

In The Matter Of:
Coastal Resources Management Council

Application of Perry Raso
Vol. 1
November 12, 2020
Subcommittee Hearing

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Application of Perry Raso - Vol. 1 - November 12, 2020
Subcommittee Hearing

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COASTAL RESOURCES MANAGEMENT COUNCIL
SUBCOMMITTEE HEARING

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IN RE:

CRMC File No. 2017-12-086

In the matter of Perry Raso

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Date: November 12, 2020

Time: 1:00 p.m.

Place: Via Zoom
Rhode Island

MEMBERS PRESENT

- Jennifer Cervenka, Chair
- Raymond C. Coia, Vice Chair
- Donald T. Gomez
- Patricia Reynolds
- Anthony DeSisto, Esquire, Legal Counsel

STAFF PRESENT

- Jeff Willis, Executive Director
- Lisa Turner, Secretary
- Ryan Moore, Moderator
- James Boyd, Deputy Director
- David Beutel, Former Aquaculture Director

APPEARANCES

- Elizabeth Noonan, Esq.....For the Applicant
- Leslie Parker, Esq.....For the Applicant
- Christian Capizzo, Esq.....For the Objectors
(Hunt, Latham, Cooney and Quigley)
- Dean Wagner, Esq.....For the Objectors
(Andrew Wilkes and 454 Beach Road, LLC.)

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1 was shared via social media including templates for
2 letters of objection, also, really some misrepresentation
3 about what this application was about. In a moment I
4 will go through the list of objections about what the
5 main topics were, but I would like to say that Mr. Raso
6 upon learning of these objections submitted some
7 additional information in his attempt to try and minimize
8 the topics of objection. All that information is
9 included in the packet, and we will touch on some of that
10 later on in this presentation.

11 So in the synthesis of the topics of objection,
12 there are quite a few. One, the first one was noise, the
13 other was peace and tranquillity, the other was
14 recreational fishing, clamming, effects on wildlife,
15 effects on the visual aspects of the pond, effects on
16 navigation, recreation, negative effects on property
17 values, pollution from the oysters. Many people
18 questioned the timing of the application questioning that
19 it occurred in December when people were away. When I
20 say "people were away" I would also like to note that of
21 the objections, 79 were received from non-Rhode Island
22 residents and 68 were received from Rhode Island
23 residents.

24 After the timing. The people -- some people

1 objected to the Matunuck Oyster Bar itself. Some checked
2 negative impacts on hunting, also for beach access. And
3 numerous letters said that Perry Raso has enough activity
4 on Potter Pond already.

5 Staff addressed all of these issues in the report,
6 and I'll go through this quickly because I'm sure most of
7 you have read this.

8 Noise. Aquaculture activity generates noise, as
9 does boating, waterskiing, tubing. Deciding which noises
10 are tolerable and which ones are not are a real
11 challenge, and I have no answer for that.

12 Tranquillity. Really, the same answer. Segar Cove
13 could be quite tranquil. But boating, tubing,
14 waterskiing are not tranquil activities. So once again,
15 how are we looking at that?

16 Recreational fishing. Segar Cove is a good
17 recreational fishing area. Kayaking and boat fisherman
18 operate throughout all of Potter Pond and they also fish
19 within Segar Cove. Staff agrees that the area is good
20 for fishing, but does not agree that this small 3-acre
21 area will significantly negatively impact the fishing
22 experience on Potter Pond. Will that 3-acre area limit
23 fishing in that three acres? Yes. It would be hard to
24 imagine someone fishing amongst floating gear. The pond

1 is much larger than that.

2 Clamming. The staff conducted a shellfish
3 assessment for the site and found 0.88 quahogs per square
4 meter. That is a low number. The Rhode Island
5 Department of Environmental Managements Division of
6 Marine Fisheries also conducted a site assessment for
7 soft shell clams and found none. Please see their letter
8 that is in the packet.

9 The aquaculture site itself really is not valuable
10 clam habitat. Adjacent to it on the shallower water,
11 south of it where the bottom is firmer, staff would agree
12 that those are reasonable clamming areas, but the soft
13 sediment for the area that it was proposed are not.

14 Wildlife. There are some very creative and observed
15 drawings that were provided on social media, and concerns
16 were mentioned about negatively impacting fox and deer
17 and offsprings and fish which I'm actually amazed that I
18 even have to address that. I'm sure the deer like to
19 swim through Potter Pond, but I think they can swim
20 around the floating gear and suspended gear.

21 I would also note that shore site development, all
22 the homes along there, have a significantly larger impact
23 on the wildlife than the aquaculture site work.

24 The visual aspect. Floating gear is visible.

1 Guaranteed. Low profile floating cages are less visible
2 but they will still be seen. Adopting the low profile
3 cages was the applicant's method of minimizing the visual
4 impact. The suspended gear for the bay scallops would
5 have floats over them so that would have less of a visual
6 impact on the low profile oyster cages, but there would
7 still be floats visible.

8 Navigation. This includes boating of all types, and
9 if we break this down, paddle boarding and kayaking will
10 be very little impact. Those are self-powered craft and
11 they are easy to manipulate through and around all kinds
12 of different areas. For example, through rocks and that
13 sort of areas, sailboats would have a bigger challenge.
14 They are a little more difficult to handle. Powerboats
15 are limited to the deeper water, and they will be
16 effected more than the kayaks and the paddle boards, but
17 probably equal to sailboats.

18 That being said, this cove is sufficiently big that
19 powerboats and sailboats will still be able to operate.
20 Paddle boards and kayaks will still be able to operate.
21 The notion in the objections that recreational boating
22 activities will disappear because of this aquaculture
23 site is just outrageous. These activities will continue
24 to occur throughout Potter Pond and also be in Segar

1 Cove.

2 Let's see, recreational boating activities we talked
3 about. Swimming. Swimming could be affected if people
4 wanted to swim through the aquaculture site. That is not
5 advisable. Also note that in Potter Pond, as in all
6 coastal ponds in Rhode Island, we have the 5 percent rule
7 where no more than 5 percent of an area of a given
8 coastal pond could be dedicated to aquaculture. If this
9 application is approved, the total amount of aquaculture
10 all managed by Mr. Raso would be 9.9 acres and would come
11 to 3 percent of the area of Potter Pond. 3 percent may
12 sound like a lot to some people. What that means is
13 97 percent is left for all other activities.

14 Property values. This is really a frequent
15 objection to aquaculture. There is no peer-reviewed
16 literature that supports that concept. So people may
17 assert that, but there is no peer-reviewed literature
18 that gives that concept support.

19 Pollution from oysters. This is also a common
20 objection, and this is really from people that don't
21 quite understand the oyster process of growing them,
22 denitrification process, and the process of the act of
23 harvesting the oysters. Both denitrification process and
24 harvesting the oysters remove nitrogen from the water.

1 So pollution, no. There's a few supporting publication
2 cited, but the East Coast Shellfish Growers Association
3 has a bibliography over 90 titles of peer-reviewed
4 scientific legislature that supports that pollution from
5 oyster aquaculture is not an issue.

6 Timing. I already mentioned about the application,
7 people complaining about it, starting the process during
8 the winter when everybody is away. But given that this
9 report was out in June and the subcommittee meetings were
10 arrange originally scheduled for the springtime and early
11 summer, really timing has not been an issue and should
12 not be considered as one.

13 The objections concerning Matunuck Oyster Bar.
14 Really, some people don't like any change at all. The
15 Matunuck Oyster Bar is a very successful restaurant.
16 With their success comes some traffic, and all of the
17 restaurants that were there previous to this were not
18 successful. Hence, the change is really twofold. The
19 change is the success of this restaurant and the
20 consequence is traffic that comes with success. I would
21 also note that while the applicant owns the Matunuck
22 Oyster Bar, the Matunuck Oyster Bar is not part of this
23 application. So those objections are irrelevant.

24 Objections involving hunting. Given the density of

1 locations of nearby homes, the hunting opportunities
2 would not be effected by this site.

3 Beach access. Personally, I cannot understand how
4 this site would effect beach access whatsoever. It's
5 nowhere near the beach.

6 One major -- the final major objection was that
7 Mr. Raso has enough control over the pond. We already
8 has a 6.9-acre farm. An additional 3 acres will give him
9 9.9 acres, and people look at that as too much area for
10 one person to manage or to control. In the same vein a
11 number of people, as I already mentioned, did not like
12 the restaurant but they also don't like his land farm
13 which is also on Potter Pond. Mr. Raso has been really
14 successful in Matunuck and in Potter Pond. He wants to
15 expand his business. This is a legitimate location to do
16 that.

17 There are a number of other items that are listed
18 here. I can go through each one in the report. And if
19 that's all right, I will continue. If not, I can skip
20 over it and go right to the recommendation.

21 CHAIRWOMAN CERVENKA: Mr. Beutel, if you could
22 address the compliance with the Category B criteria, that
23 might be helpful just for the subcommittee members as
24 they start to think about the standards that they are

1 looking at. And then followed by that, maybe some
2 orientation with a site plan or a map. I do see, just
3 looking at your report, that there's a color-coded plan
4 here. Maybe you could orient the subcommittee members
5 the area in question.

6 MR. BEUTEL: Okay. Well, the Category B
7 criteria were addressed in Mr. Raso's application.
8 Certainly they were addressed in his subsequent filings
9 in trying to minimize the different impacts. All of the
10 substantive objections listed different criteria for
11 which they -- different Category B items which they
12 thought Mr. Raso did not address.

13 It is staff opinion that he has addressed all of
14 them and, really, by going through the objections, that
15 list that I just went through, that really is a list of
16 the substantive objections and criteria.

17 CHAIRWOMAN CERVENKA: And Mr. Beutel, in your
18 opinion and based on your review of the application
19 materials, they not only addressed the Category B
20 criteria, but they were satisfied. So the standard in
21 your opinion was met for Category B?

22 MR. BEUTEL: That's correct. It is staff
23 opinion that he has met all of the criteria for Category
24 B objections.

1 CHAIRWOMAN CERVENKA: I refer to a color-coded
2 map that is part of your staff report. Can you, just at
3 least for me, kind of describe the Potter Pond area?
4 Segar Cove is a portion of the larger pond. How does
5 that work?

6 MR. BEUTEL: Segar Cove is a cove over the
7 western portion of Potter Pond. It has a peninsula that
8 comes down that Mr. Capizzo already mentioned that one of
9 his clients live on that. That peninsula that comes
10 down. It is somewhat secluded, not secluded, the opening
11 to Segar Cove from the rest of Potter Pond is -- I
12 wouldn't call it narrow, but it is narrower than the
13 other access points of Potter Pond.

14 The area proposed in the original proposal and some
15 subsequent tweaks from Mr. Raso is on the western side of
16 that peninsula which happens to be the eastern side of
17 Segar Cove, and what he is trying to do is minimize the
18 extent it goes out towards the center of the cove.

19 For the subcommittee and certainly for the Council,
20 the decision has -- the application needs to be looked at
21 from the original location that was determined or that
22 was applied for by Mr. Raso. The alternatives that he
23 provided can be accepted by the Council and could be --
24 they could approve one of those rather than the original

C E R T I F I C A T I O N

I, Lisa M Reis, hereby certify that the foregoing Pages 1 through 168, inclusive, are a true and accurate transcript of my stenographic notes of the proceedings, via Zoom, which occurred on the above-entitled dates, to the best of my ability.

LISA M. REIS, RPR
Court Reporter/Notary Public
My Commission expires on 7/27/24

Sworn to and subscribed before me,
This 16th day of November, 2020

In The Matter Of:
Coastal Resources Management Council
Perry Raso

Hearing
Vol. 4
December 4, 2020

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1 traffic going from Point Judith Pond to Potter Pond is
2 really quite minimal.

3 MS. REYNOLDS: Thank you.

4 CHAIRWOMAN CERVENKA: Mr. Beutel, I just wanted
5 to ask you about the original proposed lease area and
6 then the alternative, what we've been referring to as B,
7 the polygon lease area. I just want to confirm for the
8 record that your staff report is based on the preferred,
9 your preferred, alternative B configuration.

10 MR. BEUTEL: So my staff report recommends
11 configuration B. The report is based upon both
12 configurations.

13 CHAIRWOMAN CERVENKA: Okay. So it doesn't --
14 so tell me all your reasons why you prefer configuration
15 B.

16 MR. BEUTEL: The major reason was in discussion
17 with the Applicant that clearly there would be some
18 effect of towed water sports, that configuration B would
19 have less of an effect on towed water sports than the
20 original configuration.

21 CHAIRWOMAN CERVENKA: Is it limited --

22 MR. BEUTEL: That's the logic that was used.

23 CHAIRWOMAN CERVENKA: So it only related to I
24 guess mitigating the potential impact on towed water

1 sports?

2 MR. BEUTEL: That was what we had discussed.

3 CHAIRWOMAN CERVENKA: Okay. And everything --
4 all the other analysis for the Category B, it would apply
5 either to the original proposed or the Configuration B?

6 MR. BEUTEL: Correct.

7 CHAIRWOMAN CERVENKA: Another thing that I've
8 been listening about is the depth of the water in the
9 proposed lease area. Can you address that?

10 MR. BEUTEL: It is one of the deeper parts of
11 Segar Cove which is why the methods and species proposed
12 for this application, why this site was chosen. One is,
13 Mr. Raso has worked very hard to establish bay scallop
14 aquaculture. It needs to have a sufficient depth for
15 suspended culture so that the cages will hang down and
16 not be effected by potential winter cold or potential
17 winter ice in terms of harvesting the animals.

18 The other piece is that the sediment in the proposed
19 lease area is soft mud and cages would not be appropriate
20 in soft mud. Floating and suspended gear are appropriate
21 methods for soft mud, and we have shown this in other
22 applications throughout Rhode Island.

23 CHAIRWOMAN CERVENKA: Okay. Thank you. Any
24 other questions for Mr. Beutel about his report?

1 Mr. Gomez?

2 MR. GOMEZ: I appreciate the discussion on
3 configuration B, but as I've gone through this, it seems
4 to me that there's pros and cons for both. I'm kind of
5 leaning toward the original configuration. Do you see
6 that as a major problem, Dave?

7 MR. BEUTEL: I do not see that as a major
8 problem, while it clearly establishes that the original
9 proposal could be okay, if the original proposal in terms
10 of a business layout for the Applicant is much better
11 than alternative B.

12 MR. GOMEZ: It is certainly more efficient and
13 easier to work with. One of the big items as we've gone
14 through a thousand of this is the issue of balance. To
15 me, I think you've done a good job of trying to achieve a
16 balance. Do you want to talk about that a little bit?
17 Do you believe at least we have in fact achieved a
18 balance for all the uses that we've heard that the cove,
19 Segar Cove is put to, the idea of a balance?

20 We're taking a very small percentage, I think, for
21 this farm. People are indicating I guess that it's in a
22 critical area, but the whole area is reasonably small.
23 So getting back to my issue is whether you feel we have a
24 balanced use with this farm being placed in the area?

1 MR. BEUTEL: I do think that the uses would be
2 balanced. The report does say the uses will be effected,
3 but it is my assessment that the effects will not be
4 significant.

5 MR. GOMEZ: Thank you.

6 MR. BEUTEL: Different presentations, kayaking
7 will still occur virtually as it is now, as will paddle
8 boarding. Sailing will be minimally effected. Towed
9 water sports are effected a little more than the others.

10 Very clearly in the site assessment from both CRMC
11 and the Department of Environmental Management and
12 Fisheries, this is not a good clamming area. Any area of
13 mucky sediment is not a good clamming area. I fully
14 agree that adjacent to it in a slightly harder bottom,
15 those are good clamming areas for both quahogs and
16 steamers. Although, the steamers are virtually
17 nonexistent now, as are the bay scallops on that pond.

18 So following the track on steamers and bay scallops,
19 for wild harvest it seems really irrelevant to me. The
20 relevant species is quahogs, and there are good quahog
21 areas in there. Just this lease site is not one of the
22 good quahogging areas.

23 MR. GOMEZ: We did have discussion at one of
24 the earlier meetings about the issue of the skiers. I

C E R T I F I C A T I O N

I, Lisa M Reis, hereby certify that the foregoing Pages 479 through 689, inclusive, are a true and accurate transcript of my stenographic notes of the proceedings, via Zoom, which occurred on the above-entitled dates, to the best of my ability.

LISA M. REIS, RPR
Court Reporter/Notary Public
My Commission expires on 7/27/24

Sworn to and subscribed before me,
This 16th day of December, 2020