

PARTRIDGE SNOW & HAHN LLP

Christian F. Capizzo
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February 1, 2018

**VIA E-MAIL TO dbeutel@crmc.ri.gov
AND REGULAR MAIL**

Mr. Dave Beutel
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879-1900

Re: CRMC File # 2017-12-086

Dear Dave:

Enclosed herein and pursuant to Coastal Resources Management Council's ("CRMC") Management Procedures, please find my entry of appearance on behalf of Mr. Hunt, Ms. Cooney, Mr. Quigley and Mr. Latham. I have also attached their respective letters of objection to Mr. Raso's application which have also been filed with CRMC separately.

My clients' have substantive objections to the granting of Mr. Raso's application including but not limited to the fact that the proposed aquaculture farm will:

1. Result in direct loss of my client's property at the site in question;
2. Does not meet all of the policies, prerequisites, and standards contained in the applicable sections of CRMC's Management Program; and
3. Have a significant adverse impact on: circulation and/or flushing patterns; sediment deposition and erosion; biological communities, including vegetation, shellfish and finfish resources, and wildlife habitat; areas of historic and archaeological significance; scenic and/or recreation values; water quality; public access to and along the shore; shoreline erosion and flood hazards; or evidence that the proposed activity or alteration does not conform to state or duly adopted municipal development plans, ordinances, or regulations.

In addition, based on a review of application submitted by the applicant, there does not appear to be sufficient supporting evidence filed with CRMC to meet the requirements under Section 1.3.1 (a-k) of CRMC's Management Program. The applicant has failed to demonstrate that the proposed farm will not unreasonably interfere with, impair or significantly

Mr. Dave Beutel
February 1, 2018
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impact the public access or public use of the Segar Cove and Potters Pond and does not significantly conflict with water dependent uses and activities such as recreational boating, fishing, swimming, navigation and commerce of the same.

On behalf of my clients', I am requesting a hearing in this matter in order to oppose the above referenced application and to present testimony and evidence of significant conflict with the existing uses of public trust resources in contravention of the statute authorizing such Assents.

Sincerely,



Christian F. Capizzo, Esq.

CFC:dad

Enclosures

cc: Anthony DeSisto, Esq.

3245487.1/10373-3



State of Rhode Island and Providence Plantations
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879-1900

(401) 783-3370
Fax (401) 783-2069

ENTRY OF APPEARANCE

Before the Rhode Island Coastal Resources Management Council

IN THE MATTER OF:

Perry Raso

FILE NO. 2017-12-086

I, Christian F. Capizzo, Esq., hereby enter my appearance as attorney of record on behalf of the Mr. David Latham, 2464 F. Commodore Perry Highway, South Kingstown, Rhode Island, 02879, File No. 2017-12-086.

Withdrawal of appearance may only be granted by leave of the Chairman or Executive Director.

Respectfully Submitted,



Christian F. Capizzo, Esq.
Partridge Snow & Hahn, LLP
40 Westminster Street, Suite 1100
Providence, RI 02903
Tel: 401-861-8200
Via Email: cfc@psh.com

Date: February 1, 2018



State of Rhode Island and Providence Plantations
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879-1900

(401) 783-3370
Fax (401) 783-2069

ENTRY OF APPEARANCE

Before the Rhode Island Coastal Resources Management Council

IN THE MATTER OF:

Perry Raso

FILE NO. 2017-12-086

I, Christian F. Capizzo, Esq., hereby enter my appearance as attorney of record on behalf of the Mr. Kevin Hunt, 98 Segar Court, South Kingstown, Rhode Island, 02879, File No. 2017-12-086.

Withdrawal of appearance may only be granted by leave of the Chairman or Executive Director.

Respectfully Submitted,



Christian F. Capizzo, Esq.
Partridge Snow & Hahn, LLP
40 Westminster Street, Suite 1100
Providence, RI 02903
Tel: 401-861-8200
Via Email: cfc@psh.com

Date: February 1, 2018



State of Rhode Island and Providence Plantations
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
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(401) 783-3370
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ENTRY OF APPEARANCE

Before the Rhode Island Coastal Resources Management Council

IN THE MATTER OF:

Perry Raso

FILE NO. 2017-12-086

I, Christian F. Capizzo, Esq., hereby enter my appearance as attorney of record on behalf of the Ms. Alicia M. Cooney and Mr. Stephen Quigley, 95 Segar Court, South Kingstown, Rhode Island, 02879, File No. 2017-12-086.

Withdrawal of appearance may only be granted by leave of the Chairman or Executive Director.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "C. Capizzo".

Christian F. Capizzo, Esq.
Partridge Snow & Hahn, LLP
40 Westminster Street, Suite 1100
Providence, RI 02903
Tel: 401-861-8200
Via Email: cfc@psh.com

Date: February 1, 2018

January 18, 2018

State of Rhode Island and Providence Plantations
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879-1900

Re: File # 2017-12-086
Raso application, Segar Cove, Potter Pond

Ladies and Gentlemen:

Per your Public Notice dated January 3, 2017, I write to object to the proposal and request a hearing.

Our family has been at 298 Prospect Road for the better part of a half-century. I strongly object to the applicant's contention that the farm will have very little impact on the recreational uses of Segar Cove. It will have a transformative **NEGATIVE** impact on how our family, and the general public, recreate on Segar Cove and Potter Pond.

The elimination of those three acres of water for public usage and recreation will have a cascading negative effect on other activities and lead to dangerous conditions for all concerned. While looked at in isolation, it would seem that the proposal would have limited impact, but, viewed **in the proper context** (busy summer season, hot day, pond full of boats, etc.) it would significantly alter the dynamic of how Segar Cove can actually be safely used.

Of primary concern are motorized watersports – skiing, wakeboarding, tubing, etc. In all of those cases, boats use that area of the cove to **TURN AROUND**. If they can't turn around there, they'll be forced out into the middle of the pond, the precise location where other boats will be attempting to do the same. This will lead to dangerous congestion and perilous conditions for anybody being dragged behind a boat on skis or a tube. This is especially true during the busy summer months. From the deck at 298 Prospect, it's not unusual to see 4 or 5 boats tubing and skiing at the same time in Segar Cove. Even without the proposed farm, this can be tricky, and requires constant vigilance and caution on the part of the boat's captain. Anytime we take the kids or visiting friends tubing or skiing, we pay special attention to instructing them on what to do if they fall – raise arms, splash hands, etc. – all to make certain they remain visible to the numerous other watercraft on the cove. The removal of that acreage from the useable water will only increase the likelihood of somebody being accidentally run over by another boat or jet ski, the growing popularity of which and extreme rates of speed only add further risk.

Many of the issues raised above will also be applicable to non-motorized watersports, like paddle boarding, kayaking, swimming, etc., as the same danger of congestion and potential accidents will apply. My nieces and nephews like to swim around the pond, on a boogie boards and rafts, frequently exploring the shore and area in and around the proposed site. If the farm is placed there, they, too, will be forced to move further to center of the pond, putting them at increased risk. This is also true for kayakers and all other recreational users.

One more note...The applicant's statement that he has "...seen only occasional paddle craft " and has "...never seen anyone fishing or shell fishing" in the proposed site is, on its face, demonstrably FALSE, revealing on his part a willingness to bend the truth to suit his business goals. One wonders what other parts of his application suffer from similar myopia....

In sum, the proposed oyster/scallop farm will have a significant deleterious effect on the recreational use of Segar Cove and will create significant and potentially dangerous conflicts with existing boating, swimming, etc. I urge the CRMC to deny the application.

With kind regards and thanks for your consideration,

Sincerely,

David Latham

David Latham
1915 8th Avenue
Brooklyn, NY 11215

and

2464 F Commodore Perry Highway
Matunuck, RI 02879

917-647-1792
davidclatham@gmail.com

January 23, 2018

Coastal Resources Management Council
Oliver Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, Rhode Island 02879-1900

Re: File # 2017-12- 086

To Whom This May Concern;

Our names are:

Kevin Martin Hunt

Christine S Hunt

We reside at:

98 Segar Court, Wakefield, RI 02879

February-April we can be reached at:

720 17th Avenue South, Naples, Florida 34102

Email: kmhunt42@gmail.com

christinehunt53@gmail.com

Phone: 617-416-8409

- We are sending by certified mail an objection to the above referenced proposal and a request for a hearing. I strongly believe that the approval of this proposal will negatively impact the traditional recreational, fishing and shellfishing use of that section of Segar Cove and create safety and navigational issues for the many watercraft that frequent this area. Our home is very remote by land and I fear the an industrial area feet from our property could also create a security issue.

My wife Christine and I have resided at 98 Segar Court since 2002. I first fished and "clammed" on Potter Pond in 1957 with my father. I represent

the third generation of Matunuck residents enjoying the Pond and now take great joy in sharing it with my children. We are fortunate to have a registered dock on the property, a registered 17' Key West motorboat, a kayak, paddle board and rowboat. The proposed commercial use changes and presents conflict to these continued uses.

Our property is a point of land on the eastern section of Segar Cove. Perry Raso's current oyster farm is directly across from our property to the south east. This proposed aquafarm will parallel the western side of our property. Based on the scale of the application map, though difficult to read, the proposed farm will hug over 600 feet of that side our property, as close as 10 feet from our shore and stretch well into the open cove.

CONCERNS AND DISCREPANCIES WITH THE APPLICATION

ITEM 3: "The 3 acre area of Potter Pond is removed from boat traffic, away from the navigational channel."

There are only 2 areas of the Pond that have the open width and depth to safely tube and water ski. Segar Cove is one of those places. There are a constant stream of power boats pulling skiers and tubers. They share the space with vulnerable kayakers, paddle boarders, sailers, canoers, jet skiers, fishermen, clammers, bird watchers and leisure craft who navigate those waters daily. It is already a tight squeeze and many hug the shore to safely avoid the traffic in the channel. It is important to note that because the equipment on the proposed farm will be above water, the large service barges will have to be on the western side of the farm toward the middle of the channel further restricting traffic and expanding the footprint of the farm. The proposed changes will dramatically alter the current Pond use and require small craft, kayaks, paddle boards, canoes etc, into the more active channel of the Cove. These use changes will represent a significant increase to the risk of human safety.

ITEM 6:

As stated above in Item 3, the proposed lease would restrict the traditional recreational use of Segar Cove. As well, the narrow mouth of the Cove already has considerable traffic from the 26 docks and twenty moorings within the Cove. Just around the point in Seaweed Cove there are 39 docks and numerous moorings that host watercraft that utilize Segar Cove. This increased industrial traffic of large service barges required to service the new lease will magnify the navigational hazard.

ITEM 7:

Residents should be provided with a study that shows that a 3 acre fixed farm on a tidal pond will not impede the flow of water and cleansing tides near the important mouth of Segar Cove. We the Hunt family would be particularly concerned with the riparian areas immediately adjacent to our land.

ITEM 10: "I have seen only an occasional paddle craft in the proposed lease..... I have never seen anyone fishing or shell fishing either commercially or recreationally in the proposed area."

As a resident since 2002, that simply is not true. Segar Cove is one of the most active and popular areas of the Pond. Fishing in the southern section of the proposed lease is particularly popular when the bass are running in the spring. At least 2 days a week we see people shellfishing in the proposed site, particularly in the northeast segment. One group uses air hoses to reach the deeper clams.

ITEM 11: Scenic impact and direct view of homeowners

The proposed site is in full view of my home and of that of many of my neighbors. Ironically, CRMC has granted my property 2 view corridors. Those corridors allow us to lower the level of the brush so we can enjoy the

views. Presently one of our corridors looks directly at Perry's oyster farm business. Our second corridor will overlook his new venture.

WILDLIFE

The shoreline and land adjacent to the proposed lease is unspoiled and home to a diverse population of wildlife. It is one of the few places we are aware of where one can view otters, mink, and red fox. As well this pristine peaceful oasis secures both a safe migrating and nesting area to great blue heron, great horned owls, hawks, humming birds, and egrets. At our request the DEM and National Grid erected a platform for Osprey that has been the home to a family of Osprey and five new chicks over the last two years. This nest is on our causeway, just feet from the proposed lease. Numerous boaters and kayaks travel to view the Osprey. We fear this new aquafarm with its industrial activity and noise will disrupt this rare ecosystem and prevent access of boaters to view the Osprey nest. The Council required in our assent to maintain a contiguous green buffer in this zone to enhance and encourage habitat. So we are troubled by the potential of a commercial use conflicting with the previous Council position and restrictions on our property.

ACCESS TO OUR PROPERTY

Access to our west shore is by boat only due to CRMC compliance regulations. We are prohibited from cutting heavy brush outside our view corridor and there is no existing grandfathered path to that area. To check our shoreline, check erosion, remove debris, i.e.: dock remnants, planks, plastic, etc., or simply to view our osprey nest, fish or paddle board, Perry's equipment, raised structures, platforms, ropes and workmen will block our ability to bring our boat to shore.

PEACEFUL ENJOYMENT OF OUR PROPERTY

- We supported and did not oppose Perry's current oyster farm which is 200 yards from our property. We have watched it grow from a small underwater project that he serviced from a small craft with his dog to a 7 acre multi million dollar enterprise with raised visible acres of track, floating rafts and constant traffic manned 7 days a week. The constant music, shouting and colorful language travel over the water and have become part of our lives. The additional proposed three acre farm will be within feet of the other side of our property and will magnify all the issues stated above.

Unfortunately, Perry is not always available to supervise his crew. We have had issues with this in the past when their behavior has made both my wife and daughter uncomfortable. We complained to Perry at that time and to his credit, we have had few issues over the past several years. Upon viewing this proposal, my wife and I were concerned that a daily unsupervised crew so close to our remote home would create safety concerns for ourselves and our family. We believe that that the past behavior and comments could increase and further diminish our peaceful enjoyment and use of our property.

We are saddened to think of the loss of space, safety and enjoyment the implementation of this proposal will create. For all the families who enjoy and respect this special Pond, we request a hearing. After an objective hearing, the impact of the proposed operation will be revealed as adverse and inconsistent with the intentions of RI GL laws and the rules and regulations regarding the aquaculture industry. Thank you for your consideration of this matter.

Sincerely,

Kevin Martin Hunt
Christine S Hunt

**95 Segar Court
Matunuck, RI 02879
C/o 12 Chestnut Street
Boston, MA 02108**

January 27, 2018

**Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879-1900**

File Number 2017-12-086, Raso Application, Segar Cove, Potter Pond

Dear Sirs/Madams:

Our names are:

Stephen Quigley

Alicia M Cooney

We reside at: 95 Segar Court, Matunuck, RI 02879

September-May we can be reached at:

12 Chestnut Street, Boston, MA 02108

Email: Alicia@monumentgroup.com Cell phone 617-827-8895

Stephen.quigley@reverejournal.com Cell phone 671-372-6360

Winter Home Phone: 617-918-9857

We are sending by certified mail an objection to the above proposal and a request for a hearing. We strongly believe that the approval of this proposal will negatively impact the traditional recreational, fishing and shellfishing use of that section of Segar Cove and create safety and navigational issues for the many watercraft that frequent this area. We are also concerned with the effect of the proposed oyster farm on the wildlife in the specific area. Our other concern is that the specific view from our house and patio will be impaired, specifically in the view corridor which was determined for us by CMRC.

We are direct abutters of the proposed oyster farm site requested by Perry Raso of the Matunuck Oyster Bar. Our house is visible on the top right of the photo attached as part of the permit, directly to the north of the proposed oyster farm site. Our dock is just out of sight of the photograph, but in a larger photo it would be visible right at the top left of center of this photo perimeter. At the dock, in season, we have a 17' Boston Whaler, a paddle board and three kayaks. In addition, we use the dock for our 15' wooden Maine Dory equipped with sails, depending on the wind.

My husband, our two teenage sons, multiple guests and relatives rely on water sport activities on the pond as a main component of our enjoyment of our home. In fact, having resided summers since 1954 in Matunuck, we expressly purchased this property and built a new home at 95 Segar Court solely for its unique location and existing dock. Prior to the purchase of our current home with dock, we regularly launched our smaller row boats and sail boats at the end of Lake Avenue. Our family, and the extended Cooney family including my father and grandfather, has been regular recreational users of this section of Potter Pond for over 90 years. I have attached just a few photos taken with the last two years of our family and friends either on the exact section of the Pond under discussion or clearly having just been using the Pond. These represent only a few occasions when we have been using the pond, as we do not take photos of ourselves every time we recreate there.

TO SPECIFICALLY ADDRESS THE LEGAL CRITERIA AS DELINEATED FROM THE CRA APPLICATION REVIEW SHEET FOR THE PROPOSEAL, WE NOTE THE FOLLOWING:

The specific conditions with which we take issue with in terms of whether they meet the CRMC legal criteria are as follows:

(5) Demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life.

We disagree that this condition will be fulfilled, as there is extensive animal life that calls that area of the pond home, and that will be disrupted by the human activity associated with the harvesting of the oysters. If anything like the workers at Mr. Raso's other farm, the workers are out on the platform for lengthy periods of time, working, talking continuously and playing their music. The swans, osprey, minks and other semi-aquatic mammals do not do well with constant human interference.

(6) Demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore.

We disagree that this condition will be fulfilled, as the location of the proposed oyster farm acreage does actually impact the access to the passageway to the larger pond for kayaks, paddleboards, and other non-motorized water vehicles. As a 65 year old kayaker, I need to hug the coast, passing directly over the proposed acreage, in order to avoid the motor boats going in circles with their children on skis, boards, and in tubes. Also we ask our paddle boarders to stay in the same area close to shore for the same safety reasons.

(10) Demonstrate that the alteration or activity will not result in significant conflicts with water-dependent uses and activities such as recreational boating, fishing, swimming, navigation, and ...

We disagree that this condition will be fulfilled and strongly disagree with Mr. Raso's impression that he has "seen only an occasional paddle craft in the proposed lease." On summer days, there is constant boating activity, shellfishing and fishing from early morning through sundown, and on weekends, sometimes later. Boating during the evening will be extremely unsafe, particularly if boaters are visitors and are not aware there is a restricted area. Mr. Raso notes that there are few docks in the area. He is correct, but the boating activity is a combination of those of us with docks, those with moorings and docks on the southern end of the pond abutting Washington St, Lake Ave, Park Ave, Atlantic Avenue as well as the Gardiner Island/Prospect area. In addition, while out boating ourselves, we see any number of visiting boaters and shellfishers that arrive from Salt Pond under Succotash Road in order to enjoy our area. One of the most frequent areas for shellfishing is almost exactly at the lower right (Southeast) corner of Mr. Raso's proposed site. The shellfishers seem to come in small motor boats or rafts from other areas of the pond, land their boats at the edge of the pond, and spend multiple hours shellfishing.

(11) Demonstrate that measures have been taken to minimize any adverse scenic impact.

We disagree that this condition will be fulfilled, as our view corridor, which was granted to us by CRMC, looks directly out at the proposed site. Item (11) notes that "the floating gear will be positioned nearest to the coast and out of direct view of any homeowner on the pond." That would be practically impossible given that from our backyard, where our patio and grill are, we can see the entire site. We are happy to send photos to show this visually

Given our major concerns as to whether Mr. Raso's proposal 2017-12-086 meets the legal requirements for CRMC's granting of his application to create and maintain a three acre farm at the noted location in Potter Pond, we request a hearing to consider our objections. We look forward to hearing a response from our protest, at our email addresses, mailing addresses, and/or phone numbers noted above.

Thank you for your consideration,

Sincerely,

Stephen Quigley

Alicia M Cooney