

COASTAL FEATURES

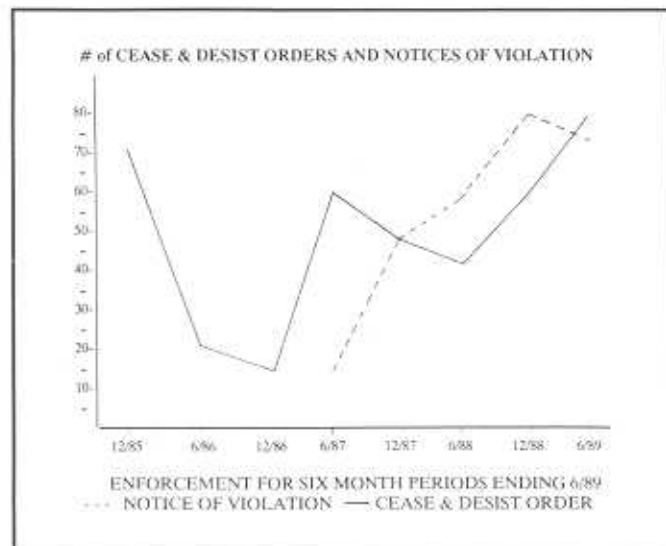
November/December 1989

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

George N. DiMuro, CRMC Chairman
Grover J. Fugate, CRMC Executive Director

CRMC REPORTS 100% FOLLOW-UP ON ALL 1988 ENFORCEMENT ACTIVITIES

The enforcement activities of the Coastal Resources Management Council (CRMC) have been increasing steadily. Considerable improvement has been noted since the assignment of a full-time staff member to the enforcement division. In 1988 the CRMC issued 97 cease and desist orders for illegal activities within the Council's jurisdiction. Executive Director, Grover Fugate said, "Our staff has significantly increased its effort in the area of enforcement. We expect this trend to continue with the result being fewer violations in the future because people will be aware that the CRMC has an effective enforcement program."



Fugate went on to report that there has been 100 percent follow-up on the 97 cease and desist orders issued in 1988. Follow-up falls into three categories. First, restoration which involves returning the site to an acceptable condition. Second, filing an application for an assent which allows the CRMC to review the violation and initiate an appropriate remedy. And third, in the worst cases, the CRMC can initiate legal action against the property owner. Legal action can be either civil or criminal. Violations of the Coastal Resources Management Plan (CRMP) occurred in every coastal community. It was noted that 23 percent of the C&Ds were issued in Warwick, East Greenwich, Jamestown and Providence had 1 C&D each. The greater incidence of C&Ds in some communities is related to the length of coastline within them. Other factors contributing to the number of C&Ds were the lack of knowledge of state requirements on the part of local officials or property owners, disregard for the CRMP, and an increase in reports of violations from a more environmentally concerned public. The violations were grouped into the following categories: filling, removing and grading; filling and clearing of wetlands; construction of docks and pilings within tidal waters; nonconformance with a CRMC assent; building construction and related activities without a CRMC assent; construction of seawalls and placement of riprap; and others including discharge and drainage into coastal waters.

GOVERNOR SIGNS H-5689 OK's CRMC ADMINISTRATIVE FINES

H-5689, introduced by Representative Edward Smith, was approved by the House on May 5. The Senate approved it on June 28, and the Governor signed it on July 10, 1989. It is now Rhode Island Public Law Chapter 516, 1989.

The law enables the CRMC to levy administrative fines as penalties for violation of the Rhode Island Coastal Resources Management Plan (RICRMP). Specifically, the law authorizes the chairman, vice chairman, or executive director to assess an administrative penalty (fine) of not more than one thousand dollars (\$1,000) for each violation of the RICRMP, decisions of the council, assent stipulations, or consent agreements. Additional fines of not more than one hundred dollars (\$100) for each day during which the violation continues after receipt of a cease and desist order from the council would also be authorized.

CRMC's executive director, Grover Fugate and the council members are very pleased that this legislation has been signed into law. Fugate said, "The law provides the CRMC with the enforcement powers necessary to carry out the responsibilities of protecting the coastal resources of Rhode Island. Without some penalty attached to a violation it is difficult to prevent violations from happening. The authority to levy administrative fines is the final tool in our enforcement kit. It provides the missing step between a Cease and Desist Order and taking legal action through the courts. This will make our job much easier and our program more effective."

The complete CRMC enforcement package includes notices of violation, cease and desist orders, administrative fines, administrative fees, consent agreements, criminal penalties, and equity settlements through civil court proceedings.

COASTAL AND OCEAN RESOURCES ACTION AGENDA SIGNED

The 1989 conference on the state of our coastal and ocean resources, held in New York City, May 10-12 culminated in the signing of the COASTAL AND OCEAN RESOURCES ACTION AGENDA. The Action Agenda was signed by

Rhode Island, New York, New Jersey, New Hampshire, Maine, Massachusetts, and Connecticut. The Action Agenda is the result of recognizing ongoing problems shared by all coastal states in their efforts to provide sound and effective plans, policies, and regulations relating to coastal resources.

The Action Agenda resolved to support the 1990 reauthorization of the Coastal Zone Management Act. It encourages the signatory states to get the national congress and its executive branch to improve management of coastal and ocean resources by allowing the primary responsibility for regulating land use and development in the coastal zone to remain at the state and local level and by creating new incentives and increasing the federal financial assistance to state and local governments to carry out necessary management plans and regulatory activities.



CRMC Chairman George DiMuro signs Coastal Action Agenda at conference of coastal regulators held recently in New York City.

The Action Agenda wants to have federally established statutory authority and funding for federally-approved Coastal Zone Management programs that will enable these programs to effectively address water quality and wetlands protection. These programs should be administered in a manner that recognizes the systemic nature of coastal problems as they relate to land use and development trends that are not located within the near coastal area.

The Action Agenda also supports the immediate implementation of the Ocean Dumping Ban Act of 1988, the Plastic Pollution Research and Control Act of 1988, and the Tributyltin-Based Anti-Fouling Act of 1987. It calls for international cooperation in planning and information exchange regarding the impacts of sea level rise and ocean degradation. To this end, it suggests that all impacted states receive federal

funding to develop reports by 2050 concerning the sea level rise and identify those areas that will be vulnerable to this impact.

It calls for stronger policies and regulations protecting water-dependent uses of shoreline from the encroachment of nonwater-dependent uses. This goal can be achieved by ensuring that appropriate changes in insurance and regulatory policies of various federal agencies are in compliance with each other's purposes.

The Action Agenda will be carried to all of the states' governors, congresses, appropriate congressional committees and their members, the national congress, The Department of Commerce and the Interior, the Environmental Protection Agency, and President Bush.

CRMC BEGINS CHARGING VIOLATORS ADMINISTRATIVE FEES

The enforcement of coastal regulations and the protection of Rhode Island coastal resources accelerated dramatically in January and is anticipated to increase under a new rule adopted by the Coastal Resources Management Council (CRMC) in September of 1988. Under this rule violators of coastal assents, the coastal equivalent of a building permit, will be assessed an ADMINISTRATIVE FEE, designed to hold them accountable for CRMC staff time required to investigate and resolve violations. The new rule also provides authority to assess violators for punitive damages to the environment where restoration is not possible.

"An Administrative FEE is a dollar amount agreed upon by the CRMC and the violator, that when paid goes into the State general fund. The amount is determined by calculating staff time required to travel to the site, meet and discuss the problem with the parties concerned, and to draw up an agreement to restore the site to its proper condition." Fugate went on to explain that "An ADMINISTRATIVE FEE is different than an ADMINISTRATIVE FINE because a fine is punishment based on the finding that a violation has occurred. The CRMC also has the power to impose administrative fines (see administrative fine article in this issue) since the passing of recent legislation by the General Assembly."

The first application of the ADMINISTRATIVE FEE came Jan. 10, 1989 when a Portsmouth developer cleared vegetation from a buffer zone violating a stipulation of his CRMC assent. The ADMINISTRATIVE FEE of \$3,200 was agreed to by the developer and appeared as one of several stipulations of a consent agreement binding the violator to pay the fee and to implement restoration of the site. Three important points of the consent agreement provided that the developer would build a permanent demarcation line around the buffer in the form of a stone wall; the developer agreed to completely revegetate the area with mature plantings; and finally he agreed to dedicate the buffer as a permanent easement. Fugate further remarked that "the ADMINISTRATIVE FEE also tries to compensate for the damage done to the coastal resource. It recognizes that the violator must return the site to the condition Rhode Islanders expected when they entrusted the CRMC with protecting the coastal resources. In this particular case, we estimate the value of the restoration cost to be around \$80,000."

GREG BARIBAULT NEW "A" TEAM MEMBER

"A TEAM" engineer, Greg Baribault, joined the CRMC staff in 1989. He works with A Team biologist, John Sposato. The A Team evaluates and processes all category A applications, which do not require a review by the full CRMC Council. With a background in construction and four years experience with the R.I. Department of Transportation, Greg has quickly proven himself well-equipped to handle the large amount of structural review work demanded by his new position.



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