

STATE OF RHODE ISLAND
PROVIDENCE, SC.

COASTAL RESOURCES MANAGEMENT COUNCIL
Oliver H. Stedman Government Center
4808 Tower Hill Road, Wakefield, RI 02879

DECISION



Petition Of: Edward Troiano

Docket No.: 2017-05-006

The Applicant, Edward Troiano, filed an application with the Coastal Resources Management Council to create and maintain an aquaculture farm in the waters in the vicinity of Nayatt Point, Barrington, RI.

A meeting was held by the Coastal Resources Management Council on February 13, 2018, in the Department of Administration, One Capitol Hill, Conference Room A, Providence, RI, pursuant to the Administrative Procedures Act. At that time, evidence was submitted on behalf of the applicant as well as other interested parties. Further evidence was submitted by staff members of the Coastal Resources Management Council and by other State agencies, all of which was incorporated into the record. Further, all evidence so submitted to the Council pursuant to this application whether it be by interested parties, through its staff members and other various State agencies, has been, and is, available to all interested parties at the office of the Coastal Resources Management Council, Oliver H. Stedman Government Center, 4808 Tower Hill Road, Wakefield, Rhode Island, 02879.

The entire Council took under consideration the application, record and the evidence therein. After careful consideration and a review of all of the evidence, records and testimony presented at the meeting, the Council voted and finds, as a matter of fact:

FINDINGS OF FACT:

- 1) The proposed project is located in the waters of Narragansett Bay in the vicinity of Nayatt Point, Barrington, Rhode Island.
- 2) The coastal feature is the water and the submerged land thereunder.
- 3) The proposed project is in water the CRMP Section 1.2.1 D has designated as Type 4, Multipurpose Waters.
- 4) The applicable provision of the CRMC are set forth in the staff reports and incorporated herein by reference including CRMP Sections 1.2.1 D (Multipurpose Waters), 1.3.1 A (Category B Requirements) and 1.3.1 K (Aquaculture).
- 5) As more fully set forth in the staff reports and incorporated herein by reference, the proposed project requires an assent pursuant to the CRMC regulations.

- 6) The CRMC's Aquaculture Coordinator submitted a report describing the location and proposed operation of the farm; the number and nature of objections the application received; his evaluation of the objection; and his recommendations regarding the application. At the meeting he testified consistent with his written report. He also testified the proposed location is "conditional area A" which "is seen as valuable to commercial fishermen." The Council finds his testimony credible and reliable.
- 7) Edward Troiano testified under oath on behalf of his application. He stated he selected the proposed location after consulting with various officials and groups; that he proposed the size as ½ acre to avoid conflicts with shell fishermen; that he is very familiar with the area by being a Barrington resident, by boating in the area for 20 years and by spending a lot of time on the water and along the beachfront; that the location is in shallow rocky water; and that he would agree to forever limit the farm to the ½ acre requested in his application.
- 8) Several people testified under oath in opposition to the application. They were:
 - a) Michael McGiveney, President of the Rhode Island Shellfishermen's Association (RISA). He testified the location is in Area A which he said was a critical area for the shellfish industry; that in his experience over 40 years the area has historically been productive and heavily shellfished; that while fishing in the area shellfishermen drift from the more productive areas through the lower density areas; that if the application is approved he fears more aquaculture farms will be drawn to the area and the shellfishing industry would lose more critical grounds; that there are more than 100 shellfishermen in Rhode Island; and that the area needs to be protected for them.
 - b) David Ghigliotty. He testified his fellow shellfishermen were concerned with the precedent approving the application would set; that shellfishermen will drift through areas like the proposed location while fishing; that as it gets windier they hug the shoreline more; the area in question is 11 and a half to 15 feet deep at high tide which is very workable bottom for shellfishermen; that Area A is the most productive area of the Bay and is heavily worked by shellfishermen; that there are other sites for aquaculture that would not conflict with shellfishing; that the farm would deprive recreationalists from using the location; that, in his personal experience, shellfish counts done by dredge is inefficient and under count the shellfish; that he has observed seed and undersized shellfish increasing in areas like the proposed location; that at windier times of the year the area is a place shellfishermen use and drift through; and that there are more than 150 full-time shellfishermen in Rhode Island.
 - c) John Harvey. He testified shellfish surveys can be inaccurate; that recreational shellfisherpeople use the area; that the area is not an area of super high productivity and that debris from an aquaculture farm would smother historically valuable shellfishing grounds.
 - d) Bill Blank. He testified he is both a fisher of wild shellfish and the co-owner of an aquaculture farm; that he has a commercial fisher since 1981; that he has dove for steamers in the area of the proposed lease and steamers periodically set up in the area

based on his years of experience; and that the proposed farm equipment will not survive the weather and will become debris which will be a hazard to beach users.

- e) Bo Christensen. He testified that in his experience there have been years when the area was dense with steamers; that as a commercial bass fisherman he has fished the area; and that the farm would conflict with recreational and commercial finfishing in the area.
 - f) Mike McElroy. He testified that the area should not be used for aquaculture; and that he knows people and dogs using the beach could get caught in the farm's gear.
 - g) Gregory Basket, Zach Silva, Manuel Vieira and Greg Hermanowski. Each briefly testified that they were fishermen in the area of the proposed lease; and that based on their personal knowledge and experience they agreed with the testimony of the prior witnesses who testified in opposition to the application.
- 9) Several people submitted letters in favor of the application and those are part of the record. At the hearing, two people testified in favor of the application under oath. They were:
- a) Joshua Glass. He testified he is very familiar with the area and often spends days and evenings on the beach and in the water by the location; that aquaculture benefits the state and the Bay; and that he thought the farm would be compatible with other users of the area.
 - b) Richard Marra. He testified that it should not matter whether the applicant wants to farm full or part-time; that the application should be decided on the merits, not on whether it will set a precedent; and that the farm is sustainable, eco-friendly and a miniscule part of the bay.
- 10) The applicant then testified again. He stated he wants to get out on the water and operate the farm; that there are no quahogs in the area proposed for the farm; that there will not be debris from the farm; that his equipment will survive adverse weather; that the farm will be small compared to the size of the relevant section of the Bay; that he selected the location considering other users and the need for the farm to be financially feasible; that he would agree to limit the farm to ½ acre; and that he has never seen a boat in the shallow water area.
- 11) At the conclusion of the testimony there was a Motion made and seconded to approve the application with certain stipulations. On a vote of 4 to 4, the Motion failed.
- 12) The members voting against the Motion believed the proposed farm was not compatible with other existing and potential uses of the area and areas contiguous to it, including navigation, recreation and fisheries.

CONCLUSIONS OF LAW:

1. This Council has been granted jurisdiction over the above mentioned project by reason of Title 46, Chapter 23 of the General Laws of the State of Rhode Island, as amended.
2. The applicant has not demonstrated that the proposed alterations, even with the stipulations of the staff and in the motion, do not conflict with the management plan approved and adopted by this Council and in effect at the time the application was submitted.
3. The record reflects that the evidentiary burdens of proof as set forth in the Coastal Resources Management Program have not been met for this project.

WHEREFORE, as a result of these Findings of Fact, it appears that the applicant has not met his burden to establish that the proposed farm does not have a reasonable probability of causing a detrimental impact upon the coastal resources of the State of Rhode Island. As a result of these Findings of Fact and Conclusions of Law, the Council hereby denies the application.

FOR THE COUNCIL,



Grover J. Fugate, Executive Director

Dated: 07-05-2018

CRMC Mailing List for Edward Troiano
CRMC File Number 2017-05-006

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