

STATE OF RHODE ISLAND
RIDEM Office of Water Resources

INTER-OFFICE MEMORANDUM

DATE: June 21, 2024

TO: Patrick Hogan
Office of Compliance & Inspection

DEPT: Environmental Management

FROM: Chuck Horbert
Office of Water Resources

DEPT: Environmental Management

THROUGH: Neal Personeus, Supervisor
Office of Water Resources

DEPT: Environmental Management, Water Quality Certification (WQC)

SUBJECT: Complaint Regarding Quiddnessett Country Club (QCC) – Unauthorized Discharge of
Fill in State Waters

The Office of Water Resources (OWR) requests the Office of Compliance and Inspection (OC&I) to investigate a complaint to determine whether enforcement action against (QCC) is warranted in association for work that they completed involving fill within Waters of the State without first obtaining a permit. OWR's WQC Program recommends that action be taken against QCC consistent with, and in support of, similar actions taken by RI Coastal Resources Management Council (CRMC) and the Army Corps of Engineers.

The findings of fact that the OWR believes warrants the sending of this complaint for consideration of a formal enforcement action are as follows:

FACTS:

1. On August 18, 2023, CRMC staff conducted a site visit and discovered the unauthorized construction of a stone riprap revetment on a coastal feature.
2. On August 21, 2023, CRMC created Violation File No. 23-0185 and issued a Notice of Administrative Fine for \$10,000 and the potential for an additional \$1,000/day if this violation continues upon issuance of a separate Cease & Desist Order from the Council.
3. On August 28, 2023, CRMC issued:
 - a) A Cease & Desist Order associated with the unauthorized construction of a riprap revetment on a coastal feature, cutting of vegetation on a coastal feature, and filling of tidal waters at the site.
 - b) A new Notice of Administrative Fine specifically to the subject of filling of tidal waters.

4. On October 10, 2023, the law firm of Cervenka, Green & Ducharme LLC (CGD) submitted a letter to CRMC on behalf of QCC requesting an Administrative Hearing and engage in immediate settlement discussions to try to resolve the issue. (*NOTE: None of the material associated with any Hearing or settlement discussions was provided in the info package provided by CRMC)
5. On March 13, 2024, the OWR WQC Program staff were alerted through a Providence Journal newspaper article that a potential violation of the State Water Quality Regulations (WQR) (250-RICR-150-05-1, Section 1.13.B (Prohibited Discharges, Pollutants (Definition No. 71)), and Section 1.15.A.3.a & b (Approvals, WQC, 401 and State WQC), had occurred via the placement of stone revetment below Mean High Water (MHW) by Quidnessett Country Club, without first applying for and obtaining the necessary State WQC and federal 401 permits in addition to any CRMC approval. The article indicated that Save-the-Bay (STB) had filed a complaint with CRMC. After informing OWR staff and supervisors of the likely violation of the WQR and federal 401 permits, WQC staff was advised to contact CRMC staff to get additional information and be put into their communication loop. Information related to the violation was shared with the ACOE (Corps) during the April monthly multi-agency meeting, which should be documented within the monthly GP meeting minutes.
6. On April 12, 2024, CGD submitted a letter and 21-page report to CRMC to Petition for Change to Map of Water Type Classification for North Kingstown (north) that would allow the type of stone shoreline protection that was illegally constructed. The petition does not address the unauthorized fill nor any proposed remedy to the violation and need to address State and federal permitting requirements.
7. On May 21, 2024, CRMC issued a Public Notice for a change to the CRMC water classification at the impacted area from Type I to Type II waters; the change would presumably allow for the placement of stone revetment along the impacted area of shoreline and tidal area.
8. On May 22, 2024, CRMC issued a letter to QCC related to addressing the Cease & Desist Order violations, which required QCC to submit a complete, acceptable restoration plan, prepared by a qualified professional, to CRMC within 30 days of the date of the letter (June 21, 2024), and that once approved by CRMC, 90 days to complete the restoration. The restoration is to include the removal of all riprap and fill, nonstructural stabilization of the coastal feature, replacement of native vegetation with appropriate species, and the work needs the approval of the Corps. (*NOTE: There is no mention by CRMC of the requirement to get DEMs approval as well as the Corps)
9. On May 23, 2024, the Corps issued a Notice of Violation (NOV) (dated May 7, 2024) (attached) indicating violations of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.
10. On May 23, 2024, CGD issued a letter to CRMC related to the Cease & Desist letter and the requirement for immediate restoration, in which QCC and CGD apparently mistakenly assumed that a potential change in Water Type Classification would eliminate the need for restoration and future permitting. The letter requests another Administrative Hearing.
11. On June 7, 2024, CGD emailed an Administrative Hearing request to Atty. M. Hartmann with CRMC to discuss having an Administrative Hearing Officer settle the complaint in lieu of the restoration plan.
12. On June 11, 2024, CRMC responded to the above request that it was inappropriate to have an Administrative Hearing Officer conduct a Status Conference, and that something would need to be scheduled for another time, and that the fines are a separate matter and would also be rescheduled.
13. June 18, 2024, CRMC issued a letter to QCC indicating that due to the ACOE violation information requests, they would grant QCC an extension for the restoration submittal to July 21, 2024.
14. As of this date, an inspection of the site has not been performed by OWR staff since visual evidence had been presented within the news article and CRMC provided data in the Water Type Map Change Petition,

and because CRMC was leading the investigation after the STB complaint and the unauthorized fill had already been independently confirmed by both CRMC and the US ACOE.

15. To date, RIDEM has received neither any application for the work nor any inquiry from QCC with respect to permitting requirements.
16. The history of the impacted site area is that the sea has been slowly eroding the shoreline and after receiving a CRMC permit to do some shoreline stabilization utilizing coir logs and other natural remedies that eventually succumbed to the sea, the QCC took it upon themselves to armor the shoreline with large stone revetment without any State or federal consultation, resulting in the violation.
17. It is clear based on the evidence of the work that was completed by QCC that the resulting violations have caused damage to the existing uses and functions of the impacted Waters of the State.

No informal Notice has been issued by the Department to date.

Accordingly, the OWR is requesting that OCI accept this complaint and investigate the alleged unauthorized actions taken by OCC. Assuming the complaint is determined to be valid, we believe appropriate enforcement actions, including fines and orders for restoration as appropriate, be pursued.

The OWR is available to meet and discuss the specifics of this case. The meeting may be beneficial to both clarify the issues surrounding the enforcement request and provide background information on our reasoning for pursuing this request. Should you have any questions, or should you decide not to act upon this request, please contact me at 401-537-4239.

Enclosures: PDF including documents and correspondence provided by RI CRMC
Notice of Violation issued by US ACOE

cc: Eric Beck, Administrator, Groundwater & Freshwater Wetlands Protection
Susan Forcier, Associate Director
David Chopy, Administrator, Office of Compliance & Inspection
Christina Hoefsmit, Deputy Administrator, Office of Compliance & Inspection
Eric Schneider, DEM Division of Marine Fisheries
Brian Harrington, CRMC
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