediment tested for
2 chemical pollutants of human health concern.

3 So the first of these three, we
4 actually took care of on site that day where
5 everyone in attendance walked the site boundaries,
6 and we placed 11 flags around the outside portion of
7 the site where it was acceptable to everybody that
8 was there.

9 In addition to this, DNREC actually
10 took GPS coordinates that were accurate to half a
11 meter, so we have a good record of where these
12 points were agreed upon. If anybody came out with
13 any flags, we would be able to kind of check that.

14 Afterwards, Triangle surveyors came
15 in and formed a more detailed survey. And this was
16 actually something that DNREC went out, and we
17 confirmed that these points matched up with the
18 earlier points that we had recorded on the GPS.

19 So the second outcome was that
20 approved Sussex County Conservation District's
21 Sediment Control and Stormwater Management Plan,
22 that got approved.

23 The notes that kind of were included
24 on this were silt fencing was going to be placed



1 around the berm perimeter of the dredge disposal
2 area; the turbidity curtain was going to be
3 installed at the mouth of the berm to the marina
4 basin; and that there was going to be a capping and
5 planting plan that was followed after the material
6 was dewatered, just to kind of make the site
7 aesthetic and prevent any smells or anything from
8 around.

9 Finally, as chemical analysis of the
10 dredge sediment was performed, the major things we
11 were looking for here are metals; polychlorinated
12 Biphenyls, also known as PCBs; organochloride
13 pesticides; and semi-volatile organic compounds.

14 Of everything tested, only five
15 metals registered above the purported limits, and
16 none of these were at levels that showed a health
17 concern.

18 So the final application of the
19 amended application kind of had some changes that
20 were basically the reduction of the disposal area
21 from the two cells earlier to one cell, and
22 increasing the excavated depth of that cell from 2
23 to 3-foot, excavating down another foot, and also
24 making the berm height from 3 to 4 foot, another



1 foot high, so that contained the entire 3,500 cubic
2 yards of material.

3 And this is a copy of the final plan
4 that was submitted. And here is kind of a
5 cross-section view of the 3 to 4-foot high berm and
6 the 2 to 3-foot excavation cut within the basin.

7 So, with that, this is my contact
8 information up here. And that's all we have.

9 MS. FISKE: Thank you. At this time
10 I invite the applicant, Sargio Corporation, to start
11 their presentation.

12 MR. DUKES: Thank you. My name is
13 Hal Dukes.

14 MS. FISKE: Could you --

15 MR. DUKES: Here?

16 MS. FISKE: It's a full room. Just
17 so we get the voice projecting. You don't have to
18 stand behind, just in the front.

19 MR. DUKES: My name is Hal Dukes with
20 the law firm of Tunnell & Raysor, and I'm here for
21 Sargio.

22 First, we have to say that everything
23 that Mr. Geatz has presented, that we agree to.

24 And one of the points we want to make



1 is that my client, Sargio, has attended every single
2 meeting, followed every single suggestion, and
3 worked with every single expert, and had a
4 professional analysis done for this particular
5 project. He has paid for it all himself.

6 One of the interesting things is that
7 in my review of everything, I don't think there is
8 anybody in this room that objects to the dredging of
9 the marina. I think the objection is where the
10 spoils go.

11 MR. DOCKETY: Could you speak up,
12 Hal? I can't hear you.

13 MR. DUKES: I said I don't think
14 there is anybody in this room who objects to the
15 dredging of the marina. What the issue is is the
16 spoils.

17 And my client has spent a significant
18 amount of money and time and energy and analysis to
19 make sure that these spoils will not harm any single
20 party in this development, nor will they have any
21 impact on the erosion and the adjoining property.

22 So, in that regard, we have experts
23 who are going to discuss this with you in a minute.

24 But the important thing is that we



1 believe that keeping this a viable marina increases
2 the property values in the development and provides
3 for a recreational facility that is becoming harder
4 and harder to find, and that is basically a boat
5 launch or a boat area, the dock area of the marina.

6 And that's why it's so important that
7 we continue to try to preserve this resource. It's
8 very important on that.

9 In that regard, I will let my client
10 go over the application and the things he has done,
11 and then we will have our expert discuss it with
12 you.

13 And then, if there is anybody in this
14 room who is in favor of this, we hope that you speak
15 up and state your name and the reasons.

16 Thank you.

17 MR. CANDELORO: Thank you, everyone,
18 for attending tonight. Just tell me when the timer
19 starts.

20 MS. FISKE: No, no. The Applicant
21 gets the same amount as the Department.

22 MR. CANDELORO: Okay.

23 MS. FISKE: So you are fine.

24 MR. CANDELORO: All right. My name



1 is John Candeloro. I am the authorized agent for
2 Sargio Corporation.

3 Sargio Corporation owns and operates
4 the Bay Vista Marina and has for over 20 years. It
5 also owns Lot O, the disposal site for the
6 anticipated project for which we are meeting
7 tonight.

8 Greg and Lauren DeMichiel are the
9 officers of Sargio Corporation, and they are also my
10 parents.

11 After years of complaining from our
12 slip holders regarding the access into and out of
13 the marina at mid and low tide, we have decided to
14 start the permitting process to dredge the marina.

15 Although the cost of the improvement
16 far outweighs the money brought in each boating
17 season, we feel this project needs to be undertaken
18 for the betterment of the marina and the canal which
19 it accesses.

20 We have hired Evelyn Maurmeyer to
21 assist us with the permitting.

22 We filed permit applications with the
23 following entities: DNREC; Sussex Conservation, who
24 have approved the plan; and the U.S. Army Corps of



1 Engineers.

2 After the public notices were sent
3 out, we met with Mr. and Mrs. Shaubach to address
4 their concerns regarding the project.

5 Number one, water drainage onto his
6 lot after we put materials onto Lot O. Our solution
7 was to grade the swale directing all water away from
8 his home after the site is stabilized. At that
9 time, the solution was accepted by Henry.

10 Number two, temporary spoils
11 stockpile in the marina. Our solution was to
12 eliminate the temporary stockpile completely and
13 only have the material on Lot O. At that time,
14 Henry accepted that solution.

15 Number three: The temporary driveway
16 going to Lot O was too high, purportedly holding
17 water back on the Shaubach's lot. Our solution was
18 to remove the temporary driveway the following week
19 it was completed.

20 Number four, Henry Shaubach had
21 concerns with possible contaminants from the spoils
22 and wanted us to have a lab to conduct testing from
23 five different sample locations.

24 Our solution was to hire EnviroCorp



1 to do exactly what was asked of us. All samples
2 came back non-detectable or at acceptable levels.

3 After we left the meeting with the
4 Shaubachs on October 25th, we felt confident that we
5 had addressed all of their concerns. And once we
6 received the contaminant testing results, we
7 believed that there would no longer be any further
8 dissension from Mr. Shaubach regarding this project.

9 It should be noted that also in
10 attendance at the October 25th meeting were George
11 Geatz and Tyler Brown of DNREC, as well as a few of
12 our slip holders.

13 After the proposed dredging of the
14 project is completed, the elevation of Lot O will
15 only be a couple feet higher than it is today.

16 It's my feeling that the more
17 accessible marina will only increase the value of
18 the surrounding homes in the community.

19 So this project not only benefits our
20 private marina and its slip holders, but also
21 benefits the Bay Vista community as a whole.

22 Lot O is an approved, single-family
23 building lot and which provides us the right to
24 raise the grade above the 100-year flood level. We



1 could put a house on this lot tomorrow if we wanted
2 to.

3 In conclusion, we have done
4 everything that was asked of us and have followed
5 all proper permit applications for this project.

6 On behalf of Sargio Corporation and
7 our slip holders, we respectfully ask for you to
8 approve this project.

9 I also have a couple letters that
10 were sent to us that I would like to submit.

11 MS. FISKE: Let the record reflect
12 that I am in receipt of Sargio Corporation's
13 statement and also -- two letters?

14 MR. CANDELORO: Two letters.

15 MS. FISKE: -- two letters in support
16 of this project.

17 Evelyn?

18 MS. MAURMEYER: My name is Evelyn
19 Maurmeyer, and I am the environmental consultant who
20 prepared the permit applications for the proposed
21 project with the integrals provided by the grading
22 contractor, George Apple of Apple Marine
23 Construction.

24 My firm, Coastal and Estuarine



1 Research, which I'm the founder and president, was
2 established in 1981. I have got 38 years of
3 experience in these types of work in Sussex County.

4 My academic training includes a
5 master's and Ph.D. in coastal geology from the
6 University of Delaware.

7 So, as was stated, I prepared the
8 applications, all of the applications, not only the
9 Wetlands and Subaqueous Lands permit application,
10 but the U.S. Army Corps of Engineers application,
11 the Sussex Conservation District application, and
12 the Delaware Coastal Management Program Consistency
13 Certification.

14 The main point that I would like to
15 address is that Mr. Candeloro went above and beyond
16 the requirements of the applications, specifically
17 with regard to the chemical analysis of the material
18 that is going to be excavated and placed on what is
19 an existing spoil disposal site that's been used
20 previously for that.

21 I collected samples upon the request
22 of Mr. Shaubach. I transported them up to
23 Middletown -- excuse me -- to Harrington to
24 EnviroCorp., an environmental testing lab. They, in



1 turn, subcontracted some of the work to Seawall
2 Laboratory in Williamsport, Pennsylvania.

3 They analyzed 53 components of this
4 bottom sediment sample. And, as George had
5 mentioned, just a handful had levels that were
6 detectable. Most of the substances were not even
7 detectable.

8 Of the metal sample detected, I
9 contacted the lab manager, Mr. -- his name is
10 Mr. Ray, um, Ray Martrano. And he told me, as per
11 the results, I do not see anything that is alarming
12 to me or of concern to the data. It is quite common
13 to find metals in solid materials.

14 The material that is going to be
15 placed on the site is not going to be hazardous by
16 any means. It is going to be fairly innocuous
17 material.

18 Let's see. I guess, you know, that
19 is pretty much all that I wanted to stress, other
20 than we submitted all the necessary applications.
21 They have gone through very rigorous review.

22 If this permit is not approved, if
23 the dredging is not done, sedimentation will
24 continue in the marina, and it will eventually



1 become unusable by the many people who rely on that
2 marina as a location to moor their vessels and to
3 enjoy the natural beauty of the surrounding
4 waterways and environment here in Sussex County.

5 So I would like to ask you also to
6 approve the project and to express your support for
7 it.

8 Thank you very much.

9 MS. FISKE: Thank you. At this time
10 the public will be invited to comment. If you
11 would, please come to the front of the room, since
12 we do have a large crowd, to enable the court
13 reporter to be able to hear better.

14 Also, please remember each
15 commentator will get three minutes, and it will be
16 displayed up here on the screen so you can watch to
17 see how much time that you have left.

18 Before commenting, please state your
19 name for the record. And if it is also an unusual
20 name, please state it as well to help with spelling
21 for the court reporter.

22 I will go in order that people signed
23 in, and at the end I will ask for anybody else who
24 would like to speak. So, if you change your mind,



1 if you want to speak at the end, you are more than
2 welcome to do so.

3 My first one is Ms. Rankin as a maybe
4 speak. Would you like to speak?

5 MS. RANKIN: I will hold my comments
6 until later.

7 MS. FISKE: Okay. Mr. Shaubach?

8 MR. SHAUBACH: It will be Attorney
9 Hutt.

10 MS. FISKE: Okay. Mr. Hutt.

11 MR. HUTT: Good evening. For the
12 record, my name is David Hutt. I'm an attorney with
13 the law firm of Morris James.

14 This evening, as you just heard, I am
15 representing Henry and Phoebe Shaubach, who are
16 sitting right next to me here in the second row.
17 Also with them is their daughter and Mr. Shaubach's
18 brother.

19 They have asked me -- just for the
20 record, they have asked me to speak on their behalf,
21 which is why you will probably see the three-minute
22 timer go twice, I presume.

23 Yesterday afternoon I did submit a
24 letter on behalf of the Shaubachs, which I



1 understand has been accepted as part of the record,
2 based upon the comments we heard tonight and e-mail
3 which Ms. Fiske sent to me earlier this afternoon.

4 This evening I'm also going to
5 provide a copy of a Power Point presentation which
6 my client has assembled to help the hearing officer
7 and the Secretary as he makes his decision regarding
8 the disposal site that is proposed for the dredged
9 spoils from the Bay Vista Marina basin.

10 I want to start by noting that I
11 think Mr. Dukes was correct about one thing that he
12 stated, and he confirmed it when he walked in and
13 asked me this question right before the meeting
14 started, which was he asked whether or not my client
15 objected to the dredging of the marina.

16 My client does not object to the
17 dredging of the marina and recognizes the importance
18 of having navigable waterways in eastern Sussex
19 County.

20 The objection that my client has on
21 this application, and the concerns that they had and
22 the meetings that they have had relate to where the
23 disposal site for the dredging spoils which are
24 going to be removed from the basin of the marina,



1 as well as from the canal that connects the marina
2 to the canal, itself.

3 As shown in the application which you
4 just saw a few moments ago, the plan for the
5 location of these dredging spoils is to locate them
6 on what was referred to as Parcel O or Lot O, which,
7 of course, is a property that is immediately
8 adjacent to and right next to my client's property.

9 The Shaubachs have owned this
10 property since May of 1980, so they are coming very
11 close to having owned this property for 40 years.
12 They improved it.

13 They, in fact, have a well which is
14 situated on their property that is still the source
15 of water for them.

16 I think many people in Bay Vista are
17 not on individual wells for their site. The
18 Shaubachs are still on an individual well site.

19 You can see where that would lead to
20 a lot of concerns about potential contamination from
21 the spoil, the dredging spoils, themselves.

22 When the Secretary looks at the Power
23 Point presentation, the photos on the second and
24 third pages show the proximity of these locations to



1 their homes and the dredging spoil site.

2 The next seven to eight pages in the
3 presentation show that over the course of the last
4 several year years there have been several
5 improvements to the end of First Street, which is
6 where the properties are located, as most of you
7 know.

8 One of them was and is referenced in
9 the comments from Sargio Corporation, the
10 installation of an entranceway. And that, combined
11 with some utility structures for underground
12 utilities, the boxes for them that were placed on
13 the south side of First Street, that would cause the
14 drainage to shift, the stormwater drainage to shift,
15 and now the water that didn't used to pond on the
16 Shaubach property does pond on that property.

17 Of course, as most of you know, Bay
18 Vista was subdivided and created prior to the
19 rigorous stormwater management requirements that
20 exist today.

21 I often tell people for communities
22 of that age that stormwater in that time period was
23 reduced -- and you probably can confirm this -- was
24 based on common sense.



1 The fact is that water runs downhill.
2 So if you were to stand at the Sargio property or
3 the Shaubach property and look back up First Street
4 to the entrance of the community, you will see it's
5 higher there. And the water was intended to flow
6 down First Street and go into the canal, the
7 marshlands that are part of the Sargio property.
8 And that's the plan.

9 Since those improvements in 2014 and
10 2015 have taken place, the addition of the
11 entranceway onto Lot O, as well as those utilities,
12 water has begun to pond on -- it doesn't allow the
13 water to flow the way it has historically during the
14 ownership of this lot.

15 With that, of course, what's
16 proposed, as you saw during the presentation from
17 Mr. Geatz, is an earthen berm that is 3 to 4 feet
18 high, basically at the end of First Street.

19 You can imagine that, if the
20 installation of a driveway or entranceway and some
21 utilities cause ponding of water, that a 4-foot
22 earthen damn will cause even more ponding and even
23 more flooding of the Shaubach property. And that is
24 one of the primary concerns that they have.



1 The other primary concern that they
2 have regarding this matter is with respect to the
3 contaminants that are within the dredge spoils,
4 themselves.

5 If you were to look at DNREC's own
6 regulations, dredge materials are referred to as a
7 pollutant. So the baseline on this is that a dredge
8 material is a pollutant.

9 Obviously, the proximity of the
10 Shaubach's well to this causes there to be concern
11 that their source of drinking water will be
12 contaminated by these dredged spoils.

13 Historically, the Lewes Rehoboth
14 Canal has had numerous industrial sites less than
15 half a mile from the location of the entrance to the
16 marina.

17 There is a Brownfield site, the
18 Oyster House Village site. In addition, of course,
19 there is a long-time pollutant that is still
20 directly across the canal, almost directly across
21 the canal from this, which is the Rehoboth Beach
22 Sewer Plant, which, of course, they are hoping to
23 take offline and eventually send the wastewater out
24 into the ocean instead of into the canal, but that



1 source of pollution continues.

2 Again, it appears to my clients that
3 this plan is one of economy, to save Sargio
4 Corporation the expense of having to move these
5 spoils to a site that is not located immediately
6 adjacent to this residential neighborhood, to the
7 Shaubachs' property, and also to their source of
8 drinking water.

9 The Shaubach's would ask that the
10 application be denied until all the proper safety
11 precautions have been taken into account to make
12 sure that the public, including the neighboring
13 property owners, are protected from flooding and the
14 pollution of their property.

15 MS. FISKE: Mr. Hutt, did you say you
16 had an exhibit?

17 MR. HUTT: Oh, I'm sorry. Thank you.

18 MS. FISKE: Thank you. Let the
19 record reflect that Mr. Hutt has offered an exhibit
20 into the record labeled Hutt Exhibit Number 1.

21 Next on the list is John Candeloro --

22 MR. CANDELORO: I spoke.

23 MS. FISKE: -- who has already
24 spoken. David Cowles? And I apologize for



1 butchering names.

2 MR. COWLES: I'm David Cowles. And
3 I'm here with my wife, Kathy. We would just like to
4 add our voices.

5 We think this marina is a very
6 valuable part of the Bay Vista community. And I
7 know a lot of people who purchased homes there
8 purchased their homes because there was a marina
9 there. We are certainly included in that group.

10 And we have lost a lot of really good
11 boating days over the past several years because of
12 the silt in the marina. There were days where we
13 couldn't get out of the slip, and there were days
14 you might be able to get out, but you had no
15 confidence you'd get back, which would be worse.

16 So you've got a situation, as we've
17 heard, that is not going to get better without a
18 remedy. In fact, it will only get worse to the
19 point that the marina is no longer usable at all.

20 And I have a really small boat in the
21 marina, just a 20-footer. I'm very handicapped in
22 terms of getting in and out.

23 So we would very strongly support the
24 dredging operation. And we ask that the Department



1 consider the long-term benefits to the community of
2 undertaking this. Thank you.

3 MS. FISKE: Thank you. Nick Lillie?

4 MR. LILLIE: My name is Nick Lillie.

5 I have been a slip holder in Bay Vista since 2010.

6 I would like to continue to use the marina down
7 there.

8 I watched it fill in for the past
9 eight years. And I would like to keep making
10 memories with my family down there.

11 I'm for the project and for the
12 dredging of the marina. Thank you.

13 MS. FISKE: Thank you. Ed Grabowski?

14 MR. GRABOWSKI: Hi. I'm Ed
15 Grabowski.

16 I'm a boater, but I'm also a
17 fisherman. I have seen the marina decline
18 throughout the years. I think it's because of the
19 silt.

20 Years ago, we had natural mussels
21 growing all along the banks, which was a barrier for
22 erosion. With that, we had multiple schools of
23 baitfish come in, your blue mullet, your spot, your
24 herring, your little shrimp. It's all gone.



1 Okay? Because the beginning of the
2 food chain with these mussels and with the erosion
3 being built have killed a lot of these mussels.

4 What we are coming back now with is
5 wild oysters. They are beginning to show up. But
6 they have nothing to cling to. They are being
7 washed up by the boats and gone. It's out on the
8 main canal. There is nothing going to eat out of
9 them, but it's a good sign.

10 So I think it's a win for the boaters and
11 for the sportsmen. So that's my comment.

12 MS. FISKE: Thank you. Mr. Furr, I
13 believe.

14 MR. FURR: My name is Dan Furr. I
15 live on Basin Street in Bay Vista.

16 I'm not a lawyer, and I'm not a
17 scientist. I'm just a homeowner.

18 We moved to that community in 1998,
19 the marina being part of our decision to move there.

20 Now, we have seen the marina decline.
21 Sargio went in there when they bought it, and they
22 fixed it up beautifully. But they have no control
23 over Mother Nature.

24 I went to Michael last year and told



1 him that I know he thought I was a whatever, but I
2 said to him last year, I said, "I thought this
3 marina came with water, and this year it's worse."

4 Now, from what I have heard, I mean,
5 everybody wants to dredge. But, in my opinion, the
6 only dissenting opinion was the flooding. And I
7 thought Sargio addressed that in sawing a swale. So
8 where is the flooding?

9 The whole Rehoboth Bay floods. And
10 if they are going to address the water coming down
11 the street with a swale, then where is the
12 complaint?

13 That's my comment. Thank you.

14 MS. FISKE: Thank you. Wayne
15 Brzotic. I can't quite read it. I apologize.

16 MR. BRZOSIC: My name is Wayne
17 Brzotic. I bought my home and lived in Bay Vista
18 since 1993, and I am for this very needed project.

19 I have extensive experience in the
20 boating industry. I have held a U.S. Coast Guard
21 captain's license since 1985 and used to run two
22 charter fishing boats out of Lewes.

23 After I moved on from the business in
24 '94, I had a 30-foot inboard with a three and a half



1 foot draft. I docked it in Bay Vista. I never
2 experienced any trouble getting either in or out of
3 the marina regardless of the tide. This is 1994.

4 My theory as to how the mud and
5 sediment buildup got as bad as it has in the marina
6 is from the growing boater traffic in the
7 Rehoboth/Lewes Canal.

8 Many of these boaters do not follow
9 the no wake rule and will continue at exuberant
10 speeds and, thus, push debris, sand, and mud into
11 the mouth of the marina, which has thus led to the
12 marina patrons only to be able to have limited use
13 on half tide or higher tides.

14 Since I moved to Bay Vista in '93, I
15 have raised two daughters and taught them to respect
16 and enjoy the water as much how I have when I have
17 grown up.

18 I chose this neighborhood because my
19 upbringing was on the water, and I knew I wanted the
20 same for my daughters and, hopefully, grandkids.

21 Having a boat in this community
22 marina has given me irreplaceable time with family
23 and friends. And I wish to continue these
24 experiences, especially I'm thinking about retiring



1 in the next few years.

2 Also, 30 percent of my family's food
3 comes from crabbing, fishing, clamming, which has
4 made use of the marina non-negotiable. I fear that,
5 without dredging, we will lose access to this
6 convenient and affordable resource.

7 The marina is a resource for not only
8 slip holders. I have, unfortunately, seen the
9 marina used for emergency medical vehicles, for
10 members of the marina as well as non-members injured
11 in the Rehoboth Bay to get medical attention.
12 Actually, there was an airlift that actually saved a
13 guy's life.

14 The marina also has potential for
15 marine police to use to monitor boat activity.

16 In addition, there is a lot of
17 tourists going up and down the canal on paddle
18 boards and kayaks. They duck into the marina to
19 explore or rest, not knowing the dangers of falling
20 in at low tide and being swallowed by the soft mud.

21 This could be a human life risk and
22 also a wildlife risk with the soft mud if somebody
23 falls in there.

24 Almost all marinas over time need



1 maintenance.

2 With all said, I am for this dredging
3 project. And I want to thank Sargio for the
4 generosity of wanting to maintain this affordable
5 state resource and the expense of the dredging.

6 Also you got to remember, you talk
7 about spoilage. Just remember, they are now selling
8 oysters out of the Rehoboth Bay only a mile from
9 where the mouth of the canal is, so there really
10 isn't anything there. That's my comments.

11 MS. FISKE: Thank you. Rob Bosack?

12 MR. BOSACK: My name is Rob Bosack.
13 I live in the Bay Vista neighborhood on Third
14 Street, at the end of Third Street.

15 I would just like to say we
16 wholeheartedly support the project, the marina. The
17 presence of the marina is a big part of the reason
18 why we chose that area to move to. And it's the big
19 part of the reason why we love being there.

20 It's just a great place to gather,
21 enjoy nature and everything that -- the beautiful
22 surroundings and the waterways of Sussex County and
23 access to the ocean. It's just a great resource for
24 our neighborhood and the slip holders to take



1 advantage of the marina.

2 I'm around the neighborhood a lot,
3 and I live on the lower end of the street, just two
4 blocks over or one block from the marina from Basin
5 Street and another block over from the complainant's
6 home.

7 And the ends of all those streets get
8 water when it rains. And it doesn't have to rain a
9 lot. All the water runs down the street, and it
10 puddles.

11 I walk my dogs through the
12 neighborhood all the time. And anytime it rains, I
13 have got to divert -- I have got to go uphill. I
14 can't walk anywhere down in the low traffic area
15 because of all the water that's down there.

16 I saw the excavation work that John
17 and Michael took on at the end of First Street
18 there, and I have not personally seen any water
19 ponding up down at the end of First Street since
20 they have kind of taken over.

21 That's it. We support the project.

22 MS. FISKE: Thank you. Gary Bailey.

23 MR. BAILEY: My name is a Gary
24 Bailey. I'm one of the fortunate people that rent a



1 slip in Bay Vista.

2 My daughter lives on First Street at
3 the end. I did see a lot of water down that area,
4 but usually it's in the Bay Vista area, itself,
5 where the boats stay. When it floods, it usually
6 goes there.

7 But what I want to say is, as a life
8 member and past president of the Rehoboth Beach Fire
9 Company, I know they use that marina for
10 emergencies.

11 The latest was 2018, September, when
12 they rescued two kayakers. And sometimes that time
13 is of the essence. And they utilized that Bay Vista
14 to rescue the boys.

15 Thank you.

16 MS. FISKE: Thank you. Beth Bozman?

17 MS. BOZMAN: My name is Beth Bozman.
18 I live on First Street, about six houses down.

19 And I have no safety concerns about
20 dredging, and I live nearby.

21 I also have a boating slip. I have
22 had a boat there for about ten years. And it just
23 seemed to decline, and you really couldn't get
24 anything in and out of there. You just can't get



1 out unless it's high tide.

2 Finally, I'm also a realtor. And one
3 of the first -- I've sold a number of properties in
4 Bay Vista. And the first question that people
5 ask -- and if it's not the first, it's the second --
6 "How do you get in the marina?"

7 So it really, really contributes to
8 the value of that community.

9 And then I guess my only other
10 observation is I've never seen water flow from First
11 Street down to the marina. It always flows from the
12 canal up.

13 So I strongly support the dredging.

14 MS. FISKE: Thank you. And the last
15 name I cannot make out. It's the last person who
16 signed in.

17 THE REPORTER: Freebery?

18 MR. FREEBERY: Freebery. Sorry about
19 that.

20 MS. FISKE: No, no, not a problem.

21 MR. FREEBERY: Good evening,
22 everybody. My name is Mike Freebery. We live in
23 Rehoboth Beach Yacht and Country Club. We moved
24 down six years ago.



1 We were new to boating. The first
2 thing we did when we got down here was get on the
3 waiting list for that marina. We liked it a lot.

4 We have a 21-foot pontoon boat which
5 has a draft of about a foot, foot and a half.
6 That's all it needs to lift it up. We are in slip
7 number six.

8 The way I can describe that marina,
9 it's a beautiful marina. It's well kept. But it's
10 not so much the silting; it's almost like a mud
11 flat.

12 When it's low tide there, literally
13 you feel like your boat is sitting on top of the
14 mud. Until you get out into the channel where it
15 drops down to about 9 feet, it's basically pudding.
16 You can't have your rotor in the water. If it's in
17 the water at all, it's just churning. The best way
18 to describe it is it's like driving through pudding.

19 So something really seriously needs
20 to be done. Not only for that, but I think also the
21 safety concerns. I was fearful of ever getting
22 stuck trying to get out of the boat to try to push
23 it or pull it, because I have a feeling you will
24 sink below your neck with the silting that's in



1 there.

2 So it's a bad situation. I recognize
3 nobody wants to see a spoils pile. But it sounds
4 like to me that the people that know best at this
5 are working on it. I think they are going to be
6 able to relieve the concerns.

7 I have no financial interest. I
8 don't know the parties involved. But something
9 seriously needs to be done, because I think the
10 marina is going to become just completely useless at
11 some point if it's not dredged.

12 So thank you for your time. Have a
13 good night.

14 MS. FISKE: Thank you. Now I am
15 circling back around to Kim. Would you like to
16 speak?

17 MR. DOCKETY: I signed up late.

18 MS. FISKE: Oh. After she is done,
19 we will get anybody else.

20 MS. RANKIN: My name is Kim Rankin.
21 My parents are the Shaubachs.

22 I'm not an attorney either, and I
23 have never played one on TV.

24 As stated earlier, the objection to



1 this project is not the dredging; it's wanting to
2 make sure that something my parents worked very hard
3 for over their lives and that I was able to enjoy
4 growing up is their place at the shore.

5 And so I think it's important that
6 any dredging that's done is done properly and it
7 follows all the proper rules and regulations.

8 Growing up, we had a boat. I only
9 ever remember having a boat and going to the beach.
10 I know a lot of people vacation in the mountains.

11 I learned to swim jumping off our
12 boat. So we are boating wonder people. So that's
13 not the objection here.

14 I think the one thing that has been
15 mentioned maybe once or twice is also important.
16 The application I saw indicated that there are no
17 private wells.

18 My parents do have a private well on
19 the property, and that's how their drinking water is
20 supplied to the home.

21 So I would just encourage you to look
22 at the letter submitted by Attorney Hutt carefully
23 and also the presentation that was submitted as the
24 exhibit.



1 And, again, we are not against the
2 dredging. We would just like to see anything that's
3 done is done properly.

4 Thank you.

5 MS. FISKE: Thank you. And, sir,
6 would you like to speak, as well?

7 MR. DOCKETY: Yeah. I don't have
8 much more to add. Everybody said everything.

9 MS. FISKE: Can you state your name
10 for the record, please?

11 MR. DOCKETY: Grant Dockety. I have
12 lived in Bay Vista since 1976. I bought my first
13 lot in Bay Vista in 1980. And I bought the lot in
14 Bay Vista because I wanted a place to keep my boat.

15 I grew up on the water. And I knew, when
16 my parents died, we would have to sell their house,
17 so I always wanted to have a place where I could
18 keep my boat.

19 So when I found Bay Vista, I said I got to
20 have a lot here, because it was -- it was advertised
21 as a marina community. There was actually a sign as
22 you drive into Bay Vista on the right, right near
23 the island, that said "Bay Vista, A Marina
24 Community."



1 So that's why I bought my lot. And I
2 always wanted a place to keep my boat.

3 And this might be more of a legal thing.
4 But if everybody who owns a lot in Bay Vista, if
5 they read their deed restrictions, it mentions, in
6 90 percent of the deed restrictions, it mentions the
7 yacht basin, the basin, the marina.

8 So that right there tells you that Bay
9 Vista was intended to be a marina community.

10 If you don't have water, you don't have a
11 marina. So, to me, it makes sense that you have to
12 dredge it to have a marina community.

13 And I want to keep living in Bay Vista.
14 But, most of all, I want to keep boating.

15 So if I can't -- if I can't keep my boat
16 in Bay Vista, I might want to move from Bay Vista.
17 So that's why I think we need to have Bay Vista
18 dredged.

19 And I'm sure the owner of the marina will
20 do all he can to please those who object, because he
21 has been a great guy so far.

22 Thank you.

23 MS. FISKE: Thank you. At this time
24 would anyone else wish to speak? And please state



1 your name, as well.

2 MS. GRABOWSKI: Cindy Grabowski.

3 We have been in our lot since 1969.
4 My in-laws bought a place, and we have had our boat
5 ever since the house was built. We had the lot way
6 before then.

7 When it was built, we did have a well, and
8 we didn't have to move our well until we built a
9 house.

10 And our house is just two years old now.
11 And we had to get rid of our well to get city water.

12 However, we are not that far way from the
13 marina.

14 Just a couple weeks ago, my husband came
15 home from taking the dog out, and he said, "There is
16 no water in the marina." And I said "What?" I
17 couldn't believe he told me there was no water. I
18 took about 25 pictures. And, if I'm not mistaken,
19 we had that submitted.

20 I was just shocked that I have never,
21 ever, from being there for over almost 40 years,
22 that I have not seen any water in that marina.

23 We, in the past four years, we have not
24 been able to put our boat in the water because of



1 not being able to -- I mean, my husband kept saying,
2 we are not doing it, we are not getting a new boat,
3 because there is no water to put our boat in.

4 So we didn't get our water. We didn't get
5 a new boat or anything. We didn't get our boat.
6 I'm sorry. We didn't get a new boat, because we
7 couldn't put it in the water.

8 And about the flooding: When we get the
9 flooding, all of that water, which is pollutants,
10 supposedly, too, if that's what you want to say,
11 that comes into, you know, comes up past Crazy Lane.
12 And so that not only gets into that, into the zero
13 lot, whatever you are calling it; it goes further.

14 So I don't think that that should affect
15 anything any worse than what the dredging would do.

16 Therefore, I'm just saying that I would
17 like to let you know that I am in total support of
18 the dredging.

19 And I do understand, but there are things
20 that we all can do about this.

21 Thank you.

22 MS. FISKE: Thank you. Would anyone
23 else like to offer comments?

24 Okay. I am going to keep the record



1 open until Monday, March 18th, at 4:30 p.m. So if
2 anyone would wish to offer any additional written
3 comments, they may do so to me.

4 This hearing is hereby adjourned.

5 (Concluded at 6:50 p.m.)

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CERTIFICATE

I, Lorena J. Hartnett, a Notary Public and Registered Professional Reporter, do hereby certify that the foregoing is an accurate and complete transcription of the proceeding held at the time and place stated herein, and that the said proceeding was recorded by me and then reduced to typewriting under my direction, and constitutes a true record of the testimony given by said witnesses.

I further certify that I am not a relative, employee, or attorney of any of the parties or a relative or employee of either counsel, and that I am in no way interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on this 19th day of March 2019.



Lorena J. Hartnett
Registered Professional Reporter

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