

COASTAL FEATURES

April - 1992

The Rhode Island Coastal Resources Management Council's Report on Current Events

George L. Sisson, Jr., Chairman
Grover J. Fugate, CRMC Executive Director

CRMC 309 STRATEGY SUBMITTED TO NOAA/OCRM

Federal funding levels for the enhancement of Rhode Island's Coastal Resources Management Program (CRMP) are pending the approval of the final multi-year strategy 309 proposal that was submitted to the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resources Management (OCRM) during the final week of March.

The 1990 reauthorization of the Coastal Zone Management Act (CZMA), as amended, encourages federally approved state coastal programs to try to improve state programs in one or more of eight identified areas. Section 309 of the CZMA - the Coastal Enhancement Grant Program - requires that any state accepting federal funding to support their coastal program perform an assessment of specific areas of national concern. Priority areas for enhancement include:

- Protection and restoration of coastal wetlands
- Storm hazard mitigation and managing advance affects of sea level rise
- Increasing public access to coastal waters
- Reducing marine debris
- Mitigating cumulative impacts of coastal development
- Implementing management plans for special areas of the coast
- Planning for the use of ocean resources
- Adopting procedures for energy facility citing

OCRM can make grants to states for developing program changes that support attainment of one or more of these eight coastal management objectives.

The CRMC's 309 Assessment was completed in January with the help of Virginia Lee and Pam Pogue from the University of Rhode Island's Coastal Resources Center. The purpose of the assessment was to involve the public in judging which of the eight areas of concern are in need of enhancement over the next two to five years. From this assessment the CRMC developed a strategy to incorporate changes into its program to significantly improve the management of the states coastal resources.

As a result of public comment and trend analysis the assessment identified the following areas of concern: Public Access, Wetlands, Special Area Management, and Cumulative and Secondary Impacts. Consequently the CRMC developed a strategy which addresses the high priority areas of Public Access, Coastal Wetlands / Critical Habitat Areas, and Special Area Management, in response to formal direction from OCRM.

Those wishing to comment on articles in *Coastal Features* are invited to do so. Please send to:

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CRMC SUBMERGED LANDS LEASE PROGRAM

Submerged lands are those lands that are wholly or partially covered by the movements of the tide and carry a very special interest known as "trust lands". This title is different from other forms of state lands in that certain rights can never be alienated from the public. These lands are most definitely separate and apart from the private upland. Rhode Island's submerged lands begin at the mean high water mark along the state's coast and extend to the offshore limit of the state's territorial sea.

When the Coastal Resources Management Council (CRMC) was created by the General Assembly in 1971, it was given the responsibility of managing these lands and protecting the public trust uses and areas for the benefit of the public. The Public Trust Doctrine protect those resources that are commonly owned by the public; in this instance, they include the submerged lands, the water, and the uses associated with them, such as fishing, swimming, and navigation.

It is with the intent of our enabling legislation that the CRMC is proposing a lease fee for activities which utilize the public trust areas of this state. As a matter of law, all CRMC Assents declare that "the submerged and submersible lands of the tidal, coastal, and navigable waters of the state are owned by the state and held in trust for the public. Conveyance of these lands is illegal, titles purporting to transfer such land are void." It is quite clear and well established that submerged lands and tidal waters are public resources held in trust by the state for the public. Any encroachment of these resources must be managed in the public's interest.

Since the CRMC is both the regulator and trustee of these public trust lands they must balance the interests of both the private property owner and the general public. If there is not a balancing of these interests then use of these lands can be questioned in court.

The fee schedule in the proposed CRMC Submerged Lands Lease Program provides a mechanism for balancing the private use and the public trust of submerged lands. The forward implementation of these fees will provide compensation to the general public for the private use of these submerged lands. In addition, the Submerged Lands Lease Program will bolster public access, planning initiatives, and in-water permitting

because the money will be placed in a restricted receipts account for this public trust program's use only.

Any applicant who has received an assent for a residential dock is aware that a fee would be charged for the dock because it is a condition of the permit.

All CRMC Assents for docks stipulate that "in accordance with a decision of the Coastal Resources Management Council...Assent is granted with the proviso that it is subject to the imposition of a usage fee to be established by the Coastal Resources Management Council."

The fees established in the Submerged Lands Lease Program are not a form of double taxation. The upland property owner is paying to use the submerged land. Any taxes imposed by the local governments are for the improvements occupying the submerged land.

Rhode Island's historical unauthorized dock problem is a perfect example of a current dilemma that the Submerged Lands Lease Program will help to alleviate. Before the creation of the CRMC in 1971 a large number of unauthorized docks were constructed. Since then the CRMC's program has set protective regulations concerning recreational boating facilities along the coast; however, our agency's lack of resources make it difficult to enforce these policies. These fees will support our efforts to limit the cumulative impacts of the many individual residential boating facilities on the public trust resources and enable the CRMC to deal with this issue once and for all.

We at the CRMC feel the following example illustrates the intent of our Submerged Land Lease Program. If a family is camping in Yellowstone National Park they do not think twice about paying a fee for the use of the campsite. The family understands that the campsite is on land that belongs to the public. If the quality of the land is to be maintained, then user fees must be charged. The same is true for submerged lands. The CRMC is the agency charged with the management of the submerged lands. We devise regulations to protect the Rhode Island coastline. If the CRMC is to continue to provide these services in order to benefit the public than programs must be developed to better manage the public trust areas of our state.

STAFF PROFILES

Mark Imperial and Donna Doyle are two of the most recent additions to the CRMC staff. Mark, a student at the University of Rhode Island's Graduate Program in Marine Affairs, is the Marine Resources Specialist who replaced Tim Dillingham. Donna, a recent graduate of the University of South Carolina where she earned her masters in Marine Science, has joined the permitting staff as part of the team that processes category A applications.

Mark, a 25 year old native of Caldwell, New Jersey, earned a B.A. in Marine Science at the University of Miami. He is currently finishing up a thesis about coastal management public outreach policies at URI. At the same time he is helping to develop CRMC policies about non-point source pollution and harbor management plans.

Donna, a 25 year old native of Schenectady, New York, did her undergraduate work at Union College where she earned a B.S. in biology. Her graduate thesis, A Field Analysis of a Functional Wetland Assessment Model, prepared her for those difficult decisions regarding wetland determinations in Rhode Island. Donna says she moved to Rhode Island hoping to work for the CRMC, which has an excellent reputation in other states on account of its comprehensive coastal resources management program. She is currently very busy learning how to apply the CRMC policies and regulations in the field.

THE NARRAGANSETT BAY PROJECT RELEASED

The Narragansett Bay Project has released its draft Comprehensive Conservation and Management Plan (CCMP), which contains over 500 recommendations that address all major sources of pollution affecting Narragansett Bay -- this region's most valuable resource. Recommendations in the project are structured around the following goals:

- Prevent further degradation and incrementally improve water quality in developing coastal areas with deteriorating water quality.
- Protect diminishing high quality resource areas throughout the Bay basin.
- More effectively manage commercially, recreationally, and ecologically important estuarine-dependent living resources.
- Rehabilitate degraded waters in the Bay basin and restore water quality-dependent uses of Narragansett Bay.
- Establish necessary interstate and interagency agreements and mechanisms to coordinate and oversee implementation of the Narragansett Bay Comprehensive Conservation and Management Plan.

The CCMP outlines specific tasks, identifies the authorities that will carry them out, proposes a timetable for their implementation, and suggests potential funding sources for these tasks.

Since the CCMP offers such a wide variety of recommendations the management committee is working diligently to address each of these concern. In addition, the public comment period has been extended until April 20th.

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