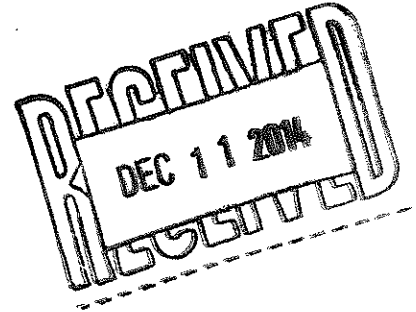




State of Rhode Island and Providence Plantations
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879-1900

(401) 783-3370
Fax (401) 783-3767

December 9, 2014



East Beach Oyster Co., LLC.
1176 Post Road
South Kingstown, RI 02879

RE: Preliminary Determination Meeting, CRMC File No. 2014-09-016
Site Location: Ninigret Pond, Charlestown

Dear Mr. Papa:

Enclosed is the report from the Preliminary Determination Meeting held on November 3, 2014 at the Charlestown Police Station. Please review the suggestions, comments and concerns section of this report and the bathymetry map that is included.

Your full application should address the recommendations included in the report. Please do not hesitate to contact me at 401 783-3370 if you have any questions.

Sincerely,

David Beutel, Aquaculture Coordinator
Coastal Resources Management Council

DB/lt

cc: Mark S. Stankiewicz, Charlestown Town Administrator
Rob Lyons, Charlestown Coastal Pond Management Commission
Alicia Eichinger, Salt Ponds Coalition

RHODE ISLAND COASTAL RESOURCES MANAGEMENT COUNCIL
REPORT OF FINDINGS -- PRELIMINARY DETERMINATION

STATEMENT OF LIMITATIONS

The contents of this staff determination report shall be valid only for the period on and preceding the date of this report. This report is neither an approval nor denial of the subject proposal. It is an evaluation of CRMC regulations in effect as of December 9, 2014 as they pertain to the below stated proposal, including preliminary staff recommendations.

Modifications to the below stated proposal may, upon the discretion of the CRMC, render this determination null and void.

APPLICANT INFORMATION

NAME: East Beach Oyster Co., LLC. **CRMC FILE NO.** A2014-09-016
LOCATION/POLE: Ninigret Pond
CITY/TOWN: Charlestown **PLAT:** **LOT:**

CONTACT PERSON(S) & ADDRESS:

East Beach Oyster Co., LLC.
1176 Post Road
South Kingstown, RI 02879

PRELIMINARY REVIEW INFORMATION

PROPOSAL: 20+ acre oyster and hard clam farm

PLAN(S) REVIEWED: Papa September 2, 2014

INVESTIGATOR Beutel **DATE** November 3, 2014 **TIME** 7:30

MEASUREMENTS & OBSERVATIONS:

PREVIOUS CRMC ACTIONS FOR SITE:

Preliminary Buffer and Setback Requirements:

SETBACK (ref. Section 140 CRMP)

BUFFER (ref. Section 150 CRMP)

Note: Setbacks apply to "construction related activities" including filling, removing, and grading (ref. Section 300.2 CRMP). The coastal program requires a minimum setback of either 50', or the buffer zone width plus 25' (whichever is greater). Work within this minimum setback will require a variance per Section 120 of the CRMP. All variances must be requested in writing. No construction or construction related work shall occur within the required setback (exemptions include structural shoreline protection, outfalls and water dependant uses). Work within the required setback may require a Category "B" review (public notice and decision by the full coastal council) and would likely result in adverse CRMC staff recommendations to the Coastal Council during the review process.

NAME: **East Beach Oyster Co., LLC.**
CRMC FILE NUMBER: **A 2014-09-016**

Buffer zones are areas that must be retained in, or allowed to revert to, "an undisturbed natural condition." All structures (excluding accessory structures) should be setback a minimum of 25' from the buffer zone to allow for access, fire protection and maintenance without infringement into the buffer.

If applicable, the plan must show "area of land within 50 feet" in accordance with Rule 5.04 of The Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast (the Rules), and label this area as a "buffer zone" in accordance with Rule 5.14. In addition, no activities (such as: drainage, grading, filling, etc.) may affect the freshwater wetland or the buffer zone. Where such alterations occur, or are proposed, an application shall be submitted in accordance with CRMC's Freshwater Wetland Rules.

Coastal feature verification shall be valid for one-year from the date of this Determination or until an erosion event (e.g., due to storm event, landslide, man-induced alteration, etc.) occurs that alters the coastal feature.

SUMMARY OF FINDINGS

CRMC JURISDICTION: YES
TYPE WATER: 1; Conservation Areas

Applicability of CRMP and SAM Plans (as amended):

CRMP Sections: 100.4, 120, 130, 140, 145, 150, 200.1, 200.2, 200.3, 200.4, 200.5, 200.6, 210.1, 210.2, 210.3, 210.4, 210.5, 210.6, 210.7, 220, 300.1, 300.2, 300.3, 300.4, 300.5, 300.6, 300.7, 300.8, 300.9, 300.10, 300.11, 300.12, 300.13, 300.14, 300.15, 300.16, 300.17, 300.18, 310, 320, 325, 330, 335, 400, other.

SAMP:

STAFF CONCERNS/COMMENTS/INFORMATION REQUIREMENTS:

The preliminary determination meeting was held in conjunction with the Charlestown Coastal Pond Management Commission meeting on November 3, 2014 at the Charlestown Police Station. Meeting attendance was large with standing room only. There was significant opposition to the application as proposed from the Salt Ponds Coalition (SPC) and Charlestown residents. The group was unaware that Mr. Papa had been in discussion with CRMC on several aspects of the application. The Salt Pond Coalition submitted a letter of concerns and suggested modifications. Some of the concerns and modifications are relevant to this application.

The major concern was about competing uses of the pond. The deeper portions of Ninigret Pond are the areas where boating, water skiing, wind surfing and other water based activities occur. Putting cages in the deeper areas would possibly compromise some of the above activities and create a potential safety hazard during the season of those activities. CRMC agrees with this concern and addresses it in the recommendations.

CRMC has worked with the Town of Charlestown and the US Fish and Wildlife Service to continue access to the barrier beach by making the Behan lease the farthest western oyster lease on the washover fan. This contradicts the SPC suggestion of placing more aquaculture on the washover fan but CRMC does not agree with that suggestion of moving this application onto the washover fan.

NAME: **East Beach Oyster Co., LLC.**

CRMC FILE NUMBER: **A 2014-09-016**

Be aware of the potential for some low dissolved oxygen (DO) at this location. The SPC data indicate frequent low for the station nearest to this area. Also be aware that the samples are taken at the time of lowest DO for any day, and that it increases during daylight hours. A continuous monitor of DO would be needed to determine the daily DO budget. Also be aware that the DO numbers referenced in the SPC letter are in relation to compromising larval settlement and recruitment, not growth of juveniles. Oyster aquaculture has not been documented to affect DO levels.

The recommendations below address the use conflict and safety concerns iterated at the meeting and in the SPC letter:

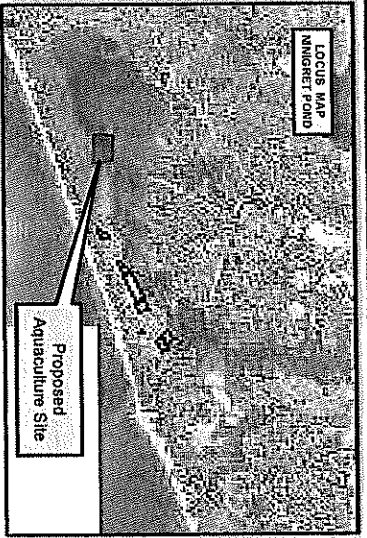
- Move proposed area to deeper water as shown in the bathymetry map completed by Steve McCandless (at least 6 feet deep according to the bathymetry map). Map is attached to report.
- Divide area usage into seasonal aspects: bottom plant all year long; cages during the off season.
- Delineate the off season as the first Saturday after Columbus Day to May 15.
- Use cages that have a profile maximum of 24 inches high.
- Work the bottom lease site Monday through Friday only from Memorial Day weekend through Columbus Day weekend.
- Four corner markers for the area will be used from May 15 until the first Saturday after Columbus Day; no other buoys on site during this time.
- Corner markers will be buoys.
- Do not include hard clams in the proposal.
- Be aware that objections may still occur.

SIGNATURE: _____

Javid Bente

Aquaculture Coordinator

LOCUS MAP
MINNETT ROAD



Proposed
Aquaculture Site

**PROPOSED
AQUACULTURE SITE
NICHOLAS J. PAPA
EAST BEACH OYSTER CO. LLC**

RECEIVED
DEC - 2 2014
C.R.M.C.

