

November 1, 2021

To the Members of the Special Commission,

We are a group of concerned citizens who believe CRMC's aquaculture regulations and procedures must be reformed. CRMC is not effectively preserving the public use, common fisheries, and scenic value of Rhode Island's coastal waters.

We believe that CRMC's existing aquaculture permitting procedures are flawed, with significant conflicts of interest built into the process, often resulting in decisions biased in favor of commercial development at the expense of the public interest. To protect and preserve our coastal resources for future generations we seek impartial representation, transparent processes, sufficient notice, and meaningful public engagement.

Reform of CRMC is essential for responsible commercial development and management of RI's coastal waters. While the extent of needed reforms exceeds the scope of this correspondence, we respectfully ask the Special Commission to review the following issues in the aquaculture permitting process at its upcoming November 10th meeting:

- Conflict: public interest vs special interest.
- Notification: lack of public and riparian notice and its effect on meaningful public engagement.
- Substantive Objections: lack of criteria for quantifying impact to public access and recreation.
- Application Identification: complexities created by CRMC's current application number system.
- Role of the DEM: importance of impartial environmental surveys.

We appreciate and applaud the Special Commission's efforts to ensure the proper management of RI's coastal resources on behalf of all citizens. **Given the demonstrated shortcomings of existing CRMC procedures, we respectfully request a temporary moratorium on all aquaculture permits until such time as the Commission has concluded its review and the reorganization of CRMC is complete.**

Sincerely,

CONFLICT: PROTECT PUBLIC INTEREST OVER SPECIAL INTEREST

CRMC's mission to develop aquaculture and uphold Rhode Island's Public Trust is an inherent conflict of interest. CRMC regulates an industry it promotes and wants to grow. If favorable bias exists towards aquaculture development, then public comment has the potential of being minimized or dismissed by CRMC staff. There must be clear independence when CRMC staff interprets public comment in the final recommendation of the application to CRMC Council Members.

In addition, the current aquaculture permitting process is designed to assist applicants and is not user-friendly to public stakeholders. Dedicated professional staff exists at CRMC to help applicants navigate the aquaculture application process. The Aquaculture Coordinator (AC) advises, advocates for, and accompanies applicants to advisory board reviews and answers questions on the applicant's behalf. There is no equivalent independent representative to provide a public voice nor to help public stakeholders navigate objections to an application. This imbalance leaves recreational users, residents, property owners, and other stakeholders under-represented in the permitting process.

Finally, voting Council Members currently have little expertise in aquaculture, environmental, or Public Trust issues and rely heavily on CRMC staff for a final recommendation. This structure allows favorable aquaculture bias to creep into the final stage when the CRMC Council votes on an application. The reliance on staff to educate creates a predisposition to vote in line with staff recommendations and makes the Council vulnerable to unchecked bias in the application process.

Recommendations:

- Create an aquaculture permitting structure that upholds the Public Trust by eliminating the potential for bias in the process.
- Reform Council education and training protocols to eliminate built-in biases. For example, staff members who write recommendations to the Council should not participate in the education and training of the Council.
- Elevate independent interpretation of Public Trust uses by assigning that role to an entity outside of CRMC.
- Create a new Public Trust Coordinator staff position to accurately and impartially represent stakeholder objections, to aid the public through the permit process, and to advocate for the Public Trust.

NOTIFICATION: PROVIDE ADEQUATE PUBLIC NOTICE FOR MEANINGFUL PUBLIC INPUT

CRMC's current aquaculture notification policy is insufficient and does not promote meaningful public engagement. Even with recent improvements to CRMC's Aquaculture

Listsers, notice is inadequate. The Listserv does not include notice of advisory board reviews, such as the Shellfish Advisory Panel (SAP). In many cases the public becomes aware of applications only AFTER the cases have been considered and are approved or in the final approval process by CRMC. Recent examples of this 'after the fact' public awareness can be found in the applications for leases on Dutch Harbor in Jamestown, the Sakonnet River in Tiverton, and Potter Pond in Matunuck.

Without standardized and sufficient notice, the burden remains with the public to have prior knowledge of CRMC's Listserv, prior knowledge of CRMC's Public Notice web page, and the knowledge to routinely scan the agendas of relevant municipality boards and commissions. Current practice stifles meaningful public input and diminishes stakeholder input and engagement.

CRMC does not require abutter notification which runs contrary to widely accepted municipal practices. In addition the East Coast Shellfish Grower's Association's Code of Conduct encourages applicants to "communicate early and openly with water-based and land-based neighbors about any facet of their operation which might affect them." Abutters frequently learn of applications after the Public Comment period has closed.

Recommendations:

- Create comprehensive guidelines for applicants to advertise aquaculture applications (Preliminary Determination, Commercial Viability, Lease Expansion, and Lease Transfer Applications) in community-based print and digital media, and in statewide stakeholder group publications, such as RISAA.
- Require abutter notification and standardize procedures for aquaculture applicants to identify and contact riparian owners.
- Require applicants to post notice on-site or at the nearest point of public access.
- Update CRMC's website for user-friendly navigation to Public Notices and create an Aquaculture Application database.
- Notice all pertinent advisory board application reviews, such as the SAP, through the Aquaculture Listserv.

SUBSTANTIVE OBJECTIONS

The competition for shallow, protected, and accessible coastal waters gives rise to substantial conflict between recreational users and aquaculture applicants. While CRMC's Red Book provides protection for recreational use, current practice and lack of criteria undermine stakeholder objections based on recreational use.

CRMC requires applicants to demonstrate that their proposed farm "will not result in significant conflicts with water dependent uses." Yet CRMC provides no guidelines for how to do so and opens the way for inaccuracies and misrepresentation of existing

activity. Clear guidelines to standardize observations of existing use will improve the permitting process; however, site visits provide only a snapshot of use and should not be the sole quantifier of use. CRMC must also verify applicants' observations by engaging recreational users and residents who have deep-rooted local knowledge and experience.

In addition, CRMC does not define "significant conflict" or have criteria to quantify it. Without criteria, stakeholder objections based on recreational use are open to subjective interpretation by CRMC. How many kayakers, anglers, sailors, swimmers, or water skiers must be displaced before the conflict is significant?

Recommendations:

- Create guidelines to standardize and improve applicant observations of existing water dependent uses. Require applicants to record conditions that impact recreational use, such as weather conditions, time of day, and time of year.
- Engage recreational users, residents, and municipalities early in the permitting process to provide local knowledge of existing and historic recreational use. See *Notification*.
- Permit coastal municipalities to map aquaculture exclusion areas based on existing and historic recreational activity.
- Create a Public Trust Coordinator to impartially and accurately represent stakeholder objections regarding recreation. See *Conflict*.
- Create criteria to quantify recreation and define "significant impact."

APPLICATION IDENTIFICATION

The process of applying for a permit involves multiple applications, and CRMC assigns a unique number to each of them. The lack of continuity as any particular application progresses through the permitting process prohibits transparency and the ability to track a lease from inception to approval. A clear, intuitive identification system is essential for the public to follow an application through the entire process.

Recommendation:

- Create a standardized identification system that provides continuity in application identification throughout the entire permitting process.
- Create a database making all aquaculture applications available to the public.

ROLE OF THE DEM

The AC frequently conducts shellfish surveys. The presence of native shellfish populations precludes the placement of aquaculture. It is crucial that an impartial, independent surveyor conducts the Shellfish Survey, not CRMC staff with vested interest in the outcome.

The DEM has “authority and responsibility over the fish and wildlife of the state and over the fish, lobsters, shellfish, and other biological resources of marine waters of the state.” DEM should conduct all environmental and wildlife surveys required by the permit process.

Recommendations:

- Require DEM to conduct all surveys that impact wildlife and habitat, including the Shellfish Survey and Aquatic Plant and Animal Survey. In order to best preserve wild stocks of native shellfish, the Shellfish Survey must give consideration to historic and current mature shellfish populations as well as the feasibility of future shellfish growth.