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Delivered Via Electronic Mail

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Coastal Resources Management Council
Attn: Raymond Coia, Chairman
Oliver Stedman Government Center, Suite 3
4808 Tower Hill Road
Wakefield, RI 02879-1900

Dear Chairman Coia,

The proposed Westerly Spring Avenue Extension (SAE) coastal Right-of-Way (ROW) is one of the most consequential public access cases in recent years. On November 4, 2025, nearly 5 years after CRMC began to consider the designation of Spring Avenue, CRMC finally began the evidentiary hearing. However, since last November, no further hearings have been held, and to date, CRMC has not scheduled any further hearings after the cancellation of the January 6, 2026 hearing a month ago.

Save The Bay is deeply concerned that CRMC's persistent and inexcusable delay in hearing this case will severely jeopardize the agency's ability to fairly hear all the evidence pertinent to designation of this ROW as required by law. This prolonged delay not only constitutes a breach of the agency's statutory obligations, but also undermines the legislative purpose of ensuring the proper designation of meaningful and enforceable public access to the coast. There are steps, outlined below, that can be taken to put this case on a more timely, expedited track.

The CRMC Council's Subcommittee on Right-of-Ways is charged with the responsibility to schedule and hold these hearings and to make determinations regarding public access in a timely and orderly manner. In the SAE matter, the parties propose to present documentary and testimonial evidence regarding, among other issues, the use of the SAE over many decades. At last count, the parties propose to present over 40 witnesses to address the standard set by the RI General Assembly for the Council to designate a ROW. R.I. Gen. Laws § 46-23-6 (5)(vi).

At its 3-hour hearing on November 4, 2025, the subcommittee heard opening arguments and the direct testimony of only one witness out of the 40 scheduled witnesses, with cross-examination of that witness held in abeyance until the "next" hearing. At that rate, or even if the subcommittee were able to fully hear direct and cross-examination of one witness per hearing, it would take 40 hearings for the parties to make their cases on this one ROW. Conservatively, if the subcommittee could hear the full testimonial evidence of 2 witnesses per hearing, it would still take 20 hearings to get through the evidence – and that is only if the

hearing was not suspended or held up to due to the opponents' propensity for interjecting interlocutory appeals or employing other delay tactics. Even if CRMC scheduled one of the 20 hearings every month, it would take nearly two years to hear this one case – or if it could schedule this case with 2 hearings each month, it would still take at least one year to hear this case. This does not account for the fact that this one hearing could conceivably dominate the full attention and time of the CRMC Subcommittee on Right-of-Ways, eliminating, or severely constraining, its ability to hear a single other ROW case.

This undermines the ROW designation process as a whole - and certainly for the just and timely adjudication of the SAE matter. The SAE ROW designation process began nearly 5 years ago, and opponents to this ROW have used the lack of an efficient scheduling process to their advantage and will likely continue to do so. This is a distinct disadvantage to the interests of the public and an abrogation of CRMC's obligation to designate public ROWs to Rhode Island's public trust beaches and tidal areas.

Failing to schedule successive and timely hearings may cause real and irreversible harm to the ability of the state to make a credible and lawful determination of the SAE ROW. Rights-of-way cases depend on time-sensitive evidence, including witness testimony, historical usage patterns, physical markers, and documentary records. As months and years pass, witnesses relocate or pass away, memories fade, physical evidence is altered or destroyed, and relevant documents become increasingly difficult to locate. These losses prejudice the public's ability to establish long-standing access rights, and compromise the integrity of the administrative process itself.

Further, with the impending, legislatively-mandated March 1, 2026 deadline to change the composition of the Council, the composition of the Subcommittee on Right-of-Ways may change. This could cause further delay and threaten the ability of the subcommittee to fully hear this case with the current members of the subcommittee. In a similar matter where a board was charged with hearing evidence, when there was a "substantial change" in the board's membership, the RI Superior Court required the board to start over and conduct a new hearing. See *Corporation Service, Inc., et al. v. Zoning Board of Review of the Town of East Greenwich et al.*, 330 A.2d 402, 403 (1975). This potential outcome, and the current trajectory of this lengthy case create the real potential for delay that could be caused by any subsequent court appeals, and delay the designation of this one ROW well past the lifetimes of those who are critical to providing the evidence necessary to adjudicate this matter.

Save The Bay offers these suggestions to address the ROW designation roadblocks presented both by the lack of scheduling and the resource intensity of the current SAE matter:

1. Pre-schedule consecutive hearings over several months, meeting at least 1-2 times per week (with 40 witnesses, meeting 1 time per week could still take nearly one year);
2. End scheduling "by consensus" and base scheduling on the availability of the location and the subcommittee members only; require court excuses to support any attorney request to be excused from a pre-scheduled hearing; this will reduce scheduling conflicts and the abuse of using "counsel unavailability" to drive delay;

3. Establish a strict schedule (not unrealistic where 40 witnesses are proposed) for each witness's direct and cross-examination (and redirect examination), and require the parties to adhere to the schedule, making reasonable allowances where necessary to address questions from the subcommittee; and/or
4. Consider providing written witness statements to stand as the witnesses' direct testimony, subject to cross-examination and redirect examination at the hearing, to preserve the testimony of witnesses who may forget critical facts, relocate or be otherwise unavailable during the lengthy proceedings.

Public beach access is not an abstract policy goal—it is a legally protected right that requires active stewardship by the agency entrusted to protect it. When hearings are indefinitely postponed, the effect is to deny the public a forum to vindicate those rights, while effectively rewarding inaction and delay.

Save The Bay respectfully but firmly urges CRMC's Subcommittee on Right-of-Ways to immediately take concrete steps to consecutively schedule the pending SAE hearings, publish a clear timetable for future proceedings, and ensure that this matter be addressed without further unnecessary delay. Absent prompt action, the agency risks continued statutory noncompliance and the erosion of public trust in its ability to carry out its mandate.

Thank you for your attention to this urgent matter.

Sincerely,



Topher Hamblett
Executive Director

cc: The Hon. Peter F. Neronha, Attorney General
Mr. Jeffrey Willis, Executive Director, CRMC
Attorney Anthony DeSisto, CRMC Counsel