Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400
Boston, Massachusetts 02114
(617)626-1520
fax (617)626-1509

Paul J. Diodati
Director

Deval Patrick
Governor
Timothy P. Murray
Lt. Governor
Richard K. Sullivan, Jr.
Secretary
Mary B. Griffin
Commissioner

April 23. 2011

Board of Selectmen
Town Hall
Chilmark, MA 02535

Ladies & Gentlemen:

In accordance with Chapter 130, section 74A of the Massachusetts General Laws, the Division of Marine Fisheries has determined that the below-defined "CONDITIONALLY APPROVED" shellfish growing area in Menemsha Pond (V:2.1) no longer meets the established criteria for the harvest of shellfish due to unacceptable water quality.

Therefore, effective May 1, 2011, under authority of Massachusetts General Laws, Chapter 130, sections 74A and 75, the status of the below-defined area has been changed to "CLOSED" to the taking of all shellfish. Digging, harvesting or collecting and/or attempting to dig, harvest or collect shellfish and the possession of shellfish from the below-defined area is prohibited.

Under authority of 322 CMR 7.01(7) all permits issued thereunder are hereby conditioned to prohibit the taking, selling or possession of shellfish from the below-defined area.

CLASSIFICATION:CONDITIONALLY APPROVED
Status: Closed to Shellfishing
May 1 - October 31
[All Dates Inclusive]

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APR 28
CHILMARK

Menemsha Basin
V:2.1

"The waters and flats of Menemsha Basin and Dutcher Dock Creek, in the Town of Chilmark, east of a line drawn from the Fl.G.4 Sec. 25' light at the entrance to Menemsha Canal in a southeasterly direction to the past location of the Menemsha Basin Coast Guard Boat House prior to the fire, excluding V:2.3."

The preceding conditionally approved area, V:2.1, shall remain in the closed status during the above inclusive dates. The status will not automatically revert to open to shellfishing on November 1, 2011 but will remain closed until examined by the Division and notification is made that the area has been placed in the open status.

Sincerely,

Paul J. Diodati,
Director

cc: A. Gross, J. Tulik, E. Burns, M. Bass, OLE
D. McKiernan, M. Hickey, DMF
WPC. DEP
FDA
DPH
I. Scheffer, Chilmark Shellfish Constable

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Paul J. Diodati
Director

March 7, 2011

Board of Selectmen
P.O. Box 119
Chilmark, MA. 002535

Ladies and Gentlemen:

Under authority of Chapter 130, section 57 of the Massachusetts General Laws, an on-site inspection was conducted on Tuesday November 2, 2010 commencing at 10:30 A.M. A 100 x 600 square foot shellfish aquaculture license proposed by Stephen Broderick of Chilmark, MA. was surveyed by personnel from the Division of Marine Fisheries. High tide was a 0.0 tide at 11:30 A.M.

The proposed project area is located in the Town of Chilmark, in the center of Menemsha Pond. The applicant plotted the license site and a map of the site was provided by the town. This proposed site is the second of three planned in the Town of Chilmark, each abutting the other. Two other 100 x 600 square foot existing license sites are situated within the same area.

The area is situated in the sub-tidal zone. Depth at the time of the survey was 16- 18 feet. Substrate throughout the site was a fine grain very soft silt mud bottom, greater than 2 feet deep. Divers from the Division of Marine Fisheries were used to survey the site. Both divers were deployed at one end of the proposed license site and transects were swum the length of the site. Test holes were dug using hand rakes along each of the transects at 50 foot intervals. No quahogs ***M. mercenaria*** or other bivalve molluscan shellfish were collected.

The proposed site does not contain average numbers of naturally occurring shellfish close to the level considered significant by the Division of Marine Fisheries in assessing areas for private shellfish licenses (1 quahog/sq.ft. or 3 soft shell clam or 3 oysters /sq.ft.). No other bivalve molluscan shellfish were found. No eelgrass (Zostera marina) or other submerged aquatic vegetation was observed on the proposed site or bordering the site. Several invertebrates including horseshoe crabs ***Limulus polyphemus***, blue crabs ***Callinectes sapidus*** and spider crabs ***Libinia emarginata*** were observed. Additionally, no endangered species, significant marine resources or fisheries were noted at or immediately adjacent to the proposed site.

As a result of this inspection, it is our opinion that license and operation of the proposed shellfish aquaculture project under the provisions of Chapter 130, section 57 of Massachusetts General Laws, would not have a substantial adverse impact on the shellfish ~~or other natural~~ resources of Menemsha Pond in the Town of Chilmark.

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APR 25 2011
CHILMARK BOARD OF SELECTMEN

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All activities in connection with this license must be conducted in accordance with all applicable state statutes and regulations governing shellfish and in accordance with provisions of 322 CMR 15:00: Management of Marine Aquaculture. Marine Fisheries reserves the right to further condition this license at any time, under provisions of Chapter 130, section 57 if deemed necessary to protect shellfish and other natural resources

The licensee-applicant should be aware that this license is subject to further regulation by the U.S. Army Corps of Engineers and may be subject to regulation by the Massachusetts Dept. of Environmental Protection under the provisions of Chapter 91 (Waterways Acts) and/or Chapter 131, section 40 (Wetlands Act) and their regulations.

It is strongly suggested that the applicant contact the local Conservation Commission to determine the applicability of the Wetlands Act and the U.S. Army Corps of Engineers, Regulatory Branch at 696 Virginia Road, Concord, MA. 01742, tel.(978-318-8696), concerning a Programmatic General Permit For Small Scale Shellfish Aquaculture.

Operation of this license prior to such determination by the Conservation Commission or before obtaining other required permits and licenses from the Dept. of Environmental Protection or the U.S. Army Corps of Engineers may result in legal or regulatory action against the applicant by one or more of these agencies.

Permits issued by this Division to obtain and possess seed shellfish for aquaculture do not absolve the applicant from the above mentioned obligations.

Sincerely,

J. Michael Hickey
Chief Biologist

jbm/JMH

cc to: D. McKiernan, Deputy Director, DMF
I. Scheffer, Chilmark Shellfish Constable
Chilmark Conservation Commission
T. Davies, DEPSEERO
Grant Applicant
K. Kotelly, U.S. Army Corp of Engineers

1 Enc: K. Kotelly: 1. locus map with coordinates

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October 27, 2010

Paul Diodati, Director
Div Marine Fisheries
251 Causeway Street, Suite 400
Boston, MA 02114

Dear Director Diodati:

The town of Chilmark would like to request that when the Division of Marine Fisheries is here next week surveying the proposed Aquaculture license site of John Armstrong in Menemsha Pond, approved in a August 2, 2010 meeting, that DMF also conduct a survey of two new 100x 600 foot shellfish aquaculture applications. Due to time of year and logistics of scheduling DMF divers, The Board, for the sake of efficiency is requesting 2 additional biological surveys.

We are in possession of two applications for the next two sites. The Board of Selectmen have reasonable expectations that these two 100 foot by 600 foot sites will be awarded to Stephen Broderick & Tim Broderick at the December 7th 2010 Selectmen's meeting following a public hearing.

Sincerely,

Timothy R. Carroll
Executive Secretary

Cc: Shellfish Constable, Jerome Moles DMF, J. Michael Hickey DMF, Shellfish Advisory Committee

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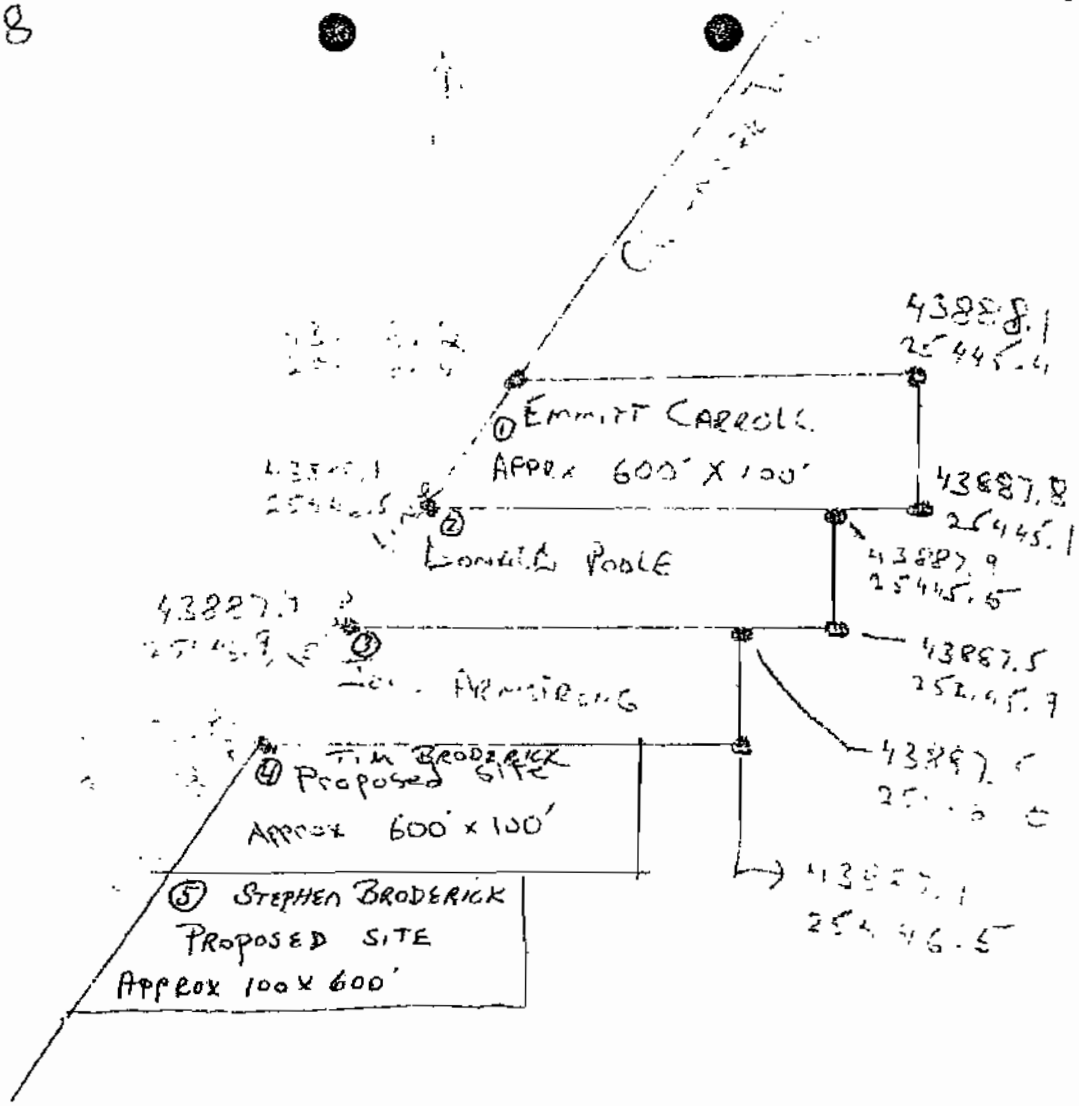

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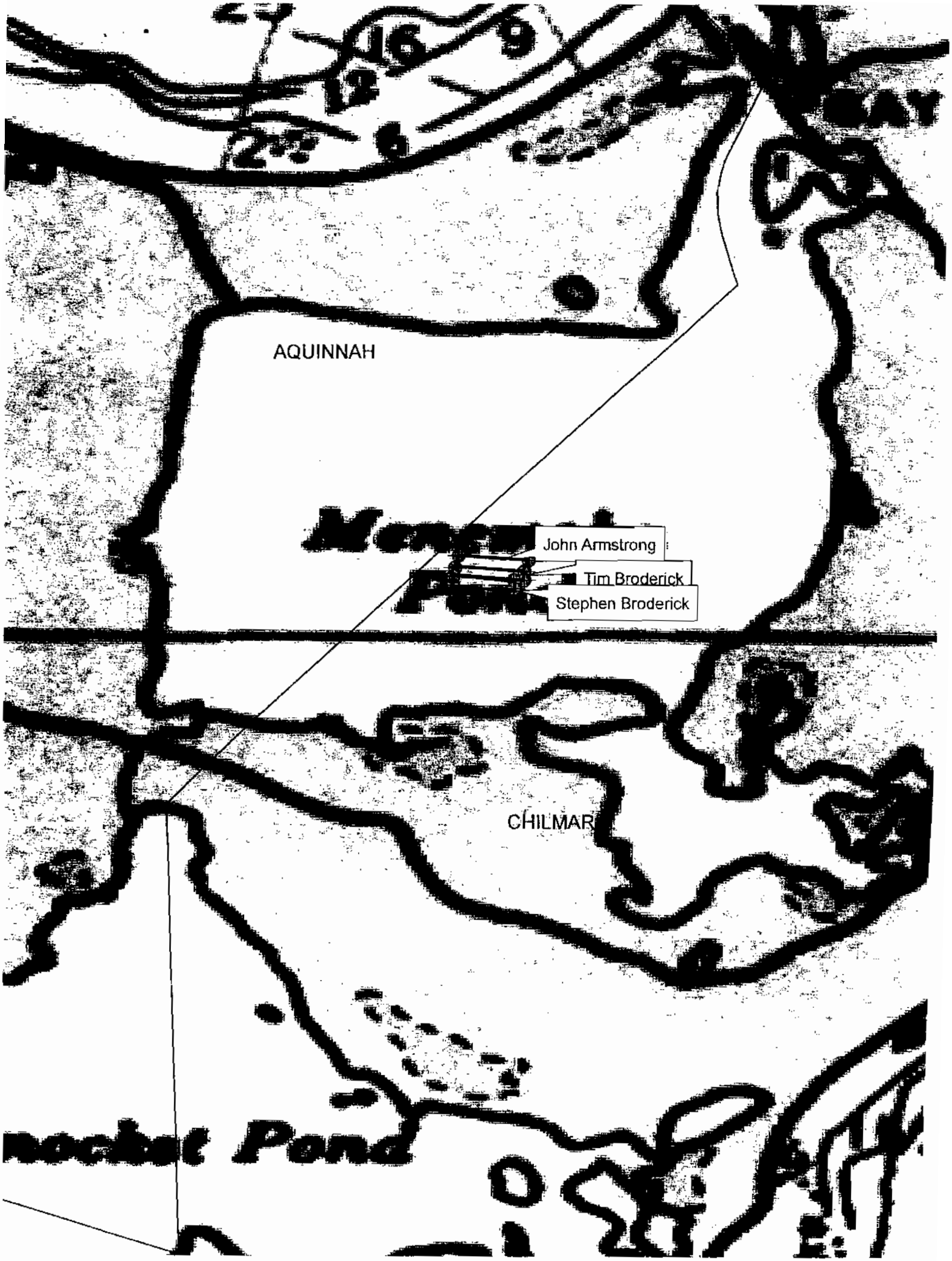
Proposed Site
Approx 600' x 100'
⑤ STEPHEN BRODERICK
PROPOSED SITE
APPROX 100 X 600'


AQUINNAH
John Armstrong
Tim Broderick
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CHILMAR

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Director

March 7, 2011

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jbm/JMH

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Chilmark Conservation Commission
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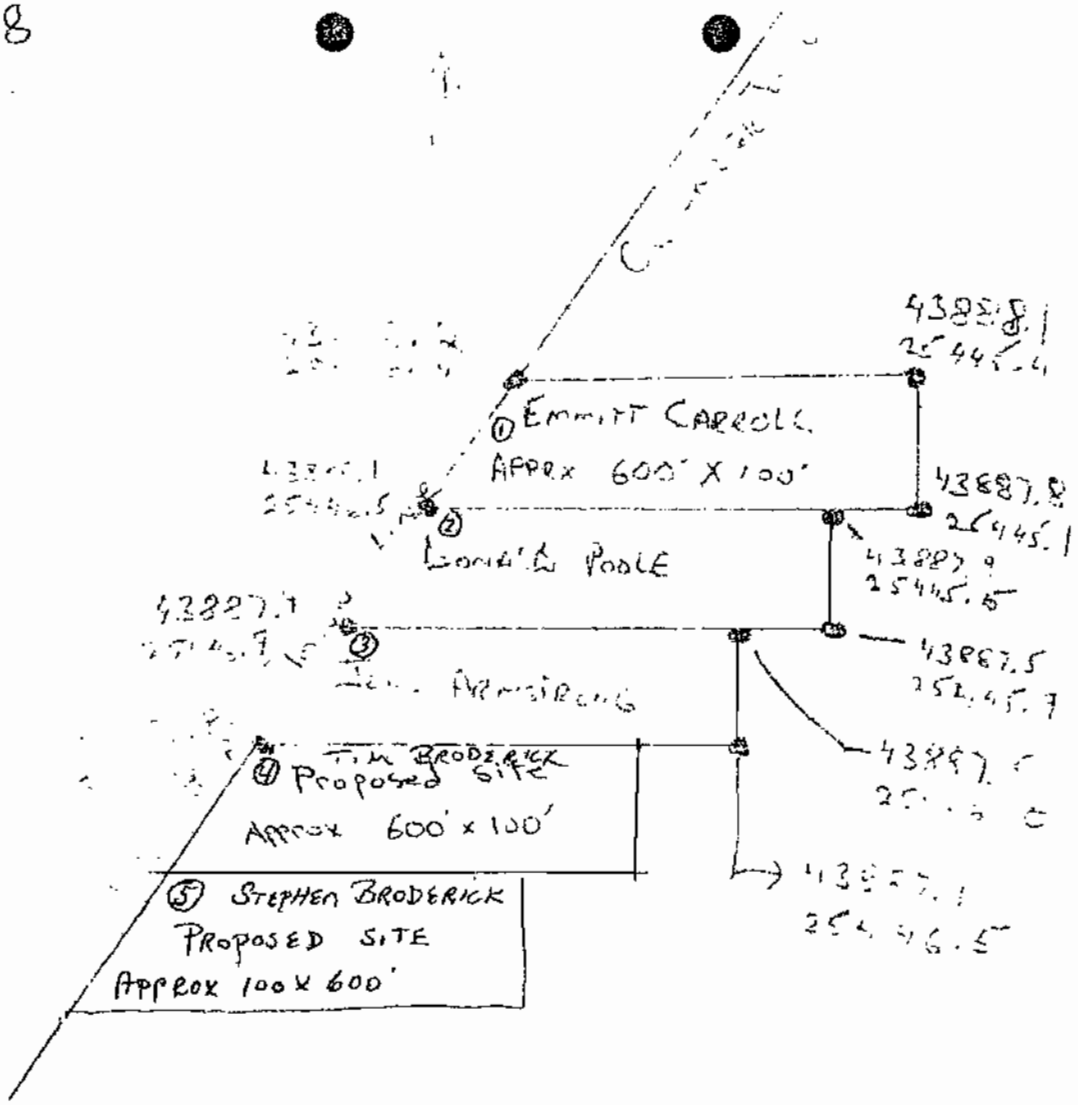
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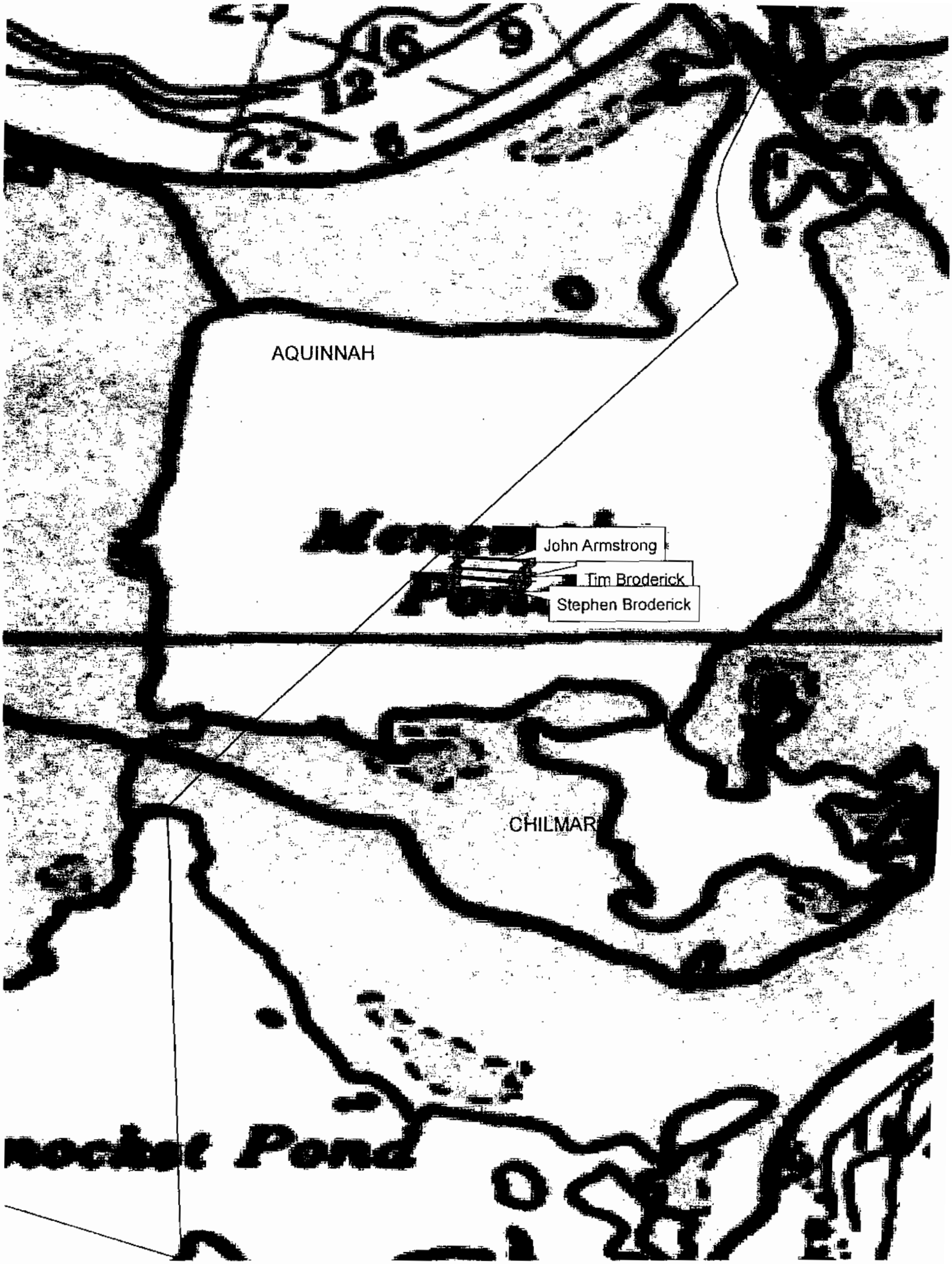
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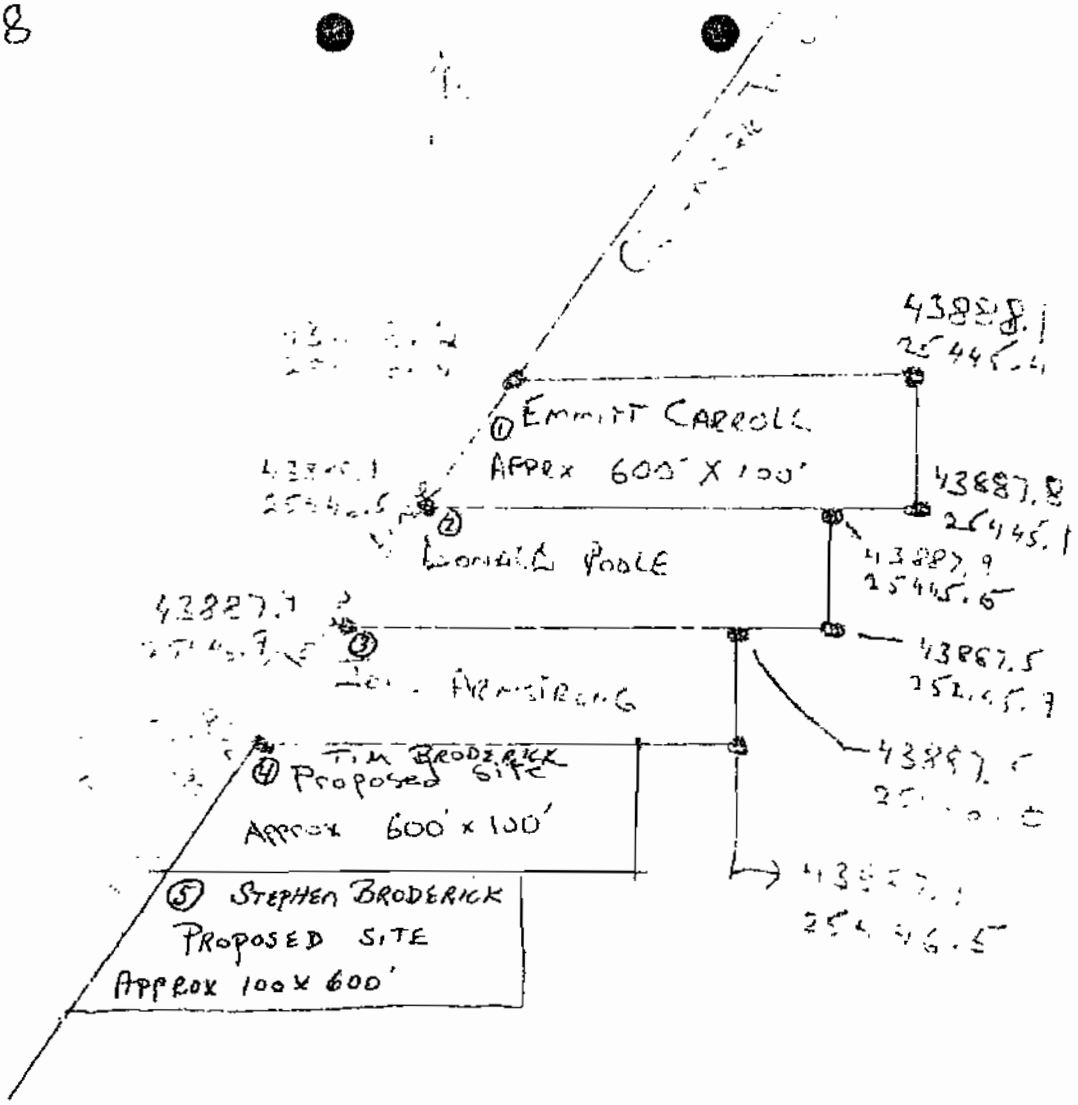

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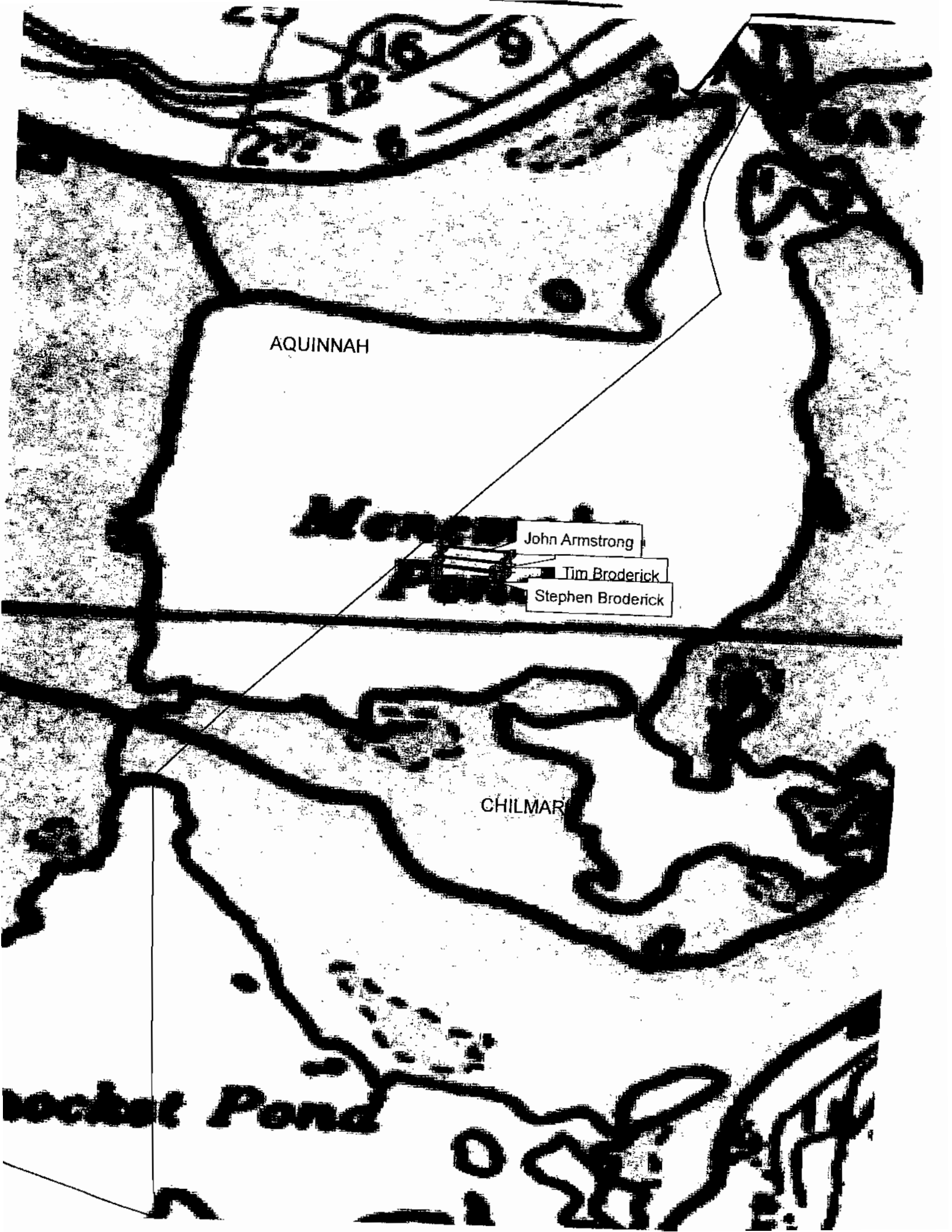
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