

# Coastal Features

Information about the Rhode Island Coastal Resources Management Council

Winter 1999

Volume 8, Number 2

## CRMC Develops Series of Fact Sheets on Dredging

To meet its legislative mandate as the lead state agency for all things dredging, the Council has developed the first of many Fact Sheets to discuss dredging and dredged material disposal in general, and dredged material management in specific. The series, entitled *Developing a Rhode Island Dredged Materials Management Program*, addresses the steps that are usually taken to comprehensively address the issue of dredged material management.

The first such fact sheet introduces the process of identifying *Dredging Needs & Alternatives*. Typically, the first steps in the process include a review of available data sources and information, defining trends, and identifying material types and disposal capacity. In defining trends, the process focuses on historical dredging patterns and disposal practices.

Specifically, the compilation of data and information that is available is relative to federal and non-federal dredging and disposal activities and practices in the Narragansett Bay and Rhode Island Sound area. Federal dredging activities generally occur at the designated channels and anchoring areas, whereas, non-federal dredging activities usually involve the marinas and ports.

In gathering this information, past dredging needs must be understood, because, historically, dredging in Rhode Island has been sporadic at best, which makes sediment classifications within harbor areas hard to accurately assess. This part of the process usually also results in a survey of all the potential dredging operations to get an up-to-date dredging needs projection (by harbor), and possibly more current sediment classifications. With this information in hand, disposal site availability and capacity can be assessed relative to current needs. Unfortunately, Rhode Island does not have any designated dredged material sites; matching dredging needs to disposal options is therefore the hardest and most complex part of the process to develop a dredged material management plan for Rhode Island.

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The fact sheet also discusses various disposal methods, such as Open Water Disposal and Beneficial Uses of Dredged Material. Beneficial Uses could include:

- \* Marsh Creation in Nearshore Areas
- \* Island Habitat Creation (Marsh, Upland, Shallow Subtidal, or Combination)
- \* Beach Nourishment (Compatible Materials)
- \* Habitat Creation - Oyster Beds, Seagrass Beds, Tidal Flats (Compatible Material)

Other disposal options include Confined Disposal Facility (CDF), which is the isolation of dredged materials in confined facilities. Examples of containment facilities are:

- \* Upland - Landfills (Fill or Cover)
- \* Upland - Remediation Filling (Brownfields/Quarry/Mine/Borrow Pit)
- \* Upland/Alongshore - Structural Fill (Port Development or Open Space Creation)
- \* Nearshore/Island CDF's (With Suitable Material, also Long-term)

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## CRMC Develops Series of Fact Sheets on Dredging

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The fact sheet goes on to discuss other disposal options such as Confined Aquatic Disposal (CAD), where the confinement of dredged materials in an aquatic environment is accomplished without constructing a containment facility through capping of the unsuitable material with suitable material, or by excavation and capping of a disposal pit to confine the material. The unsuitable material can also be isolated in geotextile bags, and the deposit of bags then capped. It also discusses alternative disposal options such as thermal (i.e.: incineration), chemical and biological treatment of the dredged material.

The series is based on EPA/ACOE fact sheets developed for a Long Island Study. For a copy of the fact sheet, please contact the CRMC.



## NOAA Awards State \$270,000 Grant for Coastal Habitat Restoration Planning

Thanks to the joint efforts of Rhode Island Department of Environmental Management (RIDEM), the Rhode Island Coastal Resources Management Council (CRMC), and Save The Bay, the State of Rhode Island has won a \$270,000 grant from the National Oceanic and Atmospheric Administration (NOAA) Coastal Services Center. The grant provides funds to develop the Rhode Island Coastal Habitat Restoration Plan and Information System. In addition to a comprehensive restoration plan for Rhode Island's coastal habitats, the project will develop a interactive website featuring information about Rhode Island's coastal habitats.

The joint proposal from CRMC, RIDEM and Save The Bay was selected for funding through NOAA's regional competitive grants process. NOAA will award the State \$270,000 over two years and provide technical assistance to develop the project. The grant partners will compile existing information on the State's coastal habitats such as fish

### *Coastal Features*

*Coastal Features* is a publication of the Rhode Island Coastal Resources Management Council (CRMC). The preparation of this newsletter was financed, in part, by a grant from the National Oceanic and Atmospheric Administration (NOAA) pursuant to the 1972 Coastal Zone Management Act (as amended). This issue of *Coastal Features* was edited by Kevin R. Cute. To comment on any article or to make address changes, please write to the CRMC at the Oliver Stedman Government Center, 4808 Tower Hill Road, Wakefield, RI 02879.

spawning areas, endangered species habitats, and even socio economic factors, like income and population density. Computerized maps of coastal wetlands and other physical features of Rhode Island's coasts, based on aerial photography, have already been developed and will provide vital "base maps" for the project. The partners will then work with coastal interests-from wetlands experts and municipal officials to community groups and local residents-to develop restoration goals and the decision-making tools necessary to reach them.

Once the partners have developed a decision-making approach, they will test it on two smaller "pilot projects," allowing the system's users to try it out and recommend improvements. Following this "testing" phase, the partners will develop the statewide restoration plan and information system, which will be posted on the Internet, along with the decision-making tools. By making these tools and information available on the Internet, the partners hope to facilitate public and private habitat restoration projects, as well as enhance the State's own priority-setting process for coastal habitat restoration projects. The system will be closely coordinated with ongoing restoration planning studies being conducted by the University of Rhode Island, and State and local initiatives. The collaborative program will effectively link state, federal and local habitat restoration actions. Program results will help position the state to receive

federal habitat funding that could be made available through the Conservation and Reinvestment Act (CARA) and the late Senator John Chafee's Estuary Habitat Restoration Partnership Act, two pieces of legislation which are gaining strong

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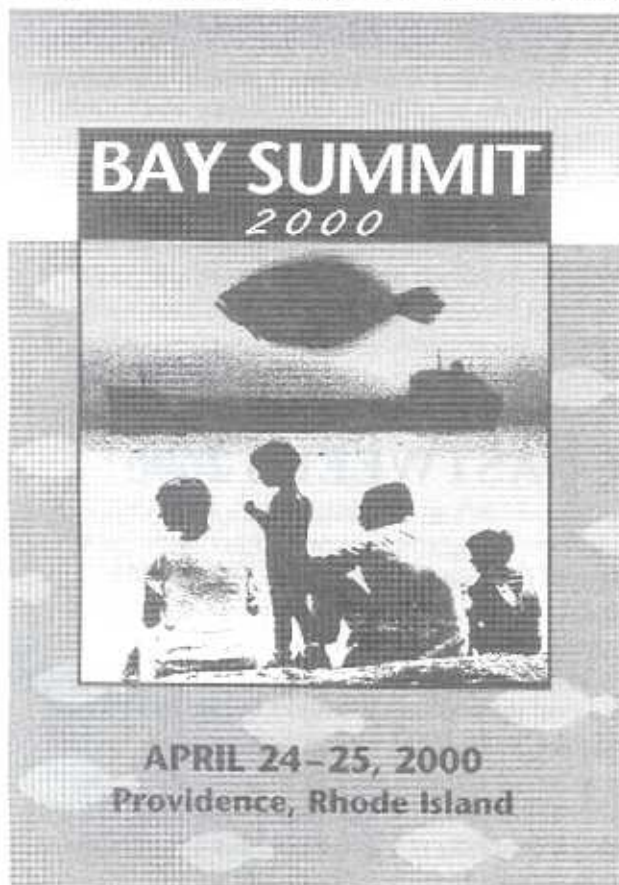
**NOAA Awards State \$270,000 Grant**  
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bipartisan support in the United States Congress. The program also will help to prioritize coastal land purchases that could be made if the \$50 million Open Space bond is passed by Rhode Island voters in November. The development of this information system and restoration plan underscores the need to create a coordinated and funded statewide coastal habitat restoration program in Rhode Island. Legislation to create a Coastal habitat restoration program is currently pending in the Rhode Island General Assembly.



## **CRMC Co-Sponsors Narragansett Bay Summit 2000 Slated for April 24-25**

From quohoggers to oceanographers, a diverse group with wide-ranging interests in the use and care of Narragansett Bay can explore the Bay from the "summit" of the Rhode Island Convention Center on April 24 and 25, 2000. The Narragansett Bay Summit 2000 is a two-day gathering for stakeholders, scientists, policy-makers, and everyone with an interest in the Bay. The summit will provide a forum for all to meet and discuss issues, ideas, and concerns about this vital Rhode Island resource. Opportunities to learn about the Bay and participate in formulating strategies to ensure its ecological health and economic vitality will be provided through presentations, poster sessions, and panel discussions.



As stated in a brochure announcing the summit, "Narragansett Bay is Rhode Island's economic engine and the key to its quality of life. The Bay has supported biological diversity, fishing, trade, and recreation throughout history. The earliest inhabitants of the area, Native Americans, fished, hunted, and traveled the Bay. Early colonists added international trade to the Bay's uses, and maritime commerce grew in the years to come. The Bay saw the birth of the Industrial Revolution in the late 18<sup>th</sup> century as textile mills harnessed water-power from the rivers that feed into the bay. Today the Bay attracts thousands of visitors for fishing, swimming, boating, and other recreational uses." According to this brochure, the summit is designed to offer to participants "a fresh look at the Bay on the cusp of the new millennium. The summit will provide a comprehensive update on the Narragansett Bay and its surroundings. It will examine the principal uses of the Bay and explore their effects on the Rhode Island economy and the Bay ecosystem. And it will provide a forum for participatory discussion of the Bay and its future."

The summit itself represents a collaborative effort on the part of numerous individuals from dozens of organizations, including federal, state, and local governments, non-profit organizations, academic institutions, and the private sector.

Sponsors who provided funding and significant in-kind support include the Coastal Resources Management Council, RI

Department of Environmental Management/Narragansett Bay Estuary Program, Narragansett Bay National Estuarine Research Reserve, University of Rhode Island, Roger Williams University, Newport Institute, Rhode Island Sea Grant, and the US Environmental Protection Agency.

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## Narragansett Bay Summit 2000

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For more information on the Bay Summit, call the Narragansett Bay Estuary Program at (401) 222-3961 or the RI Coastal Resources Management Council at (401) 783-3370. Space is limited, so please register early to reserve your place!

Registration forms can be acquired at <http://www.seagrant.gso.uri.edu/riseagrant/news/news.html#Summit>

### Narragansett Bay Summit 2000 - Preliminary Agenda

#### Monday, April 24

- 8:00 Registration
- 8:30 Cosponsors welcome
- 8:35 Governor Lincoln Almond (invited)
- 8:45 Keynote address: Senator Jack Reed
- 9:00 Keynote address: Senator Lincoln Chafee
- 9:15 Guest Speaker: Dr. Robert Ballard, Founder and director of the Institute for Exploration at Mystic Aquarium
- 9:35 Presentation 1: The Narragansett Bay Ecosystem
- 10:05 Coffee break
- 10:20 Plenary panel: Narragansett Bay Ecosystem
- 11:45 Presentation 2: Marine Transportation
- 12:35 Lunch (on your own)
- 1:35 Presentation 3: Research, Education and Technology
- 2:25 Presentation 4: Recreation and Tourism
- 3:15 Afternoon break
- 3:30 Concurrent panels: Marine Transportation, Research, and Recreation
- 5:00 Reception

#### Tuesday, April 25

- 8:30 Keynote address: Representative Bob Weygand
- 8:45 Keynote address: Representative Patrick Kennedy (invited)
- 9:00 Presentation 5: Land Use
- 9:50 Presentation 6: Industry
- 10:40 Coffee break
- 11:00 Presentation 7: Fisheries and Aquaculture
- 11:50 Lunch: (on your own)
- 12:45 Concurrent panels on Land Use, Industry, Fisheries and Aquaculture
- 2:15 Afternoon break
- 2:30 Report from panels-facilitated discussion, Summit results
- 4:15 A Summit Perspective Armando Carbonell, Lincoln Institute of Land Policy and former executive director, Cape Cod Commission
- 4:45 Closing remarks



## “A Celebration of the Coast” COASTWEEKS 2000

Mark your calendar and make your autumn plans early, “A Celebration of the Coast” Coastweeks 2000 begins September 16, 2000 and runs through October 9, 2000.

A nationwide annual event, Coastweeks, is held for three weeks each fall, to highlight the importance of our coasts, the diversity of their uses, and the urgent need for improved planning and management. Coastweeks began 18 years ago, and it has been celebrated in Rhode Island, through RI Sea Grant and the CRMC for the last ten years.

As always, the annual Coastweeks kick-off event will be the International Coastal Cleanup: Bag It! Last year, at over 55 locations throughout the state, volunteers collected and documented litter along river corridors and the coastal shores of Rhode Island. Other events included salt marsh explorations, forums to discuss the recent technical innovations to septic systems that result in less groundwater pollution, catching a movie about the oceans, or simply sailing along Narragansett Bay. Further information on Coastweeks 2000 events will be announced in subsequent issues of Coastal Features.

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# Know Your Rights: The Public Trust Doctrine and Access to the Shore

*This article is adapted from a brochure on the Public Trust Doctrine that is available at CRMC's Wakefield Office.*

Although summer may seem to be a long way off, in just a few short months state residents and tourists alike will soon be returning to the shore to enjoy the beauty of the Ocean State. Out of respect for the environment as well as for private property owners, visitors to our coast should be aware of their rights to coastal lands and public waters, and the responsibilities that accompany those rights. The following is a general discussion of the Public Trust Doctrine and how it relates to the use and enjoyment of the coastal areas of the state. One of the great privileges extended to the residents of Rhode Island is embodied in Article I, Section 17 of the Constitution of the State of Rhode Island and Providence Plantations. Here, the Constitution states, "The people shall continue to enjoy and freely exercise all the rights of fishing and privileges of the shore, to which they have been heretofore entitled under the charter and usages of the state..." The 1986 amendments to the Constitution specifically recognize the individual's right to fish from the shore, leave the shore to swim in the sea, gather seaweed, and pass along the shore. These rights emanate from the Public Trust Doctrine which dates back to Roman law and was incorporated into English Common Law in the 13<sup>th</sup> century.

## ***What is the Public Trust Doctrine?***

The Public Trust Doctrine, which has been a part of United States law since its founding, is a general recognition in law of the public's rights to access tidal waters and the shore for navigation and fishing. These activities have historically been undertaken on public trust lands, which are those areas subject to the ebb and flow of the tide. The 1986 amendments to the state constitution broadened these rights to specifically include certain activities. These rights, however, remain subject to state laws and regulations. In the case of aquaculture of shellfish, as an example, the state, through the CRMC, may charge a fee for, and put conditions on, private use of public trust lands. Another important aspect of the Public Trust Doctrine is the understanding that, though the Public Trust Doctrine does guarantee the right to access along the shore, it does not convey any right of access to the shore.

## ***Access to the Shore***

Recognizing the need for access to the shore, the General Assembly assigned the CRMC the task of determining and designating right-of-ways (ROWs) to the shore. To date, the CRMC has designated over 216 ROWs and, through the ROW Subcommittee, has an ongoing process for the discovery and designation of additional ROWs. Once designated, the CRMC has the responsibility to ensure that these ROWs remain unobstructed and available for all. A list of CRMC-designated ROWs is available at the CRMC. Though ROWs are obviously not the only way for the public to access the shore, they are critical to the public's ability to exercise its rights in public trust areas throughout the state.

## ***Public Rights and Responsibilities in Public Trust Areas***

Public trust areas begin at the mean high tide line and extend seaward. In these areas, the public can responsibly enjoy the shore. Unfortunately, while there is no clearly visible line marking the mean high tide, it is often the boundary between public and private property. Furthermore, because the shore is dynamic, and calculating the location of mean high tide is extremely complex, in most cases the exact mean high tide line cannot be established for any length of time. As such, mutual respect between private property owners and those exercising their rights in public trust areas is essential.

In the past, a general method for determining the boundary between public and private property has been to go by the "rack line", or the line of seaweed left on the shore as the tide goes out.

The 1982 Ibbison case is illustrative. Because the mean high tide line is not readily observable, the Supreme Court of Rhode Island dismissed trespassing charges against three defendants who had been involved in a beach clean-up and unknowingly trespassed on to private property. Although this case was decided in favor of the defendants, beachgoers should take note that the mean high tide line is a recognized boundary. Likewise, private property owners should be cautioned that, in accordance with the Ibbison case, any party that intends to impose criminal penalties for trespass on waterfront property above the mean high tide line must prove beyond reasonable doubt that the defendant knew the

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## The Public Trust Doctrine

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location of the boundary line and intentionally trespassed across it. Given the complex nature of this line, doing so is extremely difficult at best. The majority of complaints received by the CRMC regarding public trust areas are not that people are using these areas, but that they are abusing them: trash is not removed, yards are being used as restroom facilities, drinking is taking place, etc. When exercising your right to use public trust areas, the following general guidelines should be kept in mind:

- Use public right-of ways to and from the shore;
- Keep the shore clean of all debris, trash and plastics. Remove your trash and dispose of it properly;
- Be aware of conservation areas along the shore. These are home to species of plants and animals that depend upon the shore and its environment to survive;
- Leave the shore in the shape you would want to find it. After all, as a resident of Rhode Island, it's your property.



## Planning for Rivers Day Celebration Underway

*The following is adapted from an article by Teresa McKinley, Executive Director, Narrow River Preservation Association, in the Spring 2000 issue of Narrow River Notes*

The Narrow River Preservation Association, in collaboration with watershed protection groups for the Salt Ponds, Saugatucket, and Wood-Pawcatuck Rivers, is pleased to announce that a day of festivities is planned for June 17<sup>th</sup> in celebration of the second annual South County Rivers Day.

Governor Almond proclaimed Rivers Day as the third Saturday in June, conceived as a time for all Rhode Islanders to celebrate their rivers.

Recreational events have been planned for Rivers Day including boat tours, kayak and canoe trips, nature and birding hikes, and tours of historic landmarks throughout South County. A flyer detailing the schedule of events will be mailed to all NRPA members and watershed residents.

All planned events are offered free of charge! In addition, there will be no admission charged on Rivers Day to historic sites in the Narrow River watershed including the Casey Farm, South County Museum, and Gilbert Stuart birthplace.

Please plan to participate in this great community event. Try your hand at fly-fishing, dust off that canoe and head out to the river, or plan a hike with your kids. We look forward to joining all of you in this celebration of our beautiful Rhode Island waterways.

For further information contact Teresa McKinley at: 783-NARR or via e-mail at [NRPA@netsense.net](mailto:NRPA@netsense.net)



## Aquaculture at CRMC: Working Group Formed, 1999 Annual Report Completed

CRMC's new Aquaculture Coordinator Dave Alves has formed a Working Group to provide a forum for regulators, aquaculturists, commercial and recreational fishers, and others to meet and speak their mind on aquaculture related issues in Rhode Island. In addition, Dave recently completed "Aquaculture in Rhode Island, 1999 Yearly Status Report," CRMC's annual report on the condition of the aquaculture industry in the state. Please contact Dave for further information on the Working Group, the annual report, or other aquaculture related issues.

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# Newport to Host 19<sup>th</sup> Annual International Submerged Lands Conference October 1-5 and 1<sup>st</sup> Annual Southern New England (5<sup>th</sup> Annual Rhode Island) Aquaculture Conference October 1-2

Join public resource managers, environmentalists, industry representatives, land use planners, lawyers, and others to discuss the latest trends and issues affecting freshwater and marine submerged lands at the **19<sup>th</sup> Annual International Submerged Lands Conference**, in Newport RI from October 1-5, 2000. And while you're there, gather with fellow aquaculture aficionados at the **1<sup>st</sup> Annual Southern New England (5<sup>th</sup> Annual Rhode Island) Aquaculture Conference**, scheduled for October 1-2, 2000.

## 19<sup>th</sup> Annual International Submerged Lands Conference

A preliminary list of discussion topics includes:

- Dredged Material Disposal
- Fees, Lease Provisions, and Innovative Management Strategies
- The Public Trust and Submerged Land Uses
- EFH: Does it Affect the Submerged Lands Manager?
- Roundtable: Discuss 2001 Conference Topics
- Harbor Management
- Public Access

## 1<sup>st</sup> Annual Southern New England (5<sup>th</sup> Annual Rhode Island) Aquaculture Conference

This Conference will bring together state Aquaculture Coordinators, researchers, industry members and others with an interest in the aquaculture industry in Southern New England. The issues to be discussed at the Conference include:

- Exotic Species Management in Aquaculture
- Multiple Uses of the Coastal Zone with Respect to Aquaculture
- Aquaculture and Economic Sustainability
- Environmental Impacts of Aquaculture Discharges
- Disease Management in Aquaculture
- Habitat Restoration

### CONTACT INFORMATION

#### Submerged Lands Conference

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#### Aquaculture Conference

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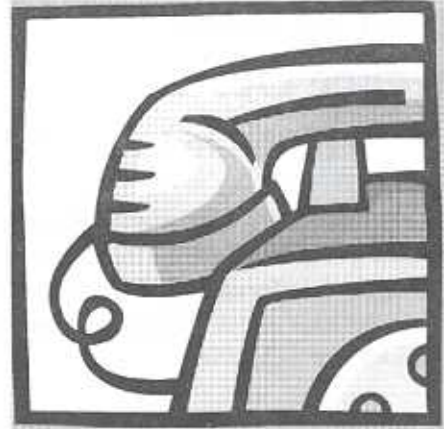


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***Coastal Features***

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