In The Matter Of:
Coastal Resources Management Council

Application of Perry Raso
Vol. 1
November 12, 2020
Subcommittee Hearing

Rebecca J. Forte
Certified Professional Court Reporters
33 Rollingwood Drive
Johnston, RI 02919
(401)474-8441
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COASTAL RESOURCES MANAGEMENT COUNCIL
SUBCOMMITTEE HEARING

* * * * * * * * * * * * * * * * *
IN RE:
CRMC File No. 2017-12-086
In the matter of Perry Raso
* * * * * * * * * * * * * * * * *

Date: November 12, 2020
Time: 1:00 p.m.
Place: Via Zoom
Rhode Island

MEMBERS PRESENT
Jennifer Cervenka, Chair
Raymond C. Coia, Vice Chair
Donald T. Gomez
Patricia Reynolds
Anthony DeSisto, Esquire, Legal Counsel

STAFF PRESENT
Jeff Willis, Executive Director
Lisa Turner, Secretary
Ryan Moore, Moderator
James Boyd, Deputy Director
David Beutel, Former Aquaculture Director

APPEARANCES
Elizabeth Noonan, Esq.................For the Applicant

Leslie Parker, Esq.....................For the Applicant

Christian Capizzo, Esq...............For the Objectors
(Hunt, Latham, Cooney and Quigley)

Dean Wagner, Esq.....................For the Objectors
(Andrew Wilkes and 454 Beach Road, LLC.)
was shared via social media including templates for letters of objection, also, really some misrepresentation about what this application was about. In a moment I will go through the list of objections about what the main topics were, but I would like to say that Mr. Raso upon learning of these objections submitted some additional information in his attempt to try and minimize the topics of objection. All that information is included in the packet, and we will touch on some of that later on in this presentation.

So in the synthesis of the topics of objection, there are quite a few. One, the first one was noise, the other was peace and tranquillity, the other was recreational fishing, clamming, effects on wildlife, effects on the visual aspects of the pond, effects on navigation, recreation, negative effects on property values, pollution from the oysters. Many people questioned the timing of the application questioning that it occurred in December when people were away. When I say "people were away" I would also like to note that of the objections, 79 were received from non-Rhode Island residents and 68 were received from Rhode Island residents.

After the timing. The people -- some people
objected to the Matunuck Oyster Bar itself. Some checked negative impacts on hunting, also for beach access. And numerous letters said that Perry Raso has enough activity on Potter Pond already.

Staff addressed all of these issues in the report, and I'll go through this quickly because I'm sure most of you have read this.

Noise. Aquaculture activity generates noise, as does boating, waterskiing, tubing. Deciding which noises are tolerable and which ones are not are a real challenge, and I have no answer for that.

Tranquillity. Really, the same answer. Segar Cove could be quite tranquil. But boating, tubing, waterskiing are not tranquil activities. So once again, how are we looking at that?

Recreational fishing. Segar Cove is a good recreational fishing area. Kayaking and boat fisherman operate throughout all of Potter Pond and they also fish within Segar Cove. Staff agrees that the area is good for fishing, but does not agree that this small 3-acre area will significantly negatively impact the fishing experience on Potter Pond. Will that 3-acre area limit fishing in that three acres? Yes. It would be hard to imagine someone fishing amongst floating gear. The pond
is much larger than that.

Clamming. The staff conducted a shellfish assessment for the site and found 0.88 quahogs per square meter. That is a low number. The Rhode Island Department of Environmental Managements Division of Marine Fisheries also conducted a site assessment for soft shell clams and found none. Please see their letter that is in the packet.

The aquaculture site itself really is not valuable clam habitat. Adjacent to it on the shallower water, south of it where the bottom is firmer, staff would agree that those are reasonable clamming areas, but the soft sediment for the area that it was proposed are not.

Wildlife. There are some very creative and observed drawings that were provided on social media, and concerns were mentioned about negatively impacting fox and deer and offsprings and fish which I'm actually amazed that I even have to address that. I'm sure the deer like to swim through Potter Pond, but I think they can swim around the floating gear and suspended gear.

I would also note that shore site development, all the homes along there, have a significantly larger impact on the wildlife than the aquaculture site work.

The visual aspect. Floating gear is visible.
Guaranteed. Low profile floating cages are less visible but they will still be seen. Adopting the low profile cages was the applicant's method of minimizing the visual impact. The suspended gear for the bay scallops would have floats over them so that would have less of a visual impact on the low profile oyster cages, but there would still be floats visible.

Navigation. This includes boating of all types, and if we break this down, paddle boarding and kayaking will be very little impact. Those are self-powered craft and they are easy to manipulate through and around all kinds of different areas. For example, through rocks and that sort of areas, sailboats would have a bigger challenge. They are a little more difficult to handle. Powerboats are limited to the deeper water, and they will be effected more than the kayaks and the paddle boards, but probably equal to sailboats.

That being said, this cove is sufficiently big that powerboats and sailboats will still be able to operate. Paddle boards and kayaks will still be able to operate. The notion in the objections that recreational boating activities will disappear because of this aquaculture site is just outrageous. These activities will continue to occur throughout Potter Pond and also be in Segar.
Cove.

Let's see, recreational boating activities we talked about. Swimming. Swimming could be affected if people wanted to swim through the aquaculture site. That is not advisable. Also note that in Potter Pond, as in all coastal ponds in Rhode Island, we have the 5 percent rule where no more than 5 percent of an area of a given coastal pond could be dedicated to aquaculture. If this application is approved, the total amount of aquaculture all managed by Mr. Raso would be 9.9 acres and would come to 3 percent of the area of Potter Pond. 3 percent may sound like a lot to some people. What that means is 97 percent is left for all other activities.

Property values. This is really a frequent objection to aquaculture. There is no peer-reviewed literature that supports that concept. So people may assert that, but there is no peer-reviewed literature that gives that concept support.

Pollution from oysters. This is also a common objection, and this is really from people that don't quite understand the oyster process of growing them, denitrification process, and the process of the act of harvesting the oysters. Both denitrification process and harvesting the oysters remove nitrogen from the water.
So pollution, no. There's a few supporting publication cited, but the East Coast Shellfish Growers Association has a bibliography over 90 titles of peer-reviewed scientific legislature that supports that pollution from oyster aquaculture is not an issue.

Timing. I already mentioned about the application, people complaining about it, starting the process during the winter when everybody is away. But given that this report was out in June and the subcommittee meetings were arrange originally scheduled for the springtime and early summer, really timing has not been an issue and should not be considered as one.

The objections concerning Matunuck Oyster Bar. Really, some people don't like any change at all. The Matunuck Oyster Bar is a very successful restaurant. With their success comes some traffic, and all of the restaurants that were there previous to this were not successful. Hence, the change is really twofold. The change is the success of this restaurant and the consequence is traffic that comes with success. I would also note that while the applicant owns the Matunuck Oyster Bar, the Matunuck Oyster Bar is not part of this application. So those objections are irrelevant.

Objections involving hunting. Given the density of
locations of nearby homes, the hunting opportunities would not be effected by this site.

Beach access. Personally, I cannot understand how this site would effect beach access whatsoever. It's nowhere near the beach.

One major -- the final major objection was that Mr. Raso has enough control over the pond. We already has a 6.9-acre farm. An additional 3 acres will give him 9.9 acres, and people look at that as too much area for one person to manage or to control. In the same vein a number of people, as I already mentioned, did not like the restaurant but they also don't like his land farm which is also on Potter Pond. Mr. Raso has been really successful in Matunuck and in Potter Pond. He wants to expand his business. This is a legitimate location to do that.

There are a number of other items that are listed here. I can go through each one in the report. And if that's all right, I will continue. If not, I can skip over it and go right to the recommendation.

CHAIRWOMAN CERVENKA: Mr. Beutel, if you could address the compliance with the Category B criteria, that might be helpful just for the subcommittee members as they start to think about the standards that they are
looking at. And then followed by that, maybe some
orientation with a site plan or a map. I do see, just
looking at your report, that there's a color-coded plan
here. Maybe you could orient the subcommittee members
the area in question.

MR. BEUTEL: Okay. Well, the Category B
criteria were addressed in Mr. Raso's application.
Certainly they were addressed in his subsequent filings
in trying to minimize the different impacts. All of the
substantive objections listed different criteria for
which they -- different Category B items which they
thought Mr. Raso did not address.

It is staff opinion that he has addressed all of
them and, really, by going through the objections, that
list that I just went through, that really is a list of
the substantive objections and criteria.

CHAIRWOMAN CERVENKA: And Mr. Beutel, in your
opinion and based on your review of the application
materials, they not only addressed the Category B
criteria, but they were satisfied. So the standard in
your opinion was met for Category B?

MR. BEUTEL: That's correct. It is staff
opinion that he has met all of the criteria for Category
B objections.
CHAIRWOMAN CERVENKA: I refer to a color-coded map that is part of your staff report. Can you, just at least for me, kind of describe the Potter Pond area?

Segar Cove is a portion of the larger pond. How does that work?

MR. BEUTEL: Segar Cove is a cove over the western portion of Potter Pond. It has a peninsula that comes down that Mr. Capizzo already mentioned that one of his clients live on that. That peninsula that comes down. It is somewhat secluded, not secluded, the opening to Segar Cove from the rest of Potter Pond is -- I wouldn't call it narrow, but it is narrower than the other access points of Potter Pond.

The area proposed in the original proposal and some subsequent tweaks from Mr. Raso is on the western side of that peninsula which happens to be the eastern side of Segar Cove, and what he is trying to do is minimize the extent it goes out towards the center of the cove.

For the subcommittee and certainly for the Council, the decision has -- the application needs to be looked at from the original location that was determined or that was applied for by Mr. Raso. The alternatives that he provided can be accepted by the Council and could be -- they could approve one of those rather than the original
CERTIFICATION

I, Lisa M Reis, hereby certify that the foregoing Pages 1 through 168, inclusive, are a true and accurate transcript of my stenographic notes of the proceedings, via Zoom, which occurred on the above-entitled dates, to the best of my ability.

_________________________________

LISA M. REIS, RPR
Court Reporter/Notary Public
My Commission expires on 7/27/24

Sworn to and subscribed before me,
This 16th day of November, 2020
In The Matter Of:
Coastal Resources Management Council
Perry Raso

Hearing
Vol. 4
December 4, 2020

Rebecca J. Forte
Certified Professional Court Reporters
33 Rollingwood Drive
Johnston, RI 02919
(401)474-8441
traffic going from Point Judith Pond to Potter Pond is really quite minimal.

MS. REYNOLDS: Thank you.

CHAIRWOMAN CERVENKA: Mr. Beutel, I just wanted to ask you about the original proposed lease area and then the alternative, what we've been referring to as B, the polygon lease area. I just want to confirm for the record that your staff report is based on the preferred, your preferred, alternative B configuration.

MR. BEUTEL: So my staff report recommends configuration B. The report is based upon both configurations.

CHAIRWOMAN CERVENKA: Okay. So it doesn't -- so tell me all your reasons why you prefer configuration B.

MR. BEUTEL: The major reason was in discussion with the Applicant that clearly there would be some effect of towed water sports, that configuration B would have less of an effect on towed water sports than the original configuration.

CHAIRWOMAN CERVENKA: Is it limited --

MR. BEUTEL: That's the logic that was used.

CHAIRWOMAN CERVENKA: So it only related to I guess mitigating the potential impact on towed water
sports?

MR. BEUTEL: That was what we had discussed.

CHAIRWOMAN CERVENKA: Okay. And everything -- all the other analysis for the Category B, it would apply either to the original proposed or the Configuration B?

MR. BEUTEL: Correct.

CHAIRWOMAN CERVENKA: Another thing that I've been listening about is the depth of the water in the proposed lease area. Can you address that?

MR. BEUTEL: It is one of the deeper parts of Segar Cove which is why the methods and species proposed for this application, why this site was chosen. One is, Mr. Raso has worked very hard to establish bay scallop aquaculture. It needs to have a sufficient depth for suspended culture so that the cages will hang down and not be effected by potential winter cold or potential winter ice in terms of harvesting the animals.

The other piece is that the sediment in the proposed lease area is soft mud and cages would not be appropriate in soft mud. Floating and suspended gear are appropriate methods for soft mud, and we have shown this in other applications throughout Rhode Island.

CHAIRWOMAN CERVENKA: Okay. Thank you. Any other questions for Mr. Beutel about his report?
Mr. Gomez?

MR. GOMEZ: I appreciate the discussion on configuration B, but as I've gone through this, it seems to me that there's pros and cons for both. I'm kind of leaning toward the original configuration. Do you see that as a major problem, Dave?

MR. BEUTEL: I do not see that as a major problem, while it clearly establishes that the original proposal could be okay, if the original proposal in terms of a business layout for the Applicant is much better than alternative B.

MR. GOMEZ: It is certainly more efficient and easier to work with. One of the big items as we've gone through a thousand of this is the issue of balance. To me, I think you've done a good job of trying to achieve a balance. Do you want to talk about that a little bit? Do you believe at least we have in fact achieved a balance for all the uses that we've heard that the cove, Segar Cove is put to, the idea of a balance?

We're taking a very small percentage, I think, for this farm. People are indicating I guess that it's in a critical area, but the whole area is reasonably small. So getting back to my issue is whether you feel we have a balanced use with this farm being placed in the area?
MR. BEUTEL: I do think that the uses would be balanced. The report does say the uses will be effected, but it is my assessment that the effects will not be significant.

MR. GOMEZ: Thank you.

MR. BEUTEL: Different presentations, kayaking will still occur virtually as it is now, as will paddle boarding. Sailing will be minimally effected. Towed water sports are effected a little more than the others.

Very clearly in the site assessment from both CRMC and the Department of Environmental Management and Fisheries, this is not a good clamming area. Any area of mucky sediment is not a good clamming area. I fully agree that adjacent to it in a slightly harder bottom, those are good clamming areas for both quahogs and steamers. Although, the steamers are virtually nonexistent now, as are the bay scallops on that pond.

So following the track on steamers and bay scallops, for wild harvest it seems really irrelevant to me. The relevant species is quahogs, and there are good quahog areas in there. Just this lease site is not one of the good quahogging areas.

MR. GOMEZ: We did have discussion at one of the earlier meetings about the issue of the skiers. I
C E R T I F I C A T I O N

I, Lisa M Reis, hereby certify that the foregoing
Pages 479 through 689, inclusive, are a true and accurate
transcript of my stenographic notes of the proceedings,
via Zoom, which occurred on the above-entitled dates, to
the best of my ability.

_________________________________
LISA M. REIS, RPR
Court Reporter/Notary Public
My Commission expires on 7/27/24

Sworn to and subscribed before me,
This 16th day of December, 2020