



STATE OF RHODE ISLAND
COASTAL RESOURCES MANAGEMENT COUNCIL
INTER-OFFICE MEMORANDUM

DATE: March 13, 2025
TO: Jeffrey M. Willis, Executive Director
FROM: Benjamin Goetsch, Aquaculture Coordinator
SUBJECT: CRMC File No. 2024-07-016

Applicant's Name:	Kyle Reichman
Project:	Three-acre shellfish aquaculture farm consisting of low-profile floating baskets, suspended lantern nets, and bottom cages for the cultivation of eastern oysters and bay scallops
Location	Dutch Island Harbor, Jamestown
Water Type/Name:	Type 4, Multi-Purpose Waters
Coastal Feature:	Submerged Land

STAFF REPORT

1. Introduction

This Category B application is for a 3-acre commercial aquaculture operation, approximately 900 feet off the western shore of Jamestown in Dutch Island Harbor. The applicant, Mr. Kyle Reichman of Newport, RI, proposes a 3-acre shellfish aquaculture farm in Type 4 Multi-purpose waters for the cultivation of eastern oysters (*Crassostrea virginica*) and bay scallops (*Argopectin irradians*). The site will consist of 20 long (horizontal) lines, 18 of which will be occupied by low profile floating baskets (FlipFarm gear), 1 will be a troll line with approximately 20 bottom cages for growing oysters and 1, long line from which lantern nets will be suspended for growing scallops. Each horizontal line will be approximately 20' of separation. A total of 44 vertical lines anchored by 450-lb helical anchors will support the 20 long lines using 1" polypropylene rope. Each 1" polypropylene line will have a large, buoy above the anchor. Further details may be found in the attached plans, see [Attachment A](#).

2. History and Application Review

According to Red Book (650-RICR-20-00-1.3.1(K)(2)(b)), as a prerequisite to a formal Category B application, applicants for commercial aquaculture operations must first submit a Preliminary Determination (PD) request for the proposed project, which is reviewed as a draft application by Staff, cooperating agencies, and other interested parties at a local meeting typically held in the municipality nearest to the proposed site. The preliminary determination process is designed to give government agencies, town officials, stakeholder groups, local residents, and the applicant a chance to review and discuss the proposal.

Name: Kyle Reichman
CRMC File No.: 2024-07-016
Staff Report

This process ensures the feasibility of the proposal, that the applicant is aware of all regulations and constraints in the area and gives Staff the opportunity to make recommendations to the applicant to include in a subsequent formal application if the project is recommended to move forward.

Accordingly, the PD application for this project was reviewed at the April 2024 Jamestown Harbor Commission meeting, see Attachment B for PD Report. However, the applicant also took several additional voluntary steps worth mentioning before submitting the PD application to develop and refine his proposal to avoid objections to the extent possible and to ensure that his proposal could be accommodated in the location of his choosing.

First, the applicant worked with RIDEM Division of Marine Fisheries (DMF) early on to identify a general site that they would have no objection to. Through this scoping process, DMF communicated with the applicant and Staff that the proposed location did not present any concerns for them given the impact to sensitive habitat like eelgrass would be minimal and that the proposed site is also set within the open space between several other farms where other water-dependent activities are less likely to occur, such as navigation and fishing.

After discussing general site selection with DEM, the applicant, with the assistance of Staff, arranged a voluntary scoping meeting held with the three nearby aquaculture operators (Brad Boehringer, Nick Papa, and Adam Silkes) and a representative from Watson Farm (Max Sherman), a nearby traditional terrestrial farm that raises livestock and owns coastal property approximately 900' from the proposed site. The other aquaculture operators had several concerns about the proposal. These concerns were primarily related to their ability to access and expand their own sites in the future, and the cumulative effect of more aquaculture development on the growth rates of their shellfish through increased competition for food resources. All agreed that appropriate buffers between farms would address most of these concerns. The representative from Watson Farm wanted to ensure that he would still be able to access his shoreline and that buffers should be adequately spaced to allow small vessel traffic to the shoreline. Watson Farm has no dock or mooring in the area but does maintain a small access path to the water from their farm used by them and visiting members of the public. The applicant worked with the nearby farmers to refine his site selection and provide adequate buffers between the farms. There was also some discussion of possible commercial conch fishing in the area, however a follow up email from Katie Eagan, Chair of the Marine Fisheries Council's (MFC) Shellfish Advisory Panel, indicated there were "no significant issues" with the application in that location.

Once submitted, notice of the PD meeting was sent out on the CRMC Aquaculture Listserv 30 days ahead of the meeting date. Only one email was received in response to that notice. Sharon Prudie on West Wind Drive, submitted a comment that stated: "...there are now many oyster farms in Dutch Harbor, many more than in other parts of Jamestown. The addition of another farm would only add to the concerns we've expressed in the past - less space for water recreation, more debris landing on shore (sometimes in front of our house), more chance for disease as occurred at one of the Dutch Harbor farms last year, more shore birds roosting on cages, and more commercial boat traffic as the farmers go to and from their farms daily."

The PD meeting before the Jamestown Harbor Commission revealed very few issues with the application given the applicants proactive efforts to address concerns through early communications and consultations. The applicant's choice to use low profile floating baskets as the primary gear type is consistent with current CRMC guidelines for floating gear as they minimize the visual impact of the operation without sacrificing efficiencies. None of the nearby farmers objected to the site based on the buffers developed as part of his

consultation with them at the earlier scoping meeting. One member of the public in attendance had concerns about sail boats navigating into the harbor near the aquaculture area. When the precise location of the proposal was shown to him on a chart, he stated that he did not have concerns given the location was behind other farms and did not extend any further west than the existing leases (i.e. the Silkes site).

It should be noted that prior to the acceptance of the PD application, in January of 2024, CRMC Staff convened a Working Group for Aquaculture in Dutch Island Harbor with Jamestown officials (including the Town Manager, Town Planner, Harbor Master and Assistant Harbormaster) and the DEM DMF staff, to discuss in general the cumulative effects and limits of aquaculture development in Dutch Island Harbor, see CRMC presentation to the Working Group Attachment C. The discussion focused on concerns about habitat (particularly eel grass), navigation, and potential impacts to other observed uses of the waters. The result of the Working Group discussions was the development of a guidance map which outlines the aquaculture development area where any future applications should go and beyond which no new applications would be recommended to go forward by Staff, see Attachment D. Mr. Reichman had the additional benefit of ensuring his PD application was consistent with that guidance map before submitting, which streamlined the subsequent review of the PD application by most parties involved and Staff recommend few changes to the initial proposal based on the PD review process.

The formal Category B application was put out to Public Notice on July 30, 2024. Since then, the application has undergone the standard review process and has received the following authorizations and letters of recommendation:

- RI Department of Environmental Management (RIDEM) Division of Marine Fisheries (DMF) / Division of Fish and Wildlife (DFW)- Joint letter dated August 30th, 2024: *"The proposed location does not intersect with known submerged aquatic vegetation. Thus, DMF believes that the adverse impacts to marine fisheries and their habitat from this prospective site would be minimal. As such, the DMF does not have objections to this application."* (Attachment E)
- RI Marine Fisheries Council- Letter dated January 7th, 2024: *"Application does not conflict with the competing uses engaged in the marine fisheries in the area."* (Attachment F)
- RI Historical Preservation and Heritage Commission – Letter received August 15th, 2020: *"No effect on any significant cultural resources."* (Attachment G)
- US Army Corps of Engineers- Letter dated December 30th, 2024: *"Activity is authorized under May 6, 2022 General Permit #20 of the federal permits known as the Rhode Island General Permit (GP)."* (Attachment H)

Based on the size, location, and review by other cooperating agencies, this application meets the threshold requirements for administrative approval pursuant to the Redbook section 650-RICR-20-00-1.1.6(D)(5), but only if no objections had been received during the 30-Day Public Notice Period. This application did receive one objection during the Public Notice Period and therefore requires review and action by the full Council, see Attachment I. The objection will be summarized and addressed in the Section 4 of this report.

3. Applicable Sections of the RICRMP Policies and Standards

Below is a table of applicable *Red Book Sections* followed by Staff analysis:

Section title	650-RICR-20-00-1: Redbook Section number	Policy/ Standard/Prohibition and Discussion
Applications for Category A and Category B Council Assents	1.1.6(B) and 1.1.6(D)(5)	<p><i>“Through the adoption and implementation of the Marine Resources Development Plan by the Council on January 10, 2006, permit applications which meet the thresholds below ..., have received no objections, and are consistent with the goals and policies of the coastal resources management program will be reviewed and acted upon administratively by the executive director...”</i></p> <p>This application is for a 3-acre shellfish farm located in Type 4 waters in a Narragansett Bay. This proposed activity is a Category B application according to the Activity Matrix for Type 4 waters found in Redbook section 1.1.5.</p> <p>According to section 1.1.6(D)(5), the threshold for administrative approval of a Category B application for aquaculture includes <i>“sites up to three acres in the salt ponds or upper Narragansett Bay and less than ten acres elsewhere”</i>, but only if the application has <i>“received no objections”</i>. All other applications will require review by the full Council. This application has received objections and is therefore not eligible for administrative approval and must be reviewed and acted upon by the full council.</p>
Substantive Objections	1.1.6(G)	A discussion of the objections received follows this table.
Category B Requirements	1.3.1(A)	The applicant has provided written responses to all the 11 required elements for a Category B application, please see Attachment A for details. It is the opinion of Staff that the material provided in the application meets the written requirements of this section of the Red Book.

Aquaculture Policies	1.3.1(K)(1)(a)	<p><i>“The CRMC recognizes that commercial aquaculture is a viable means for supplementing the yields of marine fish and shellfish food products, and shall support commercial aquaculture in those locations where it can be accommodated among other uses of Rhode Island waters. The CRMC recognizes that responsible shellfish aquaculture has a net positive effect on the environment, and therefore it is permissible in all water types. As any human activity can have adverse environmental effects, the Council recognizes the possibility of setting scientifically defensible limits on aquaculture leasing in any particular water body.”</i></p> <p>This application is in Type 4 waters. Aquaculture is allowed in all water types and therefore this application is consistent with CRMC policy.</p>
Aquaculture Policies	1.3.1(K)(1)(b)	<p><i>“The Council may grant aquaculture activities by permit only. The CRMC may grant aquaculture applicants exclusive use of the submerged lands and water column, including the surface of the water, when the Council finds such exclusive use is necessary to the effective conduct of the permitted aquaculture activities. Except to the extent necessary to permit the effective development of the species of animal or plant life being cultivated by the Permittee, the public shall be provided with means of reasonable ingress and egress to and from the area subject to an aquaculture lease for traditional water activities such as boating, swimming, and fishing.”</i></p> <p>The applicant has not applied for exclusive use of the area and asserts he has chosen a site and designed the operation in such a way as to not impede reasonable access to and from the area. The low-profile floating gear spaced 20ft apart would allow for small vessels and paddle craft to traverse the site.</p>

Aquaculture Policies	1.3.1(K)(1)(h)	<p><i>“It is the Council’s policy to prohibit private aquaculture activities in not-approved areas as defined by the National Shellfish Sanitation Program (NSSP) that contain significant shellfish stocks potentially available for relay into approved areas for free and common fishery.”</i></p> <p>This application is in waters classified as approved for the consumption of shellfish according to the NSSP and the application is consistent with this policy.</p>
Aquaculture Policies	1.3.1(K)(1)(i)	<p><i>“When the Council issues an authorization for aquaculture all wild shellfish stock, crustaceans, seaweed, and whelks existing within the authorized area shall remain the property of the state.”</i> See also Aquaculture Prohibitions 1.3.1(K)(4)(e): <i>“The harvest of wild bivalve molluscan shellfish, other than spat collection, naturally occurring in a CRMC permitted lease is prohibited. All wild shellfish within a lease area will remain the property of the State of Rhode Island and remain in place for the benefit of the public resource. This resource is not to be harvested by any person for commercial or recreational purposes. Any incidental catch by the lease holder within an aquaculture lease shall be returned immediately to the same waters.”</i></p> <p>The applicant has not proposed any activities inconsistent with this policy or prohibition. Given harvest from floating and bottom cages does not involve harvesting directly off the bottom, incidental bycatch of naturally occurring shellfish from the cages and bags is not expected.</p>
Aquaculture Prerequisites	1.3.1(K)(2)(a)	<p><i>“Prior to issuing a permit for marine aquaculture within tidal waters, the Council shall obtain and give appropriate consideration to written recommendations from the Director or his or her designee of the Department of Environmental Management and the chairman of the</i></p>

		<p><i>Marine Fisheries Council, as required by R.I. Gen. Laws § 20-10-5. The director or his or her designee of the Department of Environmental Management shall review the application to determine that the proposed aquaculture activity will not adversely affect including, but not limited to: (1) Marine life adjacent to the proposed area and the waters of the state, and (2) The continued vitality of indigenous fisheries. (AA) The chairman of the Marine Fisheries Council shall review the application to determine that it is consistent with competing uses involved with the exploitation of marine fisheries.”</i></p> <p>The application has received written recommendations from DEM and the MFC, see Attachments E and F respectively. DEM has “no objections” to application and the MFC found it to be consistent with the exploitation of the marine fisheries (see Attachment F2).</p>
Aquaculture Prerequisites	1.3.1(K)(2)(b) & (d)	<p><i>“Prior to submitting a formal Category B application to CRMC for aquaculture activities within tidal waters, applicants must first submit a Preliminary Determination application for the proposed project. A formal Category B application may be submitted only after the completed Preliminary Determination report has been issued by CRMC.”</i></p> <p>The applicant submitted a complete PD application with draft operational plan. The operational plan was modified through the PD review process to meet the current requirements for a Category B application consistent with section 1.3.1(K)(3)(b). It is Staff opinion that this prerequisite has been met.</p>
Aquaculture Prohibitions	1.3.1(K)(4)(f)	<p><i>“In the coastal salt ponds, the area occupied by commercial aquaculture, shall not exceed five percent (5%) of the total open water surface area of the coastal pond below MLW.”</i></p> <p>This application is not within a coastal salt pond and therefore does not apply.</p>

Aquaculture Prohibitions	1.3.1(K)(4)(g)	<p><i>“Proposed aquaculture leases may not be sited where eelgrass (<i>Zostera marina</i>) or widgeon grass (<i>Ruppia maritima</i>) exists.”</i></p> <p>Eelgrass and widgeon grass does not currently exist in this area, nor have previous routine eelgrass surveys found this to be an area of historic eelgrass habitat. It is Staff’s opinion that this prohibition does not apply.</p>
Aquaculture Standards	1.3.1(K)(5)(a)(16)	<p><i>“Aquaculture operations shall be located at sites and operated in such a manner as to not obstruct public access to and from tidal waters.”</i></p> <p>The proposed aquaculture site is not in an intertidal area and will therefore does not restrict public access to and from tidal waters.</p>
Aquaculture Standards	1.3.1(K)(5)(a)(17)	<p><i>“Any new lease in a coastal salt pond shall be limited in size as follows: (AA) A maximum three (3) acres for methods using gear including, but not limited to, racks, bags, and floating cages; or (BB) A maximum of ten (10) acres for bottom planting.”</i></p> <p>This application is for an aquaculture lease in lower Narragansett Bay using gear and therefore this standard does not apply.</p>

4. Public Comments

To date, this application has received one letter of objection (Attachment I) and no other comments. The objection comes from a resident of West Wind Drive, whose seasonal residence is approximately 0.75 miles away from the proposed site. The objection can be summarized into three elements:

- 1) Dutch Island Harbor is already “overfarmed”
- 2) CRMC Staff told her that they would not recommend any more applications there for approval
- 3) The cumulative impact of all the farms in the area has reduced the area for recreational boats to navigate in and out of the area.

Staff will respond to each element of the objections accordingly. 1) There is no standard or definition of “overfarmed” found in the Redbook or other CRMC programs. The Redbook’s policy on aquaculture development does mention that: *“CRMC recognizes that responsible shellfish aquaculture has a net positive*

effect on the environment, and therefore it is permissible in all water types. As any human activity can have adverse environmental effects, the Council recognizes the possibility of setting scientifically defensible limits on aquaculture leasing in any particular water body." No such scientific limit has been set for Dutch Island Harbor, though as illustrated by the Aquaculture Area Map guidance developed by CRMC, DEM and the Town of Jamestown, expansion of aquaculture in Dutch Island Harbor is not boundless and its constraints have been addressed by the Working Group in the current guidance. 2) Staff is not aware of any statement made to the objector regarding a moratorium on leasing in the Dutch Island Harbor. However, Staff are aware of a situation that developed years ago with a lease approximately 0.25 miles from the objector's seasonal residence. Due to irreconcilable issues with that leaseholder, the objector and others from the West Wind Drive neighborhood entered mediation with the leaseholder with the assistance of USDA mediators in order to come to an agreement on the future of that lease. Per the mediated agreement, the farmer was to remove and abandon his current lease and apply for a new larger lease approximately 0.75 miles away from West Wind Drive (approximately the same distance from West Wind Drive as this current application). CRMC approved that arrangement, and Staff did represent that no new lease would be recommended in the area of the former lease close to West Wind Drive. That policy is also represented in the current guidance map which excludes the area close to West Wind Drive. As for the cumulative effects of all operations in the area, it is Staff's opinion that the Working Group guidance has identified the areas where those effects to navigation would be minimal, and Mr. Reichman's site selection is consistent with that guidance.

5. Staff Comments and Recommendation

Staff have one comment based on on-going discussions with the US Army Corps of Engineers (ACOE) and US Coast Guard (USCG) regarding the marking of sites. The application states that the site will be marked with solar lit highflyer radar reflectors to aid navigation. Staff agree that this type of marking is necessary and is often a standard stipulation to sites in open water using floating gear, but the USCG will not register this type of marking as Private Aid to Navigation (PATON) and therefore it will not appear on navigational charts. Staff recommend that this site receive an additional stipulation that the two offshore corners of the lease be marked with appropriate hazard buoys and registered as Private Aids to Navigation (PATON) with the USCG. This will ensure not only heightened visibility in addition to the solar-light radar reflectors, but it will also ensure that it will also be charted through NOAA on electronic all navigation charts. In conclusion, it is Staff opinion that the application, as publicly noticed on July 30, 2024, is complete and has met the technical requirements of 650-RICR-20-001.3.1(K) and all other policies and standards of the RICRMP.

As such, Staff believes that the proposed 3-acre site can be accommodated amongst the other uses of the area and recommends this application for approval with the following additional stipulations:

- 1) The two offshore corners of the lease be marked with appropriate hazard buoys and registered as Private Aids to Navigation (PATON) with the USCG.
- 2) A Performance Bond in the amount of \$20,000 be posted in the event of abandonment and/or to cover the cost of gear removal.

Benjamin Goetsch, Aquaculture Coordinator

