

STATE OF RHODE ISLAND  
SUPREME COURT

IN RE: REVIEW OF PROPOSED  
TOWN OF NEW SHOREHAM PROJECT  
PURSUANT TO R.I. GEN.  
LAWS § 39-26.1-7

No. 10-272 - M.P.  
No. 10-273 - M.P.  
(Consolidated)

**BRIEF OF PETITIONER CONSERVATION LAW FOUNDATION**  
**REGARDING STANDING**

On Statutory Writ of Certiorari to the Public Utilities Commission  
PUC Docket # 4185

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March 10, 2011

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## I. INTRODUCTION

The original Long Term Contracting Statute (LTC Statute) was designed to facilitate development of new renewable energy resources in Rhode Island. The desire to promote renewable energy development in Rhode Island grew out of the realization that Rhode Island needs to find ways to respond to the threat of climate change and an understanding that by reducing our reliance on fossil fuels the State could stimulate economic development and growth. The formation of public policies that facilitate renewable energy development is critically important if society is to respond urgently and responsibly to the threat of climate change. The controversial 2010 Amendments to the State's LTC Statute, R.I. Gen. Laws § 39-26.1-1, et seq., undermine the State's ability to address this most serious of all environmental issues.

CLF has been an environmental organization working in New England since 1966. With members in all of the New England states, including Rhode Island, CLF works to find solutions to the most pressing environmental problems affecting our members and all New Englanders. Climate change is the most pressing issue for our membership, and CLF's members are directly harmed by climate change. If CLF is denied standing in this case, the decision would also have a chilling effect on CLF and all similar organizations that advocate and litigate in multiple administrative and quasi-judicial forums for good renewable energy projects and sound environmental policies. Critically, the result of denying standing to CLF in this case would be that the PUC's August 16, 2010 decision will stand – completely unreviewed. This Court would, by such a decision, be announcing a precedent that the only the parties that have standing to appeal a PUC decision approving

a renewable energy contract are the developer and the utility that negotiated the proposed contract, agreed to the terms of the contract, signed the contract, and submitted the contract to the PUC for approval – parties that would never appeal a favorable decision.

Respectfully, this Honorable Court should take caution in making a ruling that would render such PUC decisions effectively unreviewable. By denying standing to CLF (and Toray and Polytop) this Court would bar the review of contracts worth hundreds of millions of dollars and would deprive parties to the quasi-judicial proceedings of the PUC their due process rights. Chadha v. INS, 634 F.2d 408, 431 n. 32 (9th Cir. 1980) (“When an administrative agency applies law in a quasi-judicial capacity, it does so under the constraints of due process . . . and of ultimate review by the courts.” [Emphasis supplied]), aff’d sub nom. INS v. Chadha, 462 U.S. 919 (1983).

Under well-established standing doctrine, CLF properly has standing in this appeal. First, CLF has organizational standing because CLF’s members suffer an injury in fact every time the State delays the efforts to respond to climate change by enacting piecemeal legislation that does not create the foundation necessary to build a strong renewable energy sector in Rhode Island. Second, even if this Court determines that CLF does not have organizational standing, under long-standing precedent of this Court, substantial questions of immediate and compelling public interest would be answered by a decision on the merits of this appeal. Third, denying standing to CLF would mean that there is effectively no appeal from the decisions of the PUC when the PUC approves a long-term contract for renewable energy. Such a result would work an unconstitutional deprivation of procedural due process. Finally, even if the Court were to find that CLF does not have organizational

standing, CLF should be allowed to proceed with its appeal on behalf of its members if Toray and/or Polytop are found to have satisfied this Court's standing requirements.

## II. FACTS

CLF incorporates by reference the "Facts" section of its November 22, 2010 Principal Brief (at pages 4-20).

## III. DISCUSSION

### **A. CLF Has Organizational Standing Because CLF Has Alleged an Injury in Fact on Behalf of Its Members.**

This Court has held that if a person whose standing is challenged has alleged an injury in fact resulting from a challenged statute, the standing requirement has been satisfied. R. I. Ophthalmological Soc. v. Cannon, 113 R.I. 16, 26, 317 A.2d 124, 129 (1974) (holding that Ophthalmological Society did have standing to challenge legislation that ophthalmologists alleged "had no reasonable relationship to the health and general welfare of the public").

While standing requires that the party bringing the action allege injury in fact, courts have granted organizations standing to maintain actions on behalf of their members who have suffered the injury. The U. S. Supreme Court has articulated the following three-part test to be used when resolving issues of organizational standing:

An association has standing to bring suit on behalf of its members when its members would otherwise have standing to sue in their own right, the interests at stake are germane to the organization's purpose, and neither the claim asserted nor the relief requested require the participation of an individual member in the lawsuit.

Friends of the Earth Inc. v. Laidlaw Env'tl. Servs. Co., 528 U.S. 167, 181 (2000).

This Court has concurred with this holding, adding the caveat that “mere ‘interest in a problem,’ no matter how longstanding the interest, is not sufficient by itself to render the organization ‘adversely affected’ or ‘aggrieved’ . . . .” Blackstone Valley Chamber of Commerce v. Public Utilities Comm'n, 452 A.2d 931, 933 (1982) (citing Sierra Club v. Morton, 405 U.S. 727, 739 (1972)).

The requirement that an aggrieved party demonstrate an injury in fact in order to maintain standing has not been applied as strictly when a party is seeking to advance or protect environmental interests as in other circumstances. The U.S. Supreme Court has held that “environmental plaintiffs adequately allege injury in fact when they aver that they use the affected area and are persons ‘for whom the aesthetic and recreational values of the area will be lessened’ by the challenged activity.” Friends of the Earth, Inc., 528 U.S. at 183 (citing Sierra Club, 405 U.S. at 735).

CLF became involved in these cases because of CLF’s long-standing interest in issues related to climate change. Affidavit of Louise Durfee, Esq. (Durfee Affidavit) ¶¶ 8-10.<sup>1</sup> Indeed, CLF may be the only party in these cases whose primary interest is climate change. In these cases, CLF argues, in part, that the 2010 Amendments to the LTC Statutes are unconstitutional because they violate the doctrine of separation of powers (CLF’s November 22, 2010 Principal Brief, at 32-47), and that therefore those 2010 Amendments do not serve the State’s overarching interest in quickly developing renewable energy to combat climate change. See Massachusetts v. EPA, 549 U.S. 497, 521 (2007) (“The harms associated with climate change are serious and well recognized”); see also id.

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<sup>1</sup> The Durfee Affidavit is attached at Tab A.

at 522 (holding that Massachusetts, CLF, and other parties had standing to pursue a climate change lawsuit against the EPA).

But, CLF does not assert that it is our long-standing interest in the climate change issue alone that allows the organization to maintain its standing. CLF also alleges that its members will be directly and adversely affected by climate change and that this potential for direct and immediate impact on our membership requires that CLF participate in litigation concerning how the State advances renewable energy projects and policy.

CLF members, including Thomas P. I. Goddard, own property in Rhode Island that stands to be inundated by sea level rise caused by climate change. Affidavit of Thomas P. I. Goddard (Goddard Affidavit), ¶ 4.<sup>2</sup> CLF members, including Mr. Goddard, use recreational facilities such as wildlife refuges that stand to be inundated by sea level rise caused by climate change. *Id.*, ¶ 5. CLF members, including Mr. Goddard, are recreational boaters whose access to the ocean and to moorings are threatened by storm events that may become more severe due to climate change. *Id.*, ¶ 7.

In Massachusetts v. EPA, *supra*, the U. S. Supreme Court expanded standing doctrine further by ruling that the injury to a party does not have to be unique to the aggrieved party, but can be an injury that is widely shared. 549 U.S. at 522 (“that these climate-change risks are widely shared does not minimize” the interest of individual parties in the outcome of climate change litigation).

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<sup>2</sup> The Goddard Affidavit is attached at Tab B.

If this Court were to deny standing to CLF in this case, it would be denying standing to the only party primarily concerned with climate change, a key underlying purpose of all of Rhode Island's renewable energy mandates.

Moreover, CLF has invested significant staff attorney time over a period of years litigating LTC issues in a series of dockets before the PUC. Durfee Affidavit, ¶¶ 12-13.

CLF intervened as a party in Docket # 4111 and litigated the case fully. Id., ¶ 16. CLF did so in order to ensure that the PUC, in its first implementation of the new LTC Statute, placed an appropriately high value on the environmental benefits of renewable energy, including avoided carbon emissions. Id., ¶ 17. Docket # 4111 was a lengthy and complicated Docket, and CLF expended significant paid staff attorney time litigating the matter. Id., ¶18. Later, CLF intervened as a full party in Docket # 4185, the Docket that gave rise to these consolidated appeals. Id., ¶ 21-24.

CLF played a unique and important role in the PUC dockets that gave rise to these appeals. CLF was the only public-interest environmental organization to be a full party to these cases. CLF was the only party that sought to, and succeeded in, placing into evidence facts related to the value of avoided carbon emissions of Deepwater's proposed wind project. CLF presented full briefings to the PUC on relevant legal and factual issues in both Dockets. Id., ¶ 25.

In all, CLF has devoted over 1000 hours of paid staff attorney time to Dockets ## 4111 and 4185. Id., ¶ 26.

**B. This Court Has Discretion To Confer Standing Because of the Substantial Questions of Immediate and Compelling Public Interest Presented by This Appeal.**

These cases directly raise substantial questions about how Rhode Island best develops effective renewable energy policies. This is a matter of immediate concern for a number of reasons, including the need to respond to climate change. CLF, the Governor, and the legislative leadership may take differing positions on specific issues in these cases, but all are parties because all recognize that the appeal could answer questions of immediate and compelling public interest.

This Honorable Court has repeatedly “overlooked the standing requirement to determine the merits of a case involving substantial public interest.” Retirement Bd. v. City Council, 660 A.2d 721, 726 (R.I. 1995) (quoting Burns v. Sundlun, 617 A.2d 114, 116 (R.I. 1992)); Kass v. Retirement Bd., 567 A.2d 358, 360, n.1 (R.I. 1989) (permitting constitutional challenge by a taxpayer to legislation that permitted state legislators to receive pension benefit in excess of daily stipend specified in state constitution); Sennott v. Hawksley, 103 R.I. 730, 732, 241 A.2d 286, 287 (1968) (overlooking question of standing because of substantial public interest in having matter resolved); Lamb v. Perry, 101 R.I. 538, 541, 255 A.2d 521, 522-523 (1967) (permitting challenge by East Providence taxpayers to East Providence ordinance based on alleged violations of state Constitution and city charter).

If this Court were to rule that CLF (and Toray and Polytop) lack standing to pursue these appeals, the inevitable result would be that there would be no appellate hearing in any forum for any of the parties below who challenged the proposed contract between

Deepwater and Grid. The major public policy issues that brought the disparate parties and amici into the case would remain unaddressed and undecided by this Court.

Respectfully, this Honorable Court should embrace the opportunity to address and rule upon issues presented by this case so that major legal and factual issues guiding renewable energy development in Rhode Island are not left unresolved. Leaving these important issues unresolved would prolong regulatory uncertainty that hinders development of new renewable energy projects in Rhode Island. Environment Council's November 22, 2010 Amicus Brief, at 4.

Thus, even if this Honorable Court decides that CLF has not suffered the requisite injury in fact to confer standing, the Court should exercise its discretion – as it has done in the past – and permit the case to go forward so that critically important legal issues may be properly addressed and resolved.

**C. Failure To Grant Standing to CLF Would Result in a Constitutional Violation of Due Process Rights.**

Denying standing to CLF would mean that there is effectively no review from the decisions of the PUC when the PUC approves a long-term contract for renewable energy. Such a result would work an unconstitutional deprivation of procedural due process.

The PUC in this case acted in a quasi-judicial capacity. CLF's November 22, 2010 Principal Brief, at 27-28.

Legislative delegation of adjudicatory functions to administrative agencies acting in a quasi-judicial capacity passes constitutional muster only where there is an appeal of an adverse decision to a court; the absence of such an appeal violates due process. Chadha,

supra; Patlex Corp. v. Mossinghoff, 758 F.2d 594, 604-605 (Fed. Cir. 1985); Shoae v. INS, 704 F.2d 1079, 1083 (9th Cir. 1983) (“[I]t is settled law that Congress can delegate ‘quasi-judicial’ powers . . . to administrative agencies subject to judicial review . . .” [emphasis supplied], citing Atlas Roofing Co. v. OSHA, 430 U.S. 442, 450 (1977)); May Dept. Stores Co. v. Brown, 60 F. Supp. 735, 738 (W.D.Mo. 1945) (there is an underlying power in the courts to review quasi-judicial rulings of agencies even where no express right of review is written into the statute).

If this Court does not find that CLF has standing, there will be no review – and no opportunity for review – of the PUC’s decision approving the contract between Deepwater and Grid. Respectfully, this Honorable Court can avoid this unconstitutional result by finding that CLF has standing to appeal the PUC decision.

**D. Only One Appellant Needs Standing To Permit the Court To Hear the Case.**

Appellant Toray alleges that the contract in this case will unfairly require Toray to pay \$300,000 in excess electricity distribution fees in the first year of the PPA and \$7 million over the life of the contract. Toray and Polytop’s November 22, 2010 Brief, at 1.

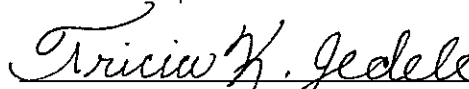
Where at least one of the appellants alleges sufficient facts to confer standing, the Court need not inquire as to whether other parties have standing as well. Massachusetts v. EPA, supra, 549 U.S. at 518 (CLF has standing to pursue lawsuit on greenhouse gas emissions because Massachusetts was found to have standing). This well-settled rule applies in the situation where, as here, there are more than one related lawsuit raising similar issues and those lawsuits are consolidated. Bowsher v. Synar, 478 U.S. 714, 721 (1986). The rule has particular force where the different parties all seek the same relief

against the same respondents. Sec'y of the Interior v. California, 464 U.S. 312, 319 (1984).

#### IV. CONCLUSION

WHEREFORE, for the foregoing reasons, CLF respectfully requests that this Honorable Court determine the CLF has standing to pursue these appeals.

CONSERVATION LAW FOUNDATION,  
by its Attorneys,



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#### Certificate of Service

I hereby certify that, on March 10, 2011, a copy of the within Memorandum was sent by first-class mail, postage prepaid to all of the following attorneys:

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# TAB A

STATE OF RHODE ISLAND  
SUPREME COURT

IN RE: REVIEW OF PROPOSED  
TOWN OF NEW SHOREHAM PROJECT  
PURSUANT TO R.I. GEN.  
LAWS § 39-26.1-7

No. 10-272 - M.P.  
No. 10-273 - M.P.  
(Consolidated)

Affidavit of Louise Durfee, Esq.,  
In Support of Brief of Conservation Law Foundation  
On the Issue of Standing

Louise Durfee, Esq., being first duly sworn on oath, deposes and states as follows:

1. I serve as the Chairperson of the Rhode Island Advisory Board of the Conservation Law Foundation (CLF).
2. I make this affidavit in complete good faith, and based upon my own first-hand knowledge of the facts recited herein. I make this Affidavit in support of CLF's brief to the Supreme Court concerning the issue of standing in these consolidated cases.
3. I am an attorney licensed to practice and practicing in Rhode Island. My Rhode Island Bar Number is 1179.
4. I have a decades-long interest in matters of environmental affairs, and I served from January 1991 to April 1994 as the Director of the Rhode Island Department of Environmental Management.
5. CLF is New England's leading environmental advocacy organization. Since 1966, CLF has worked to protect New England's people, natural resources and

communities. CLF is a nonprofit, member-supported organization with offices throughout New England. The Rhode Island CLF office is located at 55 Dorrance Street, Providence.

6. The Rhode Island CLF Advisory Board, which I chair, generally supervises the work of CLF's attorneys in Rhode Island. The Advisory Board is involved in making decisions about which environmental issues to have our staff address, and we help to decide what lawsuits CLF's Rhode Island attorneys should participate in.

7. There are different ways that CLF becomes involved in lawsuits. Sometimes CLF commences lawsuits as a party plaintiff to enforce environmental laws such as the Clean Water Act or the Clean Air Act. In other cases, CLF intervenes as a party in an administrative proceeding, as it did in the Champlin's Marina case, Champlin's Realty Assoc. v. Tikoian et al., 989 A.2d 427 (R.I. 2010), and in these cases.

8. Climate change is one of the major environmental issues that CLF generally and Rhode Island CLF in particular have been involved in for many years.

9. One of the ways the CLF generally and Rhode Island CLF in particular have sought to address climate change is through laws requiring electricity distribution companies to procure some portion of their electricity from renewable energy sources. CLF generally and Rhode Island CLF in particular have supported legislative enactment of statutes requiring renewable energy procurement. After such statutes have been enacted, we have often litigated before utilities commissions and elsewhere to enforce these laws.

10. More specifically, CLF generally and Rhode Island CLF in particular have supported legislative enactment of statutes requiring electricity distribution companies to

enter into long-term contracts (LTCs) for renewable energy, because such LTCs are critically important for developers of renewable energy projects to procure funding for their projects.

11. In 2005, CLF participated in PUC Docket # 3659, in which the PUC adopted implementing regulations for renewable energy pursuant to the state's first renewable energy statute, R. I. Gen. Laws § 39-26-1, et. seq. In Docket # 3659, CLF fought hard – and successfully – for a PUC rule requiring LTCs. The Rules that the PUC issued in December 2005, at the conclusion of Docket # 3659, did require some (though an unspecified amount) of LTCs.

12. In the following years, there were three dockets in the PUC which considered National Grid's (Grid) compliance with the LTC obligation: Docket # 3765 considered Grid's procurement of renewable energy in 2007; Docket # 3901 considered Grid's procurement of renewable energy in 2008; and Docket # 4012 considered Grid's renewable energy procurement for 2009. CLF participated in the first of these dockets by submitting comments, and CLF participated in the latter two of these dockets by formally intervening and becoming a full party to those proceedings. CLF devoted modest staff time to the first of these three Dockets, and CLF devoted significant attorney time and resources to the latter two of these litigations.

13. In each of the three PUC dockets cited in the preceding paragraph, CLF argued that Grid was failing to comply with the PUC's LTC requirement because Grid's three respective procurement plans included no LTCs whatever.

14. Despite CLF's arguments, in each of these three dockets the PUC approved Grid's proposed renewable energy procurement plans – in each case, without any LTCs.

15. After three failed litigation attempts, CLF (together with other stakeholders, including National Grid) urged the General Assembly to pass a new renewable energy statute that made clearer the obligation to procure renewable energy through LTCs. CLF devoted significant attorney time and resources to lobbying the General Assembly in support of such legislation. These lobbying efforts, by CLF and other stakeholders, were successful; in 2009, the General Assembly enacted the so-called LTC Statute, R. I. Gen. Laws § 29-26.1-1, et seq.

16. On October 15, 2009, the PUC opened Docket # 4111. This was the first PUC Docket opened under the then-newly enacted LTC Statute. CLF intervened as a full party in Docket # 4111, because CLF had a keen interest in ensuring that the new LTC Statute was properly implemented by the PUC.

17. In particular, CLF participated in Docket # 4111 to ensure that the PUC, in its first implementation of the new LTC Statute, placed an appropriately high value on the environmental benefits of renewable energy, including avoided carbon emissions. In Docket # 4111, CLF was the only participant that got evidence of the value of avoided carbon emissions admitted as record evidence.

18. Docket # 4111 was a large and complicated litigation, and CLF devoted significant attorney time and resources to litigating the Docket fully.

19. As Chair of CLF's Rhode Island Advisory Board, I led the Board's discussions held before CLF decided to intervene in Docket # 4111. During these discussions, the Advisory Board considered carefully whether or not CLF should intervene in the Docket. The Advisory Board approved CLF's participation in that Docket based on CLF's long-standing commitment to renewable energy issues and unique background in helping to shape the LTC Statute that gave rise to that Docket.

20. After the PUC turned down the proposed Power Purchase Agreement (PPA) in Docket # 4111, certain amendments to the LTC Statute were approved by the Rhode Island General Assembly. These amendments led to a new PUC Docket, Docket # 4185, which was opened by the PUC June 21, 2010.

21. The PUC Order that opened Docket # 4185 specified that all entities that had been full parties in the earlier Docket, # 4111, could intervene as of right in the new Docket, # 4185.

22. As Chair of CLF's Rhode Island Advisory Board, I once again led the Board's discussions before CLF decided to intervene in Docket # 4185. The Advisory Board once again approved CLF's participation in this new Docket, # 4185, for reasons that were quite similar to the reasons for its earlier decision to intervene in Docket # 4111. The Advisory Board again based its decision on CLF's long-standing commitment to renewable energy issues and on CLF's special and unique knowledge of the LTC Statute that gave rise to this Docket. In addition, this time the Board also had major concerns about how the 2010

amendments to the LTC statute had been crafted and the possible adverse long-term effects those amendments could have on the development of renewable energy in Rhode island.

23. Following this decision by the Advisory Board, CLF did, in fact, intervene as a full party in Docket # 4185.

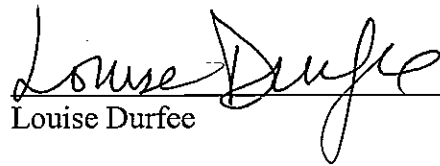
24. Docket, # 4185, was (like the earlier one) a large and complicated litigation. This time, special pressure was put on the PUC and the lawyers in the litigation by the highly compressed time frame required by the 2010 amendments to the LTC Statute. Once again, CLF devoted significant attorney time and resources to litigating the Docket fully.

25. Throughout both of these dockets, CLF played a unique and important role in the PUC litigation. CLF was the only public-interest environmental organization to be a full party to these cases. CLF was the only party that sought to, and succeeded in, placing into evidence facts related to the value of avoided carbon emissions of Deepwater's proposed wind project. CLF presented full briefings to the PUC on relevant legal and factual issues in both Dockets.

26. Based on contemporaneous time records kept by CLF attorneys, Rhode Island CLF attorneys devoted over 1,000 hours of staff time to these two PUC Dockets, ## 4111 and 4185. This included time spent in hearings, time spent in preparation for the hearings, and time spent researching and drafting appeal briefs in this Court.

27. As an attorney myself, and as Chair of the Rhode Island CLF Advisory Board, I know from my own first-hand experience that litigation is an expensive and time-consuming undertaking. As the Chair of the Advisory Board, I led the discussions in

which the Advisory Board considered whether or not to devote the required staff time to these two Dockets. Those discussions were protracted and thoughtful. CLF decided to participate in these two litigations because we believed that CLF had contributions to make to these Dockets that were both important and unique. Simply put, if CLF had not participated in these two Dockets, the voice of the environmental community would have been entirely absent.

  
Louise Durfee

STATE OF RHODE ISLAND  
COUNTY OF PROVIDENCE

Subscribed and sworn to me before me this 8<sup>th</sup> day of March 2011.



Print Name of Notary: JERRY ELMER

My commission expires: 4/16/2014

# TAB B

STATE OF RHODE ISLAND  
SUPREME COURT

IN RE: REVIEW OF PROPOSED  
TOWN OF NEW SHOREHAM PROJECT  
PURSUANT TO R.I. GEN.  
LAWS § 39-26.1-7

No. 10-272 - M.P.  
No. 10-273 - M.P.  
(Consolidated)

Affidavit of Thomas P. I. Goddard  
In Support of Brief of Conservation Law Foundation  
On the Issue of Standing

Thomas P. I. Goddard, being first duly sworn on oath, deposes and states as follows:

1. I am a member of the Conservation Law Foundation (CLF) and have been a member since approximately 1993. I live at 12 Leroy Avenue, Newport, Rhode Island. I am a business man; I have not been trained as a scientist.

2. I make this affidavit in complete good faith, and based upon my own first-hand knowledge of the facts recited herein. I make this Affidavit in support of CLF's brief to the Supreme Court concerning the issue of standing in these consolidated cases.

3. My family owns historic property in the Point Section of Newport, Rhode Island, specifically at the southern end of the Point Section. In recent decades, and most recently during the past year, this area has flooded during storms and periods of heavy rainfall. If storm events become more severe due to climate change, my family property stands to be severely affected.

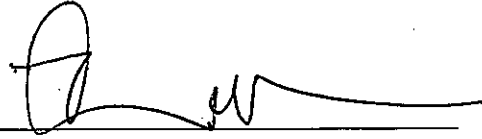
4. This family property lies one half block from Newport Harbor and the ocean. In the event of sea level rise due to climate change, my family property stands to be severely affected. By "severely affected," I mean that my property would be under water.

5. There has already been street flooding during storms on the streets in the immediate vicinity of this property. If storm events become more severe due to climate change, my family property stands to be severely affected.

6. My family and I all use the Sachuest Point National Wildlife Refuge for recreational purposes. The Sachuest Point National Wildlife Refuge is in the Town of Middletown, at the extreme southeastern tip of Aquidneck Island, directly adjacent to the ocean. In the event of sea level rise due to climate change, this Wildlife Refuge would be inundated and destroyed.

7. I enjoy recreational sailing on Narragansett Bay. If storm events become more

severe due to climate change, this would adversely affect my access to the ocean, to moorings, and to my enjoyment of recreational boating.



Thomas P. I. Goddard

STATE OF RHODE ISLAND  
COUNTY OF PROVIDENCE

Subscribed and sworn to me before me this 9<sup>th</sup> day of March 2011.



Print Name of Notary: JERRY ELMER

My commission expires: 4/16/2014

