



NEW ENGLAND CHAPTER BACKCOUNTRY HUNTERS & ANGLERS

June 28, 2024

To Jeffrey Willis, Executive Director, RI Coastal Resources Management Council

Re: Advance Notice of Proposed Rulemaking – 650-RICR-10-00-1 – Quidnesset Country Club

Backcountry Hunters & Anglers seeks to ensure North America's outdoor heritage of hunting and fishing in a natural setting. Our members recognize that our participation in, and the perpetuation of, our outdoor traditions relies primarily on two things – access to places to hunt and fish, and abundant populations of fish and wildlife to pursue. As an organization Backcountry Hunters & Anglers works to advance policies that promote access to public lands, waters and wildlife and the conservation of the habitats that fish and wildlife depend upon, and we oppose policies that are at odds with these things.

Recognizing that the purpose of an advance notice of proposed rulemaking is to “gather information relevant to the subject matter of a potential rulemaking proceeding” (RIGL § 42-35-2.5), the New England Chapter of Backcountry Hunters & Anglers (BHA) respectfully submits the comments and recommendations included herein. **Should the RI Coastal Resources Management Council (CRMC) decide to initiate formal rulemaking following the advance notice, BHA’s intent is to object to the change in water type designation requested by Quidnesset Country Club (QCC).**

While the advance notice relates to a change in water type designation, the reason for the petition is clearly related to a desire by QCC to perpetuate and make legal an unpermitted protection structure that was constructed both on their property and on adjacent public trust property. In their April 12, 2024 petition QCC states that “*If the water type change is approved, the QCC will evaluate all alternatives for shoreline protection allowed by the CRMP in Type 2 Waters and apply for a Category B Assent to address the pending enforcement action for the rock revetment along its northeastern shoreline*”. As a result, consideration at this point cannot be limited to the relatively straightforward question of water type classification - the illegal, unpermitted feature that QCC seeks to legitimize through the petition must also be considered relevant to any potential change in regulations.

BHA’s comments related to the advance notice can generally be categorized into three areas of focus – impacts to public access, impacts to wildlife, and regulatory/permitting procedure – and we will expand upon each below.

Impacts to Public Access

Based on data provided through the RI Department of Environmental Management’s (DEM) Environmental Resource Map ¹ (Figures 1 & 2) there is little doubt about the magnitude of the rock revetment described in QCC’s April 2024 petition, which appears to span approximately 600 feet laterally, and at its largest is over 40 feet wide and 20 feet tall. Since the construction of QCC’s massive, illegal development lateral access along the shore has been impeded and is likely blocked entirely during certain tides, if not altogether. If allowed to persist, the hardening of the shoreline will hasten erosion in both the immediate area and adjacent to it and will result in the loss of all access that

¹ RIDEM Environmental Resource Map, RI Department of Environmental Management Data & Maps, <https://ridemgis.maps.arcgis.com/apps/webappviewer/index.html?id=87e104c8adb449eb9f905e5f18020de5>

remains. At that point, the public will be completely deprived of the ability to use the area, and of the rights that are enumerated in RI’s Constitution Article 1 Section 17, and further clarified in RIGL § 46-23-26.

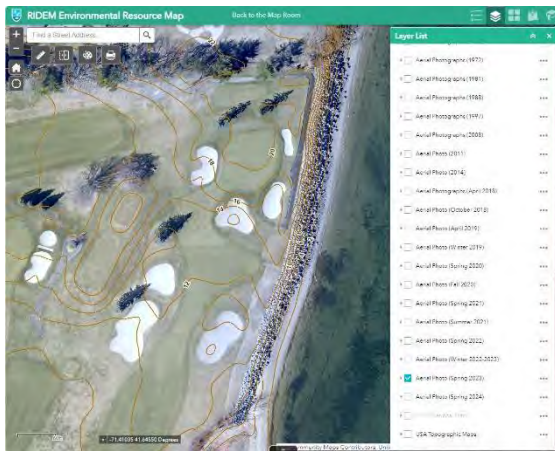


Figure 1 – Aerial & topographical imagery of the QCC shoreline in spring 2023

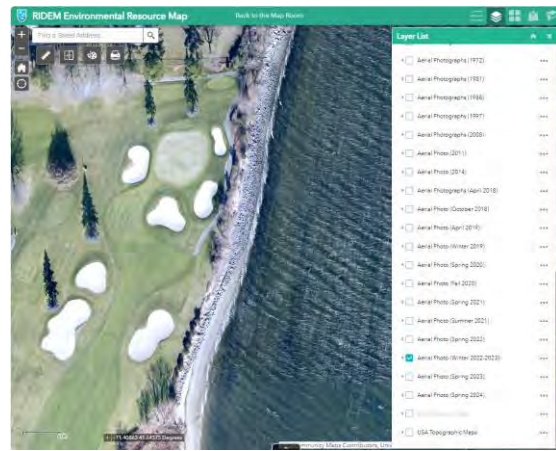


Figure 2 - Aerial imagery of the QCC shoreline in winter 2022-2023

Impacts to Wildlife

Due to the unexpected, unnoticed nature of unpermitted construction no opportunity was afforded either to CRMC, or to interested parties, for scientific or anecdotal study of the vegetated shoreline that was destroyed by the construction of QCC’s rock revetment. Nonetheless, there is a reasonable likelihood that the area in question was both visited seasonally and permanently inhabited by a variety of wildlife, ranging from upland, wetland and marine birds to mammals and other creatures. Beyond the habitat that was immediately destroyed when the revetment was constructed and the vegetation buffer above it was removed, impacts to the fragile habitats immediately north and south of the property must also be considered, as each is designated “High Value / High Vulnerability Habitat” on DEM’s Environmental Resources Map (Figure 3).

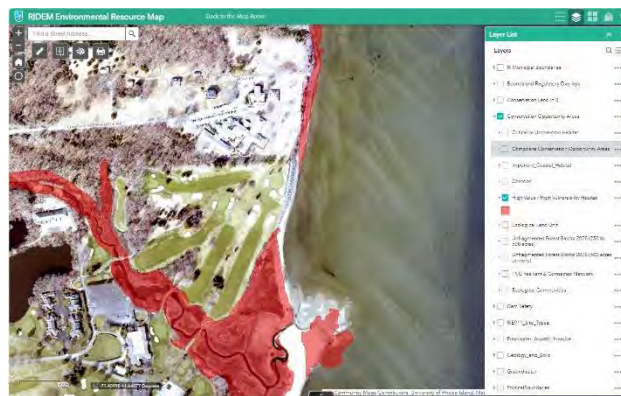


Figure 3 – High Value / High Vulnerability Habitat

In 650-RICR-20-00-1 1.2.1 (B)(1) Type 1 waters are defined as “(a) water areas that are within or adjacent to the boundaries of designated wildlife refuges and conservation areas; (b) water areas that have retained natural habitat or maintain scenic values of unique or unusual significance; or (c) water areas that are particularly unsuitable for structures due to their exposure to severe wave action, flooding and erosion.” In contrast, 650-RICR-20-00-1 1.2.1 (C)(1) states that Type 2 areas “include waters in areas with high scenic value that support low intensity recreational and residential uses. These waters include seasonal mooring areas where good water quality and fish and wildlife habitat are maintained.”

While both classifications include references to the maintenance fish and wildlife habitat, we believe that the area proposed for re-designation is most accurately described as Type 1 water and have provided reference from the State's fish & wildlife agency that illustrates its unique and unusual significance to wildlife. Further, given that the express rationale for re-designation is to perpetuate the illegal hardening of the shore, we are concerned that the perpetuation of QCC's illegal revetment, which has already resulted in the acute damage to the area, will result in long-term degradation of wildlife habitat that is at odds with either water type.

Regulatory/Permitting Procedure

There is little question or dispute at this point about the facts of the situation before CRMC – QCC planned and executed a major unpermitted construction project that has had and will continue to have significant impacts on the coastal resources that the Council is responsible for managing on behalf of the people of the state. When served with a notice of violation, QCC petitioned CRMC to promulgate rules that would minimize penalties and legitimize the illegal structure, which was expressly prohibited under regulations at the time of its construction. Evidence has also been made public that removes all doubt that QCC should have reasonably known that a CRMC assent was necessary for this sort of development, because they applied for a similar feature to serve a similar purpose in 2012 and were denied.

To put it simply, CRMC should not entertain the perpetuation of structures that were knowingly constructed in defiance of their regulations. Doing so would essentially broadcast throughout the state that illegal construction is an acceptable strategy towards eventual permitting, and that express regulatory prohibitions intended to protect RI's coastal resources don't amount to much more than recommendations for those with access to sufficient resources. Further, entertaining QCC's request is at odds with one of the main issues that the RI General Assembly sought to address when it established CRMC. RIGL § 46-23-1 (a)(2) states *"that unplanned or poorly planned development of this basic natural environment has already damaged or destroyed, or has the potential of damaging or destroying, the state's coastal resources, and has restricted the most beneficial utilization of these resources."* To address this issue, the General Assembly directs CRMC that *"It shall be the policy of this state to preserve, protect, develop, and, where possible, restore the coastal resources of the state for this and succeeding generations through comprehensive and coordinated long range planning and management designed to produce the maximum benefit for society from these coastal resources."* While we understand the need to address violations based on their facts and circumstances, allowing formal rulemaking to occur in this situation would be extremely troubling, and would cast legitimate doubts over whether CRMC is serious about fulfilling its legislative purpose, and about protecting the coastal resources that are collectively owned by the people of Rhode Island and entrusted to the Council's management.

While we again recognize that the purpose of the advance notice is to solicit information and recommendations relative to a potential future rulemaking process, **the New England Chapter of Backcountry Hunters & Anglers respectfully urges CRMC to reject the QCC's petition and not proceed with rulemaking.** QCC has demonstrated utter disregard for the laws and regulations of the State of Rhode Island by undertaking a major unpermitted development in defiance of CRMC's clear prohibition, and rather than correcting the situation when caught they are now attempting to re-write the rules to legitimize their illegal activity. This behavior should not be entertained or tolerated, and CRMC should pursue all legal avenues to compel the removal of the illegal structure, and the restoration of the area to its natural state.

Thank you for your consideration,

Michael Woods
Saunderstown, RI 02874
rhodeisland@backcountryhunters.org
Chair, New England Chapter Board
Backcountry Hunters & Anglers

Cstaff1

From: Maria Bedell <MBedell@riag.ri.gov>
Sent: Friday, June 28, 2024 11:23 AM
To: CRMC Staff
Cc: Alison Carney
Subject: RIAG Comment Letter re: Quidnessett Country Club Seawall
Attachments: RIAG Comment Letter re QCC Seawall_20240627.pdf

Good Morning,

Please see the attached Rhode Island Attorney General Comment letter regarding the above matter.

If you have any questions, please feel free to contact me regarding same.

Best,
Maria Bedell



Maria Bedell

Legal Assistant, Civil Division

The State of Rhode Island | Office of the Attorney General

150 South Main Street | Providence, RI 02903

Office: +1 401 274 4400 | Ext:2224

Mbedell@riag.ri.gov | www.riag.ri.gov



STATE OF RHODE ISLAND

OFFICE OF THE ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903
(401) 274-4400 • www.riag.ri.gov

Peter F. Neronha
Attorney General

June 28, 2024

Jeffrey M. Willis
Coastal Resources Management Council
Stedmand Government Center
4808 Tower Hill Road
Wakefield, RI 02879
cstaff1@crmc.ri.gov

RE: 2024-04-071 - Petition for Water Type Change by Quiddnessett Country Club (QCC)

Executive Director Willis,

The Attorney General submits this comment in opposition to the Coastal Resources Management Council's ("CRMC") Advanced Notice of Proposed Rulemaking related to the Petition for Water Type Change submitted by Quiddnessett Country Club ("QCC"). Through this Petition, the QCC seeks to retroactively change laws that they have already brazenly violated by building an illegal seawall. The CRMC should reject QCC's efforts to circumvent the law and avoid an enforcement action. Ruling otherwise would only serve to reward the QCC for illegally constructing first and asking for permission later, and would incentivize other shoreline property owners to do the same.

By way of brief factual background, the QCC has constructed an illegal rock revetment along its shores without seeking the requisite assent from either CRMC or the United States Army Corps of Engineers ("USACOE"). As explained more fully in this Comment, the QCC did so after they applied for and were effectively denied an assent for a similar, yet smaller, structural wall. *See CRMC Meeting Minutes* (Dec. 22, 2012). CRMC staff have appropriately taken enforcement action and the USACOE has issued a Notice of Violation seeking to remedy this illegal action.

As currently classified, the QCC's property abuts Type 1 Conservation Area Waters pursuant to Rule 1.2.1.B of the Coastal Resources Management Program (the "CRMP"), which are "waters [that] abut shorelines in a natural undisturbed condition, where alteration, including the construction of docks and dredging, are considered by the Council as unsuitable." 650-RICR-20-00-01.2.1(A). "In Type 1 waters, activities and alterations including dredging, dredged materials disposal, and grading and excavation on abutting shoreline features are all prohibited unless the primary purpose of the alteration or activity is to protect or enhance the area as a natural habitat for native plants and wildlife or a beach renourishment/replenishment project." 650-RICR-20-00-01.2.1(B)(2)(a).

Significantly, “[s]tructural shoreline protection facilities shall not be permitted to preserve or enhance these areas as a natural habitat or to protect the shoreline feature.” *Id.* at (c).

The QCC’s previous attempt to circumvent these protections in its 2012 application to construct a smaller version of a seawall 25 feet landward were unsuccessful. CRMC staff reviewed the shoreline features and proposed actions in detail, finding:

- “The proposed project is designed and intended to function as a structural shoreline protection facility once exposed by shoreline retreat due to erosion.” *Staff Biologist Report*, pg. 2, *CRMC File 2012-05-071* (Sept. 2012).
- “The wall may [] accelerate erosion once any portion of it becomes exposed to wave energy.” *Id.*
- “Once the structure is exposed to shoreline wave forces, particularly during storms, erosional loss of any remaining coastal beach fronting the seawall can be expected as commonly observed and documented fronting vertical seawalls.” *Id.*
- “Loss of coastal beach can be expected to impact natural functions and values of beaches including fish and wildlife habitat and associated recreational uses including lateral shoreline access.” *Id.*

Ultimately, the CRMC staff biologist concluded that the variance and setback criteria were not met and that “the project will result in significant adverse impacts and use conflicts.” *Id.* at pg. 5. This decision was supported and mirrored also by the CRMC engineering staff. *Staff Engineering Review*, *CRMC File 2012-05-071* (Oct. 2012).

Despite this explicit recommendation for denial by CRMC staff and the unambiguous findings related to the risk of such a structure in this area, the QCC proceeded to construct a larger seawall located even closer to the shoreline than the structure sought in the effectively denied 2012 proposal. Even more remarkably, QCC now seeks a retroactive change to the applicable regulations in order to allow QCC to “address the pending enforcement action” *Petition*, pg. 1, *CRMC File No. 2024-04-071* (Apr. 12, 2024). QCC avers that “without the flexibility afforded for shoreline protection in areas abutting Type 2 Waters, the QCC will certainly lose a piece of its historic 18-hole golf course, and result in devastating losses to both its business and members, as well as thousands of individuals, businesses, and associations, across the State that use QCC for professional golf tournaments, charity events, fundraisers, weddings, proms, and countless other engagements.” *Id.*

QCC is correct that the changing climate has increased erosion along Rhode Island’s shoreline and threatens businesses, residents, and the tourism industry throughout Rhode Island, including the interests of QCC’s abutters and the public in undeveloped coastal shoreline environments. Hatch, Cheryl, *Rhode Island lawmakers propose plan to tackle climate-related coastal threats*, RI Public Radio (Jan. 31, 2024) (<https://thepublicsradio.org/newport-bureau/rhode-island-lawmakers-propose-plan-to-tackle-climate-related-coastal-threats/>) (last accessed Jun. 25, 2024). Every property abutting Type 1 waters faces these challenges. However, changing the water type now would undermine the very protections explicitly laid out in the CRMP, set a dangerous precedent moving forward, and embark on a piecemeal approach in direct contrast with recently enacted legislation and awaiting the Governor’s signature that requires statewide planning for coastal resiliency. *See Act on Coasts -- Coastal Resiliency*, HB 7022Aaa (<https://webserver.rilegislature.gov/BillText/BillText24/HouseText24/H7022Aaa.pdf>)

Furthermore, the Petition fails to establish that the waters abutting the northeastern shore of QCC should in fact qualify as Type 2 waters. As shown in Figure 5 of the Petition, the **limited** uses of the land abutting the areas relevant to this Petition are not as developed as QCC proffers, as the location where the seawall lays is not abutting any developed use other than the golf course itself. *Petition* at pg. 9.

QCC's request would require CRMC to ignore its own regulations and prior findings related to this property in favor of somehow allowing a blatantly illegal seawall, pictured herein, which is likely not even permissible under a Type 2 water classification. *See* 650-RICR-20-00-01.2.1(C)(2)(c). Indeed, in waters classified as Type 2, "[r]esidential boating facilities, public launching ramps, and structural shoreline protection facilities may be permitted in Type 2 waters, **provided it can be demonstrated that there will be no significant adverse impact to coastal resources, water dependent uses or public's use and enjoyment of the shoreline and tidal waters of the State.**" Given the prior findings on the 2012 Petition, no shoreline structure in this location would be allowable, even under a Type 2 classification.

Figure 1 -QCC Illegal Seawall



Accordingly, CRMC should deny this Petition forthwith and move forward with its enforcement action in accordance with Rhode Island law.

Respectfully submitted,

Peter F. Neronha
Attorney General

/s/ Alison H. Carney
Alison H. Carney, AAG
Chief of the Environment and Energy Unit
Rhode Island Office of the Attorney General

Cstaff1

From: Paul Miller [REDACTED]
Sent: Friday, June 28, 2024 9:55 AM
To: cstaff1@crmc.ri.gov
Cc: Walter J. Berry; Paul Miller
Subject: CMRC File # 2024-04-071
Attachments: LCNK Letter re CMRC File number 2024-04-071.pdf

Please accept the attached letter on behalf of the Board of Directors of the Land Conservancy of North Kingstown regarding the proposed change of Water Type adjacent to the Quidnessett Country Club.

Thank you.

Paul Miller
Land Conservancy of North Kingstown

~~~~~

**Paul Miller, MS**  
***Naturalist, Conservation Biologist, Birder***  
***Interim President, Land Conservancy of North Kingstown***

179 Northbriar Drive  
North Kingstown, RI 02852  
(401) 932-9836  
[pimillersemail@gmail.com](mailto:pimillersemail@gmail.com)

~~~~~


June 27, 2024

Jeffrey Willis, Executive Director Rhode Island Coastal Resources Management Council
Stedman Government Center - Suite 3
4808 Tower Hill Road
Wakefield, RI 02879



Re: CRMC File Number 2024-04-071 - Advanced Notice of Proposed Rulemaking - Quidnessett Country Club

Dear Director Willis,

With this letter, the Land Conservancy of North Kingstown (LCNK) would like to join the North Kingstown Conservation Commission, Harbor Commission, and Town Council, in registering its objection to the proposal to change the Water Type adjacent to Quidnessett Country Club (QCC) from Type 1 to Type 2.

There are several reasons for our objection, which fall into two categories. The first is procedural. It is obvious from the application letter from the QCC to the CRMC that the requested change is related to the revetment which the QCC built along the shore next to the golf course without a permit, even after being advised against it by CRMC staff. Any move taken by the CRMC towards permitting the revetment after it was initially built without a permit would send a message to every coastal property owner in the state. That message would be that if you want to do something that you think the CRMC might not allow if you ask permission, it is better to just go ahead then do it and pay the associated fines and legal fees after the fact. This would clearly undermine the authority of the CRMC and could lead to a proliferation of shoreline hardening structures all around the state.

The second category of reasons for our objection relates to the revetment itself. The downsides to the structural hardening of shorelines are well known and well documented in Save the Bay's letter to the CRMC objecting to the QCC proposal (<https://savebay.org/comments-submitted-quidnessett-country-club/>). They include habitat loss, restricted shoreline access, loss of a sediment source, and increased erosion, which can lead to further habitat and property loss.

The possible environmental damage caused by something like revetment construction might seem abstract and hypothetical to some but could have direct consequences for our organization. The LCNK is a co-holder of a scenic easement on a property at Pojac Point, just 0.2 miles up the coast from the northern end of the revetment. Based on aerial imagery the eastern beach and salt marsh there have been eroding at approximately 3 feet per year over the period from 1995 to 2023. Any loss of sediment to the area can only accelerate the erosion on this shoreline. Other neighboring properties might also suffer losses.

For all the reasons outlined above, the LCNK hopes that the CRMC denies the application of the QCC to downgrade the water quality classification of the waters adjacent to the golf course. Thank you for your consideration. Please contact us if you have any questions.

Sincerely,

Paul Miller, Interim President, Land Conservancy of North Kingstown

North Kingstown, RI 02852

lcnk.info@gmail.com * www.lcnk.org

Lisa Turner

From: Jeannette Alyward <jalyward@northkingstownri.gov>
Sent: Wednesday, June 26, 2024 5:06 PM
To: Lisa Turner
Subject: NK Council Vote - QCC Petition
Attachments: docsendtwncrlk_20240626_160315.pdf

Hi Lisa - sorry for the delay - please see the attached! (hard copies are in the mail).

Please confirm receipt!

Thanks!

Jeannette Alyward
Town Clerk
100 Fairway Drive
North Kingstown, RI 02852
jalyward@northkingstownri.gov
(401) 268-1552

-----Original Message-----

From: docsend <docsend@northkingstownri.gov>
Sent: Wednesday, June 26, 2024 5:03 PM
To: Jeannette Alyward <jalyward@northkingstownri.gov>
Subject: Scanned image from Docsend_TwnClrk

Reply to: docsendtwncrlk <docsend@northkingstownri.gov> Device Name: Docsend_TwnClrk Device Model: MX-6071
Location: Town Clerks Office

File Format: PDF MMR(G4)
Resolution: 200dpi x 200dpi

Attached file is scanned image in PDF format.

Use Acrobat(R)Reader(R) or Adobe(R)Reader(R) of Adobe to view the document.

Adobe(R)Reader(R) can be downloaded from the following URL:

Adobe, the Adobe logo, Acrobat, the Adobe PDF logo, and Reader are registered trademarks or trademarks of Adobe in the United States and other countries.

<http://www.adobe.com/>

PLEASE NOTE: We have changed our domain name to northkingstownri.gov



TOWN OF
NORTH KINGSTOWN, RHODE ISLAND

100 FAIRWAY DRIVE
NORTH KINGSTOWN, RI 02852-5762
PHONE: (401) 294-3331
FAX (401) 583-4140

June 26, 2024

Mr. Jeffrey M. Willis
Executive Director
Coastal Resources Management Council
Oliver Stedman Government Center
4808 Tower Hill Road
Wakefield, RI 02879

RE: Coastal Resources Management Council Advanced Notice of Proposed Rulemaking
related to a petition by Quidnessett Country Club to amend the CRMC Red Book

Dear Mr. Willis:

Please find enclosed a North Kingstown Town Council vote regarding Coastal Resources Management Council Advanced Notice of Proposed Rulemaking related to a petition by Quidnessett Country Club (QCC) to amend the CRMC Red Book (650-RICR-20-00-1) specifically to change a Map of Water Type Classification for waters abutting a segment of the shoreline from the northeastern portion of the QCC property located at 950 North Quidnessett Road to the northern property line of the abutting property owned by Pious Society of Missionaries located at 860 North Quidnessett Road from Type 1 "Conservation Areas" to Type 2 "Low Intensity Use waters". The Town Council endorses the Conservation Commission's and Harbor Management Commission's recommendations to oppose the petition.

If you have any questions, you may contact me at 294-3331, extension 122.

Sincerely,

Jeannette Alyward
Town Clerk

Enclosure (1)

cc Lisa Turner, Office Manager
David Reis, Environmental Scientist
Nicole LaFontaine, Director of Planning and Development



Town of North Kingstown

Rhode Island

No. 36

TOWN COUNCIL

Gregory A. Mancini
Council President

Katherine K. Anderson
Council Member

Lawrence C. Mandel
Council Member

Matthew B. McCoy
Council Member

Dr. Kimberly Ann Page
Council Member

June 10, 2024

At the Regular Meeting of the Town Council of the Town of North Kingstown held on
June 10, 2024, it was

VOTED: To endorse the Harbor Management Commission and Conservation Commission (“Commissions”) recommendations to oppose Quidnessett Country Club’s petition to the Coastal Resources Management Council Red Book (650-RICR-20-00-1) to change a map of water type classification for waters abutting a segment of the shoreline from the northeastern portion of the QCC property located at 950 North Quidnessett Road to the northern property line of the abutting property owned by Pious Society of Missionaries from Type 1 “Conservation Areas” to Type 2 “Low Intensity Use waters” due to insufficient information presented by the petitioner. While the petitioner submitted significant information related to the land uses abutting the proposed water type change as well as examples of the water types for similar golf courses in Rhode Island, the Commissions needed more information regarding the erosion rates along the petitioner’s shoreline as well as more detailed information regarding the measures the petitioner has taken to date to mitigate the impacts of the erosion as well as potential mitigation options that could be utilized. The Commissions would also like to see a wetlands delineation plan in order to better determine exactly where the water type change would begin and end and better assess the impacts of the change.

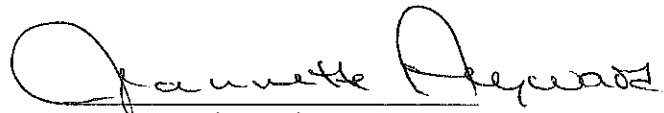
The Conservation Commission had the following primary areas of concern with the request to change water from Type 1 to Type 2:

1. If a water type change is permitted, shoreline protection options will be sought by the applicant. Shoreline protection measures which are structural in nature may cause repercussions for other nearby properties and result in scouring and erosion at the ends of the structural protection as well as displacement of sand to other areas, negatively impacting properties near the petitioner’s lot.
2. The negative impact the change to Type 2 waters may have on abutting waters noted above may most directly impact Tibbetts Creek to the south, altering this wetlands and estuarine marsh habitat also designated as a coastal barrier.

3. If the water type change is granted and structural shoreline protection is allowed, other properties with similar erosion issues in Type 1 water will seek structural protection and create a hardening of the shoreline.

The Harbor Management Commission had the following primary concern with the request to change the water type from Type 1 to Type 2: 1:

1. If the water type change is granted and structural shoreline protection is allowed, other properties with similar erosion issues in Type 1 water will seek structural protection and create hardening of the shoreline.

A handwritten signature in black ink, appearing to read "Jeannette Alyward". The signature is written in a cursive style with a large initial "J".

Jeannette Alyward
Town Clerk

Councilor Page voted in the negative.

President Mancini recused himself from the discussion.

Councilor Anderson was not present.

Lisa Turner

From: James Boyd [REDACTED]
Sent: Wednesday, June 26, 2024 3:18 PM
To: Jeff Willis; Lisa Turner
Subject: CRMC File 2024-04-071; ANPRM for Quidnessett Country Club Petition for Regulation Change
Attachments: QCC_2024-04-071_Boyd.pdf; Untitled attachment 00240.htm

Dear Jeff and Lisa,

Please accept the attached letter of objection in the above referenced matter to be filed with 2024-04-071. Could you please acknowledge receipt of my letter and also include my email for notification of any hearings or meetings in this matter. Thank you very much. I hope you both have an enjoyable 4th of July holiday.

Best regards - Jim

James Boyd
[REDACTED]

James Boyd
[REDACTED]
Rumford, RI 02916

June 26, 2024

Jeffrey Willis, Executive Director
Rhode Island Coastal Resources Management Council
Stedman Government Center
4808 Tower Hill Road
Wakefield, RI 02879

Re: Advanced Notice of Proposed Rulemaking - Quidnessett Country Club Petition for CRMC Regulation Change (Map of Water Type Classification for North Kingstown (north)) - **CRMC File 2024-04-071**

Dear Mr. Willis,

I'm writing to **object** to the CRMC's Advanced Notice of Proposed Rulemaking (ANPRM) issued by the agency on May 21, 2024, and request that the CRMC **deny** the petition referenced above. The ANPRM is in response to a petition filed with the CRMC on April 12, 2024 by the Quidnessett Country Club (QCC) seeking to change the existing CRMC water type classification from Type 1 to Type 2 for approximately 1430 linear feet along the shoreline abutting the QCC property at 950 North Quidnessett Road (Plat167, Lot 002), and the adjacent Pious Society of Missionaries (PSM) properties at 860 and 862 North Quidnessett Road (Plat167, Lots 001 and 003, respectively). It is not clear why the PSM properties were included in the petition, since there is no CRMC permit record for shoreline maintenance or emergency permits to address erosion issues at 860 or 862 North Quidnessett Road. Furthermore, the nearest structures on the PSM properties are approximately 200 and 250 feet inland from the coastal bluff. Thus, neither structure is currently at risk from erosion or in imminent peril. Perhaps the QCC thought the request would be more acceptable if the PSM properties were included so that the proposed water type change segment would be 1430 linear feet, rather than a request for a 600 linear foot segment solely on the QCC property. In either case, the proposed water type change segment is essentially irresponsible spot zoning along a one-mile stretch of Type 1 shoreline from the Mount View neighborhood north to Pojac Point at the Potowomut River.

The QCC petition is an egregious attempt to amend the CRMC rules to address pending enforcement actions resulting from the QCC's illegal shoreline protection structure, a rip-rap revetment that was illicitly constructed in 2023 without prior authorization and the required CRMC and Army Corps of Engineers (ACOE) permits. Consequently, the QCC has been issued Notices of Violation from both the CRMC and the ACOE for the illegal activity. In addition to the CRMC and ACOE permits., a RI Department of Environmental Management (RIDEM) Section 401 water quality certification is also required. The petitioner has not obtained any of these required state and federal permits to date for the illegal revetment.

The QCC has a long permit history with the CRMC for multiple projects over the years, going back to at least 1988. See CRMC files 2013-03-133, 2012-05-071 and 2006-05-067, among others. The QCC certainly cannot plead ignorance to not knowing permits were required for the 2023 illegal

alteration and construction along the shoreline of the QCC property. In fact, it appears that the QCC management and its board of directors have brazenly made a calculated decision to construct the revetment without the benefit of prior required authorizations, and further knowing that the construction of the revetment is prohibited along this Type 1 shoreline under the CRMC regulations at 650-RICR-20-00-1.2.1(B)(2)(c) and § 1.3.1(G)(3)(a) and (d). The QCC has known for more than a decade that such construction was prohibited under CRMC regulations given their permit applications for various shoreline maintenance and protection. See the identified CRMC files above. It appears that the QCC's rationale is to ask for forgiveness and subsequently pay any agency levied fines as a "cost of doing business" to protect the QCC's interests. Additionally, the QCC appears to be speculating that the CRMC will not require removal of the illegally installed revetment. This egregious and premeditated illegal action by the QCC should not be condoned and rewarded by the CRMC. In fact, the CRMC should set a strong enforcement example to deter other potential violators by levying the maximum permissible penalty fines against the QCC and its contractor, and order removal of the illegally installed revetment to include a full restoration of the shoreline. Moreover, the CRMC would be establishing a dangerous policy precedent by condoning the QCC's illegal actions and acceding to the petitioner's request to change the CRMC water type designation from Type 1 to Type 2 to address pending enforcement actions.

Petitioner's request to change the existing CRMC Water Type designation from Type 1 to Type 2

The CRMC should deny the QCC petition. First and foremost, the shoreline along the QCC and PSM properties and northward exemplifies the characteristics associated with CRMC-designated Type 1 waters. The shoreline along the QCC property includes a coastal wetland complex associated with Tibbet's Creek that supports diverse natural habitat and wildlife, and a CRMC designated Undeveloped Barrier. The CRMC regulations at 650-RICR-20-00-1.2.1(B)(1) describe Type 1 waters as: "(a) water areas that are within or adjacent to the boundaries of designated wildlife refuges and conservation areas; (b) water areas that have retained natural habitat or maintain scenic values of unique or unusual significance; and (c) water areas that are particularly unsuitable for structures due to their exposure to severe wave action, flooding, and erosion." Additionally, this shoreline is included within the U.S. Fish & Wildlife (USFWS) designation of a Coastal Barrier Resource System (CBRS) identified as unit D02B, which starts at Atlantic Avenue at the northern boundary of the Mount View neighborhood and proceeds north, encompassing both the QCC and PSM properties, including Pojac Point and the Potowomut River to Sand Point in Warwick at Greenwich Bay. See Figure 1, below. This particular USFWS CBRS unit totals 2161 acres along the 1.8 mile stretch of shoreline. The CBRS designation is subject to 16 U.S.C. § 3501 et seq., which prohibits federal funding and financial assistance within system units, including flood insurance. The importance of this designation is that the federal law encourages the conservation of these barriers for flood protection and wildlife habitat. In addition, this stretch of shoreline from the Mount View neighborhood to the mouth of the Potowomut River, which includes the QCC and PSM properties, abuts the RIDEM Highbanks Shellfish Management area, designated in the RIDEM regulations at 250-RICR-90-00-4.7.2(H) and shown on the RI Shellfish Harvest Restrictions map at: <https://ridemgis.maps.arcgis.com/apps/webappviewer/index.html?id=110a7a4aec914a3492117e9848fe67da>.

This entire shoreline fronting the QCC and PSM properties north of the Mount View neighborhood, including the mouth of the Potowomut River and its extensive salt marshes, to Greenwich Bay at Sand Point in Warwick is highly scenic with low density residential development. A similar example of a CRMC Type 1 shoreline that also includes a country club with a golf course is along the

Barrington shoreline that encompasses Barrington Beach and Nyatt Point. See Figure 2., below. This too is a highly scenic shoreline of low-density residential development that includes the Rhode Island Country Club and a CRMC designated undeveloped coastal barrier, essentially the same situation as the QCC shoreline. Arguably, however, the shoreline north of the Mount View neighborhood, including the QCC and PSM properties to the mouth of the Potowomut River, is even more scenic as there is lower density and less visible development along this stretch of shoreline as compared to the Barrington shoreline. Indeed, the nearest QCC townhouse unit is approximately 500 feet from the shoreline and these residential units are barely visible when viewed from the Bay.

CRMC Type 2 shorelines are adjacent to predominantly residential areas and characterized as low intensity recreational and residential uses. See 650-RICR-20-00-1.2.1(C). The shoreline along the Mount View neighborhood, immediately south and abutting the QCC property, is appropriately classified as Type 2 with medium-high density residential development and pre-existing seawalls and revetments that, for the most part, pre-date the CRMC's regulations. The town of North Kingstown zoning classifies the Mount View neighborhood as VR20 (Village Residential), which describes "[t]he village residential district is established to protect and promote the convenience and character of compact village settlements, designed to complement the natural features of the land.". See North Kingstown Ordinances at § 21-39. In contrast, the petition properties of QCC and PSM are classified by the town of North Kingstown zoning as RR/80 (Rural Residential), which describes "[t]he rural residential district is intended for low density residential development in sensitive environmental areas of the town, such as groundwater overlay districts, and areas which rely on individual septic disposal systems for sewerage disposal." *Id.* at § 21-36.

The QCC petition includes a report from Ecotones, Inc. with an inaccurate and misleading analysis of residential density. The report indicates that 17 buildings (townhouses) with 46 residential units have been constructed over the years on the QCC property, and that the nearest townhouse is approximately 500 feet from the shoreline. See Report at 13. The report identifies the residential townhouses on the QCC property as "High Density Residential areas." *Id.* at 10. The report, however, incorrectly calculates the density of these townhouse units on the small footprint of the parcels and roadways associated with these private townhouse developments surrounded by the QCC property, rather than the overall land area of the QCC. Thus, using the total land area of the QCC of approximately 187 acres yields a residential density of just over 4 acres per unit, which comports with the Town of North Kingstown zoning designation of Rural Residential. The residential density of the QCC property, however, is far less dense than the Mount View neighborhood, which includes many 50 by 100-foot (1/8 acre) lots. The QCC represents that since the original CRMC shoreline designation as Type 1, there have been considerable changes in the mainland uses in the area, and that the predominant land uses are now medium to high-density recreational and residential. See QCC Petition letter at 1. This is simply false, however, as the actual residential density for the entirety of the QCC property is approximately 4 acres per unit, as described above. Therefore, the QCC land use density is not comparable to the other golf course examples of the Warwick Country Club and Aquidneck Club cited in the report, which have more dense residential land uses of 29% and 30%, respectively.

Additional issues to consider is that recreational boating facilities are permissible under CRMC regulations in CRMC Type 2 waters, whereas such facilities are prohibited in Type 1 waters. Filling in tidal waters and structural shoreline protection are also permissible in Type 2 water, provided the

activities meets all other applicable CRMC standards, but are prohibited in Type 1 waters. In summary, granting the petition to change the CRMC water type designation from Type 1 to Type 2 would allow additional and more intensive activities, including the current illegal rip-rap revetment, that will degrade the scenic quality of the existing shoreline and further impeded public lateral access along this stretch of shoreline.

CRMC shoreline protection standards

The current illegal 600-foot long rip-rap revetment located on the QCC property is defined by the CRMC as “structural shoreline protection” at 650-RICR-20-00-1.1.2(A)(155). The CRMC regulations at § 1.3.1(G)(5)(j) require that all new structural shoreline protection structures shall be designed and certified by a registered professional engineer. Based on its appearance, it seems that the stone rip-rap was dumped along the coastal bluff when it was illegally installed in 2023, rather than carefully placed and stacked stone, as would be for a properly designed, engineered and installed structure. Because the revetment was illegally installed, however, the CRMC did not review any plans (if they even exist) to ensure that it was designed and certified with plans stamped by a registered professional engineer in compliance with CRMC regulations at §§ 1.3.1(G)(4)(b)(7) and (G)(5)(j). It is also unknown what type of bedding material (if any), filter fabric, anchors or drainage were installed. Furthermore, the CRMC regulations require that new shoreline protection shall be designed and constructed to not unreasonably interfere with the public’s right to lateral shoreline access. See § 1.3.1(G)(1)(f). Unfortunately, it appears that public access along this stretch of shoreline where the illegal revetment is located is impassable during high tides.

The QCC clubhouse is located over 1000 feet from the shoreline and the nearest residential unit is approximately 500 feet from the shoreline. See Report at 13. Accordingly, these structures are not at risk or imminent peril from the eroding shoreline. The CRMC regulations at § 1.3.1(G)(1)(d) require that “when structural shoreline protection is proposed, the Council shall require that the owner exhaust all reasonable and practical alternatives including, but not limited to, the relocation of the structure(s) intended to be protected, landward re-contouring of the shoreline to create a more dissipative profile, and nonstructural and hybrid shoreline protection methods.” And, while erosion may only threaten the golf course at the 14th hole, the QCC has not met its burden of proof under the regulations to qualify for the installation of structural shoreline protection, notwithstanding the current prohibition. The QCC contends that it “will certainly lose a critical piece of its historic 18-hole golf course, and result in devastating losses to both its business and members...” See QCC Petition letter at 2. None of the residential structures or the country club facility are threatened by erosion given their considerable distance from the shoreline, so they will continue to function as they currently do, including the many commercial events (weddings, conference meetings, etc.) that are hosted by the QCC. It certainly appears possible that the four fairways and their associated holes in the northeast corner of the golf course could be redesigned and modified to relocate the 14th hole away from the eroding bluff. While this would result in a modification of the golf course, it would still allow continued play along the entire 18 holes including the scenic views out onto Narragansett Bay. Nevertheless, the QCC has not provided an analysis of a possible redesign for the course to obviate the need for structural shoreline protection, including the current illegal rip-rap revetment. Additionally, the QCC must demonstrate how it will protect the public’s right to lateral access along this stretch of shoreline.

Petitioner's failure to follow through and execute previous shoreline protection application

The QCC submitted an application in 2012 to install a 350 linear foot steel sheet pile wall approximately 25-feet landward of the coastal feature (bluff) along the 14th hole. See CRMC file 2012-05-071. The application, however, only proposed the steel sheet pile wall and did not include other nonstructural elements of shoreline protection. At the Council meeting of December 11, 2012 representatives for QCC testified to the CRMC that the steel bulkhead would be a backstop in coordination with the nonstructural shoreline protection, which would be applied for in the future. See CRMC 12/11/2012 meeting minutes at 3 (<https://opengov.sos.ri.gov/Common/DownloadMeetingFiles?FilePath=/minutes/92/2012/29067.pdf>). Council members seemed inclined to approve the sheet pile wall, but not without the proposed nonstructural shoreline protection elements. The CRMC Executive Director at that time, Grover Fugate, stated that a single application would be beneficial to the CRMC as there would be one set of plans showing the bulkhead and the nonstructural shoreline protection elements. Accordingly, the Council remanded the application back to CRMC staff and requested that the QCC include the nonstructural elements as part of a single comprehensive application for shoreline protection to be resubmitted and scheduled for a future Council meeting for review and consideration. The QCC, however, did not follow through and the steel sheet pile wall with associated non-structural shoreline protection was never installed.

Conclusions

The 1.8 mile long shoreline north of the Mount View neighborhood to the mouth of the Potowomut River, including the QCC and PSM shorelines, Pojac Point and Sand Point in Warwick is classified by the CRMC as a Type 1 shoreline. The QCC contends in its petition, however, that a 1430-foot section of this shoreline should be reclassified as Type 2. As noted above, neither this shoreline nor any portion thereof is Type 2. Rather, this shoreline is appropriately designated by the CRMC as Type 1 and should remain as such.

While the petitioner has made efforts in the past to address the ongoing bluff erosion through nonstructural means, the QCC failed in 2012 to implement a permissible (at that time) comprehensive solution with a landward steel sheet pile wall and nonstructural shoreline protection. Apparently, the QCC never followed through as instructed by the Council. Thus, it appears that the QCC has no one to blame but themselves for their inaction and current dilemma. In fact, the CRMC in 2012 was so concerned about the unintended consequences from the proliferation of steel sheet pile walls installed within the 50-foot setback that would extend to a depth below grade to protect land or structures from active or future shoreline erosion, as proposed by the QCC, the CRMC adopted a regulatory amendment on June 26, 2012 to treat such structures as structural shoreline protection. See 650-RICR-20-00-1.3.1(G)(1)(e). Because the QCC had made its application prior to the adoption of the amendment, it was allowed to proceed with its application for a steel sheet pile wall within the 50-foot setback and not be considered as structural shoreline protection, which is prohibited along the shoreline in question.

Petitions for Regulation Changes (650-RICR-10-00-1.4.9) should be used for valid changes to existing regulations when absolutely necessary to address pressing regulatory or environmental circumstances. Such petitions should **never** be used or approved by an agency to execute an end-round of the existing regulations as cover for an egregious illegal activity, one that was surreptitiously undertaken

by the QCC management and its board of directors, despite knowing full well that the installation of the rip-rap revetment was illegal.

In summary, the QCC Petition for Regulation Change requesting the proposed water type modification is spot zoning at its worst in an effort to fallaciously validate QCC's **illegally** installed 600-foot long rip-rap revetment in Type 1 waters. Additionally, the QCC petition is an aberrantly outlandish use of the regulatory petition process to address pending enforcement actions with an expectation to achieve approval for an illegal activity. Accordingly, the QCC petition to change the existing CRMC Water Type designation from Type 1 to Type 2 should be **denied**. Finally, the CRMC should order removal of the illegal shoreline protection structure with a full restoration of the affected shoreline in accordance with CRMC approved restoration plans to include unfettered lateral public access along this shoreline segment.

Respectfully,

James Boyd

Figure 1. A portion of the official U.S. Fish & Wildlife Service Coastal Barrier Resource System map depicting Prudence Island Complex Unit D02B. The USFWS designation covers the entirety of the shoreline subject to the petition. Added annotation to assist in identifying petitioner property
 Source: <https://www.fws.gov/media/prudence-island-complex-d02b-2-2>

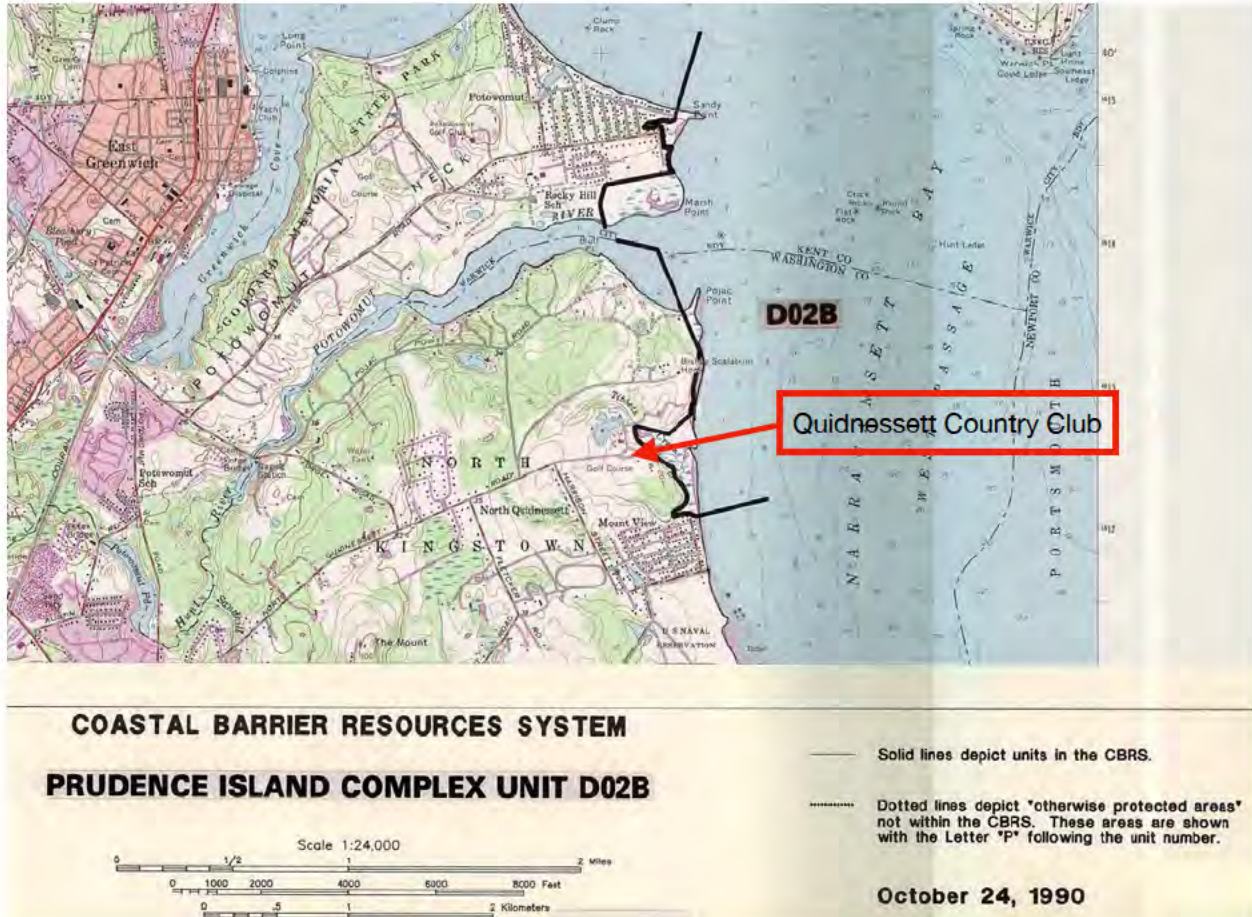


Figure 2. A portion of the CRMC Water Type Classification map for Barrington (with annotation)
Source: http://www.crmc.ri.gov/maps/maps_wateruse/watertypemaps_barrington.pdf



Cstaff1

From: Chris Deacutis <deacutis@uri.edu>
Sent: Tuesday, June 25, 2024 11:36 PM
To: cstaff1@crmc.ri.gov; council@crmc.ri.gov; jwillis@crmc.ri.gov
Subject: RE: CRMC File Number 2024-04-071 Advanced Notice of Proposed Rulemaking- Quidnessett Country Club
Attachments: Letter To CRMC on Quid Type Water Change 6-24.pdf

Dear Director Willis

Please accept the attached letter with comments concerning the application to change the water Type from Type 1 to Type 2 in North Kingstown. CRMC File Number 2024-04-071 Advanced Notice of Proposed Rulemaking- Quidnessett Country Club .

Best Regards,

Chris Deacutis, Ph.D.

North Kingstown (Mount View) Resident

Christopher Deacutis

Christopher
Deacutis

North Kingstown,
RI 02852

Jeffrey Willis, Executive Director
Rhode Island Coastal Resources Management Council
Stedman Government Center - Suite 3
4808 Tower Hill Road
Wakefield, RI 02879

June 26, 2024

Re: CRMC File Number 2024-04-071 - Advanced Notice of Proposed Rulemaking - Quidnessett Country Club

Dear Director Willis

As a resident of Rhode Island and North Kingstown RI, I have serious reservations and concerns for the above proposal to change the Water Type adjacent to the shoreline of the Quidnessett Country Club from Type 1 to Type 2. I believe this will set a legal precedent that will be followed by many owners of shoreline properties regardless of the type water as classified by the RICRMC. This change in enforcement will lead to loss of legal rule enforcement ability by the environmental agencies in Rhode Island, including especially the RI CRMC, and expand the hardening of all types of shorelines with rock walls. Based on RI CRMC regulations, such a structure is prohibited to be constructed in Type 1 waters and shorelines.

The Petition appears to be an unjustifiable after-the-fact attempt to legalize a clear RI CRMC shoreline violation: a ~600' Rock wall that I can see from Google Earth (!). The Council should not condone such a blatant and intentional violation of RI CRMC regulations. and should require the illegal activity to be reversed.

I expect that the already-built boulder wall violates State Water Quality Certification (RIDEM, U.S. Clean Water Act) and federal US Army Corps of Engineer regulations (Rivers and Harbors Act) for installing/depositing structures In RI navigable waters without the required federal and state permits. I don't understand how changing the water type post-violation would rectify the federal violations. I would expect the associated federal agencies (US EPA & US ACE) would be actively following the RICRMC actions in response to this violation.

As a retired environmental scientist trained in oceanographic processes, I expect erosion from the existing coastal bluff provides sediment to maintain the continued existence of the adjacent coastal barrier beach just south of it. I am especially concerned about adverse impacts to the mouth of nearby Tibbets Creek and its associated salt marsh. This area of Narragansett Bay has few remaining salt marshes, and RI CRMC can ill afford to condone actions that may damage the few left.

As a North Kingstown (Mount View) resident, I personally walk this area just east of Quidnessett Country Club (Tibbets Creek and the barrier beach). I have observed and photographed the Diamondback Terrapin nearby (Calf Pasture Point) (June 2021, see photo at end of letter), and I expect this area is good habitat for that state endangered species. Changing the water type and allowing onshore construction would likely threaten this species' habitat. I have *not* seen any obvious changes to this area in terms of shoreline building density that

might justify the water type change other than the condos developed in the early 1990's , which may have affected the Tibbets Creek salt marsh but were apparently permitted by RICRMC. I believe this shoreline should remain Type 1.

I regularly observe the erosion taking place here and elsewhere along RI shorelines due to Sea Level Rise (SLR) and Climate Change in terms of high tide migration, coastal storm strength, and storm frequency. I suggest the RI CRMC, with adequate scientific review, consider other structural possibilities for both this applicant and other areas where shoreline is being severely impacted by erosion. The states of Connecticut and New York are both beginning to implement sea level rise resilience projects that use "living hardened shoreline" resilience methods to protect such shorelines without radically changing the shore itself. Instead, they use placement of "fish reef balls" of adequate size just offshore of the eroding area with great success. These reef balls have already been permitted by RI CRMC and the USACE as an acceptable fish habitat restoration effort by The Nature Conservancy and RIDEM off Sabin Point in East Providence. The near-shore protection is a fairly new usage of such structures that would potentially improve habitat vs threaten loss of habitat if used correctly. I have provided several links and a link to a Rye NY NY state and US ACE application for fish reefs as erosion protection.

Thank you for the opportunity to provide comments on this Application to change the water Type in North Kingstown.

Use of Fish Reef Balls as Erosion Control devices in Connecticut and New York :

<https://ctmirror.org/2022/12/08/ct-noaa-grant-coastal-resiliency-climate-change/>

<https://www.conncoll.edu/news/news-archive/2023/rosa-reef-ball-grants/>

<https://portal.ct.gov/-/media/deep/education/kellogg/ct-changing-climate-booklet.pdf> (see p.8)

NY State + USACE 2022 application for shoreline erosion protection at Rye NY shoreline using fish reef balls:
<https://dos.ny.gov/system/files/documents/2022/08/f-2022-0436publicnotice.pdf>

Sincerely,

Christopher Deacutis, Ph.D.
Resident, North Kingstown, RI



Live Diamondback Terrapin (*Malaclemys terrapin*) observed & photographed by C. Deacutis on Calf Pasture Point Shoreline June 23, 2021

cstaff1@crmc.ri.gov

From: Mike Jarbeau <mjarbeau@savebay.org>
Sent: Monday, June 24, 2024 3:10 PM
To: cstaff1@crmc.ri.gov
Subject: STB Comments re: 2024-04-071
Attachments: STB.CRMC.2024-04-071.Quidnessett.pdf

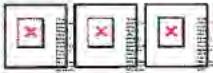
Good afternoon, please find attached Save The Bay's comments on Quidnessett Country Club's rulemaking petition.

Mike Jarbeau

Narragansett Baykeeper, Save The Bay

(401) 272-3540 ext. 116

[narrabaykeeper](#) | [@narrabaykeeper](#)



| [SAVEBAY.ORG](#)

RECEIVED

JUN 24 2024

COASTAL RESOURCES
MANAGEMENT COUNCIL

June 24, 2024

Jeffrey Willis, Executive Director
Rhode Island Coastal Resources Management Council
Stedman Government Center - Suite 3
4808 Tower Hill Road
Wakefield, RI 02879

Re: CRMC File Number 2024-04-071 - Advanced Notice of Proposed Rulemaking - Quidnessett Country Club

Dear Director Willis,

Save The Bay is an independent, member-supported, nonprofit organization. Our work focuses on a fully swimmable, fishable, healthy Narragansett Bay, accessible to all. The Water Type classification system is a key part of the Coastal Resources Management Program because it helps to balance competing demands along the coast, protecting Rhode Island's valuable shoreline while allowing development in appropriate locations. A major focus of Save The Bay's advocacy work is ensuring that decisions made by state and federal agencies are made in accordance with laws and regulations promulgated to protect our public trust resources.

Save The Bay objects to the applicant's proposal to change the Water Type adjacent to Quidnessett Country Club from Type 1 to Type 2. Such a change will minimize the heightened protection afforded to coastal resources abutting Type 1 Waters and expand opportunities for development, including hardened shorelines such as walls, which the Coastal Resources Management Council has recognized will degrade coastal resources. Since the designation of these waters as Type 1, there have been no changes to the use of the adjacent coastline that would warrant consideration of a change in Water Type. Further, the clear intent of the Petition is to allow the violation to remain. The Council should not condone a violation by considering a change in law to accommodate it. Save The Bay urges the Council to enforce its standards and order the removal of Quidnessett Country Club's illegally constructed wall prior to entertaining any regulatory changes that may favor the applicant.

1. The Wall should be Removed Before the Petition is Considered

The applicant's illegal wall was constructed without a permit and in violation of state and federal law. The wall violates the Coastal Resources Management Program (650-RICR-20-00-1), also referred to as the "CRMP" or "coastal program" and RI Department of Environmental Management Regulations requiring a Water Quality Certificate. Federally, the wall violates Section 10 of the Rivers and Harbors Act of 1899 for installing a structure in or over navigable water and the excavation from or depositing material into such waters, and Section 404 of the Clean Water Act for discharge of fill material into the waters of the state. There is no federal permit on record for the unauthorized wall and, therefore, the applicant has circumvented the required federal review of the wall's impact to the waters of Narragansett Bay. Quidnessett's failure to comply with federal environmental law is a

blatant attempt to undermine federal imperatives that prioritize full assessments of potential impacts to the Nation's navigable waters prior to shoreline construction that can detrimentally impact navigation, ecosystems and protected uses of the nearshore environment.

In addition, if the Council fails to order removal of the wall it may be subject to sanctions from the National Oceanic and Atmospheric Administration ("NOAA"). NOAA administers the Coastal Zone Management Act of 1972 (CZMA) and NOAA approved the CRMP. The CRMC clearly prohibits structural shoreline protection facilities in Type 1 Waters and CRMC is obligated to enforce the federally approved program. NOAA may impose sanctions if the state ineffectively or inconsistently implements its coastal program. Inadequate enforcement action when a violation is determined is one of the listed criteria for invoking sanctions. Enforcing the coastal program requires removal of the wall. This illegal wall is located below the high tide line, making this violation particularly egregious. Considering after-the-fact regulatory modifications to bring illegal activity into compliance similarly jeopardizes the authority and legitimacy of the entire coastal program.

This is the Quidnessett Country Club's (QCC or the Country Club) second attempt to construct a wall by circumventing the CRMP. The first attempt was in 2012 (2012-05-071), when the Country Club applied for a 350' wall inland of the coastal feature. The September 2012 staff report stated that the "applicant proposes a structure which is clearly intended to function as a structural shoreline protection facility but avoids the prohibition to such facilities by proposing to construct the facility 25' inland from the coastal feature. This construction will occur within the minimum 50' setback required by CRMP Section 140. Based on this review, the Staff Biologist concluded the variance criteria have not been met and, on this basis, recommends denial of the variance and the application in total."

In the 2012 staff report, the Supervising Environmental Scientist clearly enunciated the reasons that the project did not conform to the goals and policies in the CRMP. Staff noted that even though the proposed wall was 25' landward of the coastal feature, based on CRMC's shoreline change maps the facility "can be expected to be exposed and functioning as a seawall in approximately 14 years." It further stated that the wall may accelerate erosion once it is exposed to wave energy, and mass sloughing of soil may also occur that will impact the life of the wall.

"Once the structure is exposed to shoreline wave forces, particularly during storms, erosional loss of any remaining coastal beach fronting the seawall can be expected as commonly observed and documented fronting vertical seawalls. Loss of coastal beach can be expected to impact natural functions and values of beaches including fish and wildlife habitat and associated recreation uses including lateral shoreline access."

Furthermore, the existing coastal bluff is a natural landform created in response to shoreline erosion. Sediment eroded from the bluff provides the sediment source responsible for the creation, preservation and continued existence of the coastal beach which forms a continuous ribbon of sand along this shoreline." Emphasis provided. Staff Report, Page 2 of 5.



RECEIVED

JUN 24 2024

COASTAL RESOURCES
MANAGEMENT COUNCIL

The staff analysis concluded that *“any loss of beach due to erosion will adversely affect the ecological value of the beach and disrupt recreational activities by adversely affecting lateral shoreline access.”* It was staff’s opinion that *“the project would result in significant adverse impacts and use conflicts. It should also be considered that the project location is immediately adjacent to the undeveloped barrier beach which protects the Tibbets Creek coastal wetland complex. The elimination of the natural sediment sources associated with the eroding bluff and accelerated beach erosion caused by the future functions of the proposed structure is likely to impact the barrier beach/coastal wetland complex.”* Staff Report, Page 3 of 5. The Council unanimously approved a motion to remand the application to staff to help the applicant develop nonstructural shoreline protection.

The current attempt to circumvent the laws set forth in the CRMP involves the construction of a massive revetment in violation of the law and seeking forgiveness (if it was caught) through changing the rules. Over the winter of 2023, the Club constructed an extensive rock wall, in the same area of the shoreline that was the subject of the prior application, in Type 1 Waters. Based on analysis of 2023 aerial imagery, the wall as constructed is approximately 600’. Sea walls were and are prohibited in Type 1 Waters. In August of 2023, after learning about and investigating the violation, the CRMC issued a Cease & Desist Order and three \$10,000 fines. On May 7, 2024, the United States Army Corps of Engineers issued a Notice of Violation for the Club’s wall.

The damage caused by this wall is even worse than it would have been had the Club been permitted to construct the wall it proposed in 2012; portions of the wall are located below Mean High Water and have not only eliminated habitat, bluff, and beach but have also converted public land to private use. It appears the Club has filled the coastal bluff behind the wall and moved a paved path seaward to create more private property. Based on aerial imagery analysis, the Club also removed or destroyed approximately 10,014 square feet of coastal vegetation.

The QCC appealed the NOV issued by CRMC and ultimately submitted a Petition for Promulgation of Rules to amend the CRMP (650-RICR-20-00-1). The purpose of the amendment is to allow the Club, a violator, to change the rules. If the Water Type is changed in the location of the wall, the Club will be able to apply for a permit to keep the wall in place. Entertaining this Petition offends the idea of fairness in the application of the regulations. CRMC regularly requires the removal of snow fencing and other small, unauthorized structures such as tiki bars. It is almost inconceivable that this wall would be able to remain. The wall should be removed before the applicant is permitted to Petition for a Water Type Change.

2. Consideration of the Petition

If the Council fails to require the removal of the wall prior to considering the requested Petition to change the Map of Water Type Classification for North Kingstown (north), the Petition to change the Water Type must still be denied. As clearly articulated in the CRMP, categories of waters are linked to both the characteristics of the shoreline and upland. The original NOAA-approved program established named classifications as they exist today for Conservation Waters, Low Intensity use, etc. In the 1983 version the same classified waters were given corresponding numbers (Type 1 for Conservation) but the classifications did not change. Type 1 waters (CRMP Section 200.1) properly include the area of the shoreline at issue, as the area supports natural habitat and is particularly unsuitable for structures based on their effect on coastal habitats such as salt marsh, beach, and coastal bluff, as well as their impact on the functions and values of these natural features. This area has retained

RECEIVED

JUN 24 2024

COASTAL RESOURCES
MANAGEMENT COUNCIL

its natural habitat and maintained scenic value and the site is not suitable for structures because of erosion and severe wave action. It is, and should continue to be, a Type 1 Conservation Area. CRMP Section 1.2.1 B. "The Council's policy is to preserve and protect Type 1 waters from activities and uses that have the potential to degrade scenic, wildlife, and plant habitat values, or which may adversely impact water quality or natural shoreline types." Section 1.2.1 B 2. Many marshes, beaches, and bluffs have been effectively protected due to the Type 1 classification. Further, the US Fish and Wildlife Service has recognized the fragility of the shore and its importance to the barrier ecosystem and wildlife habitat by designating this section of shoreline as a Coastal Barrier Resource System, unit D02B, indicating its value as a "biologically rich coastal barrier."

The applicant claims that there have been substantial changes to the upland since it was classified as Type 1 waters. Yet, based on aerial imagery, there have been no substantial changes to the area upland of the shore. The golf course is the same and any minor changes, including residential condominiums, are minimal at best and have no connection to the area under consideration through this petition. The intent behind this petition is not to link the type of water to the upland considering the shoreline but to change the rules to accommodate the violation.

The shoreline cannot be evaluated now because the Country Club destroyed it by building a 600' wall. However, the shoreline was previously evaluated and described in the 2012 CRMC Staff Report, which recommended denying a variance for a much smaller wall located inland. The report and the photos attached to the report (of the now destroyed resources) depict a steep vegetated coastal bluff fronted by a coastal beach, north of an undeveloped barrier beach and in close proximity to the Tibbets Creek Wetland Complex. Nothing changed upland since 2012 that would support a change in the Water Type to Type 2 to accommodate this abhorrent violation. In addition:

- Most Type 2 waters in North Kingstown are located along dense residential development and feature historic shoreline hardening, resulting in little to no passable shoreline. The shoreline under consideration here does not fit these descriptions.
- This area does not contain high density residential use. Upland uses are not characteristic of Type 2.
- QCC claims this is an "historic golf course." We were unable to find a registry of historic golf courses, but given that it was established in 1960, and Newport County Club and Jamestown were established in 1893 and 1901 respectively, it is questionable whether Quidnessett Country Club would even be in the running for such a designation.
- The Club claims that area was previously disturbed which is not surprising; most of the Narragansett Bay coastline was disturbed at some point. However, the area has not been disturbed since the area was first approved as Conservation Waters by NOAA in 1978. If the applicant's proposed level of scrutiny was applied statewide, the Type 1 designation would be virtually nonexistent.
- If the water type is downgraded, it is likely that other coastal property owners will request a change resulting in hardened shoreline and further reduction in coastal habitat and public access. Bayview Rehabilitation, the northerly abutter, has already stated in its comment letter and during public testimony at the Town of North Kingstown that it would support the change so it had options in the future to protect its adjacent site from erosion.

- Type I waters protect our most valuable coastal resources and prevent damage to our resources, including the incremental and cumulative damage in this case.
- This is a highly volatile area subject to storm surge and this boundary is moving landward as anticipated by staff in 2012. The classification of Type 1 waters has limited the activities on the coast that would damage and eliminate coastal features and habitat. The condition of the bluff prior to the destruction by the wall is a testament to the value of the Type 1 designation.
- Economic considerations are not relevant- the environmental damages to our public trust resources would be for the sole benefit of members and their guests.

3. Potential/Likely Ecological Impacts of Changing the Water Type to allow Shoreline Protection Structures Defies the Goals and Policies of the CRMP

- The wall has eliminated coastal habitat, including the vegetated coastal bluff, as noted in the staff report (page 4) a natural landform created in response to shoreline erosion.
- Hardened shorelines prevent the shoreline and valuable habitats from being able to move inland and can increase erosion seaward resulting in loss of intertidal habitat.
- These structures impact sedimentation processes by reducing or eliminating sediment yield (sand) and will generate local scour, usually at the toe or immediately adjacent, unprotected shoreline. A coastal beach, salt marsh, and tidal creek are located directly adjacent to the wall and may be impacted by altering the sediment processes.
- These intertidal ecosystems are particularly vulnerable to climate change and will be the first places to adjust and adapt to the rising sea levels. Stopping these natural movements of the coastal ecosystems inland in the early stages of sea level rise alters the trajectory of the sensitive intertidal ecosystem and may contribute to further degradation.
- Rocks are hazardous to walk across and the wall currently cuts off lateral access to and along the shoreline. Access will continue to be limited as the sea level rises.
- Abutting shorelines will suffer impacts from receiving the wave energy from the wall.
- As recognized by staff in 2012, impacts (now destruction) of coastal cliffs and bluffs from activities will damage the value of these features as sources of sediment to beaches and as a buffer against storm waves and flooding.
- The Tibbets Creek wetland complex and beach will suffer adverse impacts.
- The International Union for Conservation of Nature Red List of Threatened Species lists the Diamondback Terrapin as an internationally threatened and state endangered species. The Diamondback Terrapin is a brackish water turtle that prefers to nest in sandy areas above the high tide line. The closest confirmed nesting site is within one mile from the illegal wall along the banks of the Potowomut River. However, the bluff along Quidnessett Country Club may have provided nesting habitat. This turtle is limited by the available habitat and substrate type which may be altered due to the construction of this structure.

Changing the Water Type to 2 in this area is a prime example of “unplanned or poorly planned development of this basic natural environment [that] has already damaged or destroyed, or has the potential of damaging or destroying, the state’s coastal resources” recognized by the General Assembly decades ago. § 46-23-1(a)(2). If the Council chooses to act in accordance with its statutory duty it will be guided by the mandate that “preservation and restoration of ecological systems shall be the primary guiding principle upon which



environmental alteration of coastal resources will be measured, judged, and regulated” to benefit the public. Id. Compliance with the law requires denial of the Petition.

As stated in the 2012 Staff Report the coastal feature is a “Coastal bluff fronted by coastal beach and north of an undeveloped barrier beach.” As set forth Section 1.2.2 D. 1. b.1 of the CRMP, the Council's goals are to: (1) Protect coastal cliffs and bluffs from activities and alterations that may damage the value of these features as sources of sediment to beaches and as a buffer against storm waves and flooding; (2) Prevent any construction in contiguous areas that may weaken the feature and has the potential of creating a hazard; and (3) Preserve the scenic and ecological values of these features. The Council's goals concerning coastal beaches are to “(1) To preserve the qualities of, and public access to those beaches which are an important recreational resource (adjacent to Type 1 and 2 waters); (2) To prevent activities that will significantly disrupt longshore and/or onshore offshore beach processes, thereby creating an erosion or flooding hazard; (3) To prevent construction in high hazard areas; and (4) To protect the scenic and ecological value of beaches.” CRMP Section 1.2.2A.1.(a)(1)-(4). Changing the Water Type to 2 undermines and is in direct conflict with every one of these goals.

The staff at CRMC have worked tirelessly to prevent hardening the shoreline because it violates the goals and policy of the coastal program and the Council has upheld their work in approving regulations, policies and guidance. As stated in CRMC's “Structural Shoreline Protection Measures: Guidance for the Waterfront Property Homeowner,”

“... structural shoreline protection measures can have a broad range of negative impacts on adjacent beaches and properties, on the natural environment, and on shoreline public access. Additionally, structural shoreline protection measures designed to protect adjacent structures are not sound adaptation measures to the issues of erosion and storm events. Although commonly used, structural shoreline protection measures must be considered with extreme caution. Like flood barriers, CRMC staff have found that structural shoreline protection measures are often either undersized or under-designed for the sources of coastal hazard risk they are intended to address. Further, they typically are not designed to be feasible means of protecting a site from storm surge and sea level rise given the latest sea level rise estimates. Structural shoreline protection measures can thus be a very costly adaptation measure with little return on investment. The CRMC therefore prohibits new structural shoreline protection measures on barriers classified as undeveloped, moderately developed, and developed, as well as on all shorelines adjacent to Type 1 waters (see CRMP §1.3.1(G)(3)). Additionally, the CRMC favors nonstructural methods of shoreline protection (see CRMP §1.3.1(G)(1)). *The reasons for non-structural methods of shoreline protection policies are because hardened shorelines cause serious environmental, ecological and public valuation impacts, and include: acceleration of sediment erosion (eventually leaving the face of the structure to serve as both low and high tide elevations); sediment impoundment (trapping sediment behind these structures actually removes that sediment from naturally nourishing beach areas of the shoreline); and, permanent impediments to lateral shoreline access.*”

In summary, it is incomprehensible that the Council would consider changing the Water Type to accommodate a significant and deliberate violation of the coastal program. Allowing the wall to remain in place while



entertaining a change to the Water Type to accommodate a violation makes a mockery of the legal system, undermines and violates the entire coastal program, encourages others to violate the law, and creates a dangerous precedent. However, even if the Council were to allow degradation of our coastal resources by changing the Water Type, the applicant should not be misled - a wall cannot be permitted in this area and the applicant should be required to remove the illegal wall and restore the shoreline. The staff has already evaluated a much smaller wall that did not convert public trust land in this same area and determined a wall should not be constructed based on the adverse environmental impacts. The Council cannot simply ignore the 2012 staff report and the unanimous decision upholding the staff report. Further, any change in Water Type would be prospective - the Club would still be bound by the regulations at the time the wall was constructed.

Save The Bay submits that the wall should be removed, the site restored and the Petition denied. Please see the attached photos documenting the damage done by the applicant to our shoreline, habitat, and public access.

Thank you for considering our comments.

Sincerely,

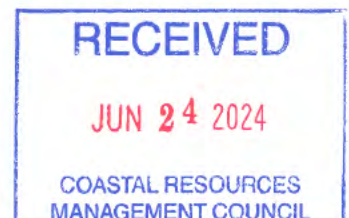
A handwritten signature in black ink that reads "Topher Hamblett".

Topher Hamblett
Executive Director
thamblett@savebay.org

Photos demonstrating size/scale of unauthorized wall and loss of beach, public access. Taken by STB staff on June 12, 2024 at approximately 1330 (4.1 foot high tide)



Image of illegal wall. Note passable shoreline to South (left) overtaken by wall, eliminating public access.





Close-up of illegal wall (Northern end) at High Tide of 4.1 ft on June 12, 2024. Note lack of passable shoreline indicating fill below Mean High Water.

RECEIVED
JUN 24 2024
COASTAL RESOURCES
MANAGEMENT COUNCIL



Fisherman using area immediately North of illegal wall. This area is no longer accessible to the public from the South.

RECEIVED
JUN 24 2024
COASTAL RESOURCES
MANAGEMENT COUNCIL



Aerial imagery comparison showing coastal vegetation, habitat, and shoreline access destroyed or lost by construction of illegal wall. Left image from Summer 2022, Right image from Spring 2023.

Source: <https://ridemgis.maps.arcgis.com/>



Lisa Turner

From: bharrington@crmc.ri.gov
Sent: Monday, June 24, 2024 9:22 AM
To: 'Jeff Willis'; 'Anthony Desisto'
Cc: 'Laura Miguel'; 'Rich Lucia'; 'Amy L Silva'; 'Mark Hartmann'; 'Lisa Turner'; 'Devon Robinson'; ldwyer@crmc.ri.gov
Subject: FW: Quidnesset Country Club
Attachments: Quidnessett Memo-6-21-2024.docx; Quidnessett Country Club violation CRMC Info.pdf; NAE-2024-01164_Initial Inquiry - Notice of Violation_20240507_sgn.pdf

Resending Amy's forward and adding legal counsel and more staff to it.

From: Horbert, Chuck (DEM) <chuck.horbert@dem.ri.gov>
Sent: Friday, June 21, 2024 2:34 PM
To: Hogan, Patrick (DEM) <patrick.hogan@dem.ri.gov>
Cc: Forcier, Susan (DEM) <susan.forcier@dem.ri.gov>; Beck, Eric (DEM) <eric.beck@dem.ri.gov>; Personeus, Neal (DEM) <neal.personeus@dem.ri.gov>; Chopy, David (DEM) <david.chopy@dem.ri.gov>; Hoefsmit, Christina (DEM) <Christina.Hoefsmit@dem.ri.gov>; Schneider, Eric (DEM) <eric.schneider@dem.ri.gov>; bharrington@crmc.ri.gov; asilva@crmc.ri.gov
Subject: Quidnesset Country Club

This Message Is From an External Sender

This message came from outside your organization.

Report Suspicious

Hi Pat,

I am forwarding to you via this email a complaint on behalf of the Water Quality Certification Program, through Neal Personeus, for fill placed into Waters of the State by Quidnessett Country Club. My understanding is that Neal has briefly discussed this with you some time ago. We have been compiling some facts for you, and I have confirmed agreement with the approach to send you this complaint through Christina Hoefsmit. The Director and Susan Forcier have also been briefed for their awareness.

Attached, please find:

1. A memo detailing the facts of the complaint and requesting investigation and follow-up by OCI;
2. Copies of documents and correspondence provided by RI CRMC; and
3. A copy of a Notice of Violation issued by the US Army Corps of Engineers.

As noted in the attached memo, feel free to contact either Neal or me of any additional details you may need to either facilitate your investigation or guide potential actions.

Thank you, and enjoy your weekend.

Chuck Horbert, Deputy Administrator
Groundwater & Freshwater Wetlands Protection
RIDEM Office of Water Resources

Note New Phone: 401-537-4239

Visit our updated construction stormwater webpage: dem.ri.gov/stormwaterconstruction

ONLINE PERMIT SEARCH TOOLS: View Permit Status, Historical Information and download available documents at dem.ri.gov/waterpermits

Need to scan

Staff1 <cstaff1@crmc.ri.gov>
Monday, June 24, 2024 9:16 AM
Lisa Turner
FW: Quidnesset Country Club
Quidnesset Memo-6-21-2024.docx; Quidnesset Country Club violation CRMC Info.pdf;
NAE-2024-01164_Initial Inquiry - Notice of Violation_20240507_sgn.pdf

From: Horbert, Chuck (DEM) <chuck.horbert@dem.ri.gov>
Sent: Friday, June 21, 2024 2:34 PM
To: Hogan, Patrick (DEM) <patrick.hogan@dem.ri.gov>
Cc: Forcier, Susan (DEM) <susan.forcier@dem.ri.gov>; Beck, Eric (DEM) <eric.beck@dem.ri.gov>; Personeus, Neal (DEM) <neal.personeus@dem.ri.gov>; Chopy, David (DEM) <david.chopy@dem.ri.gov>; Hoefsmit, Christina (DEM) <Christina.Hoefsmit@dem.ri.gov>; Schneider, Eric (DEM) <eric.schneider@dem.ri.gov>; bharrington@crmc.ri.gov; asilva@crmc.ri.gov
Subject: Quidnesset Country Club

This Message Is From an External Sender

This message came from outside your organization.

Report Suspicious

Hi Pat,

I am forwarding to you via this email a complaint on behalf of the Water Quality Certification Program, through Neal Personeus, for fill placed into Waters of the State by Quidnesset Country Club. My understanding is that Neal has briefly discussed this with you some time ago. We have been compiling some facts for you, and I have confirmed agreement with the approach to send you this complaint through Christina Hoefsmit. The Director and Susan Forcier have also been briefed for their awareness.

Attached, please find:

1. A memo detailing the facts of the complaint and requesting investigation and follow-up by OCI;
2. Copies of documents and correspondence provided by RI CRMC; and
3. A copy of a Notice of Violation issued by the US Army Corps of Engineers.

As noted in the attached memo, feel free to contact either Neal or me of any additional details you may need to either facilitate your investigation or guide potential actions.

Thank you, and enjoy your weekend.

Chuck Horbert, Deputy Administrator
Groundwater & Freshwater Wetlands Protection
RIDEM Office of Water Resources
Note New Phone: 401-537-4239

Visit our updated construction stormwater webpage: dem.ri.gov/stormwaterconstruction

ONLINE PERMIT SEARCH TOOLS: View Permit Status, Historical Information and download available documents at dem.ri.gov/waterpermits

RECEIVED

JUN 21 2024

COASTAL RESOURCES
MANAGEMENT COUNCIL

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 Quidnessett 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.

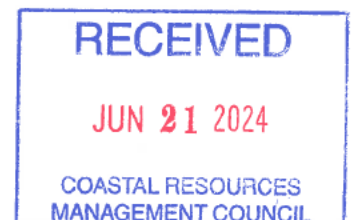
No informal Notice has been issued by the Department to date.

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 [REDACTED]

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
Amy Silva, RI CRMC





DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751



May 7, 2024

Regulatory Division
File No. CENAE-R-2024-01164

VIA FEDEX

NOTICE OF VIOLATION

Quidnessett Country Club, Inc.
PO Box 860
East Greenwich, RI 02818

Quidnessett Country Club
950 N Quidnessett Road
North Kingstown, RI 02852

Dear Quidnessett Country Club:

This letter is in reference to work that you conducted at 950 North Quidnessett Road in North Kingstown, Rhode Island. The work involves waters below mean high water of Narragansett Bay and/or wetlands under jurisdiction of the U.S. Army Corps of Engineers (USACE). Information received in this office indicates that you are a party associated with this activity, either as a property owner or as a person performing or causing the performance of this work.

Section 10 of the Rivers and Harbors Act of 1899 (RHA), 33 USC 403, prohibits the installation of any structure in or over navigable waters of the United States and the excavation from or depositing material into such waters unless the work has been properly authorized by a Department of the Army permit. In accordance with the Alternatives Fines Act, 18 U.S.C. §3571, criminal penalties may include fines of up to \$100,000 for individuals (up to \$200,000 for corporations), imprisonment for up to 1 year, or both. Section 404 of the Clean Water Act (CWA), 33 U.S.C. 1344, prohibits the discharge of dredged or fill material into waters of the United States unless such discharge has been properly authorized by a Department of the Army permit. Violations of Section 10, a criminal statute, can result in imprisonment of up to one year, and/or fines of up to \$100,000 for individuals or \$200,000 for organizations by operation of the Alternative Fines Act, 18 U.S.C. § 3571. Violations of the CWA can result in administrative penalties, civil penalties of a maximum of up to \$22,585 per violation and a maximum of \$56,461 per day of violation, criminal fines or imprisonment. Every day unauthorized fill remains in place is a separate day of violation. Injunctive relief, including restoration, is also available.

Section 404 of the CWA, 33 U.S.C. 1344, prohibits discharges of dredged or fill material into waters of the United States and their adjacent wetlands unless the work has been authorized by Department of the Army permit. Please be aware that CWA violations may result in



administrative penalties, civil penalties of up to \$37,500 per day of violation, criminal fines and/or imprisonment. Every day unauthorized fill remains in place is a separate day of violation. Restoration of the area to its pre-violation condition may also be required.

Some or all of the work undertaken at the property identified above appears to be within USACE jurisdiction, but we have no record that you have obtained a Department of the Army permit from this office. A fact sheet that includes a summary of our authority, jurisdiction, definitions and permit requirements is attached to this letter. Note that no additional work within our jurisdiction may be started or allowed to continue until you receive a permit signed by the District Engineer or his authorized representative. Any such future work without a permit could be considered a willful and knowing violation of Section 10 of the Rivers and Harbors Act or Section 404 of the Clean Water Act warranting legal action.

Federal Regulations provide that we investigate unauthorized work that has occurred in areas subject to our jurisdiction. To assist us in this investigation we request that you respond, in writing, to the following questions:

1. Explain how you believe the work was authorized by the USACE pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act.
2. Provide the name of all persons or entities that have ownership interest in the parcel(s) identified above and when that ownership was attained.
3. Submit a description of the work that you have undertaken (land clearing, discharge of fill in wetlands and in named waters and unnamed tributaries, erection of structures) in areas subject to Federal jurisdiction (wetlands and waters below ordinary high water).
4. For each one of the activities identified above identify the footprint (area in square feet or acres) of impact to waters and or wetlands and linear feet of any authorized structures. This should include those areas grubbed (removal of stumps), graded or covered with fill material, and otherwise altered through modification of drainage patterns.
5. Identify the timeframe (e.g., days, months, years) that the work was undertaken. Be as specific as possible, giving the starting and ending dates for each area or type of activity under USACE jurisdiction.
6. Provide copies of all correspondence including, but not limited to, any permits or applications for permits with any local, state or federal agency pertaining to the placement, retention or removal of dredged or fill material or work/structures occurring in wetlands or waterways at the site.
7. Identify the types of equipment used to excavate or move soil material within waters or the wetland.

RECEIVED

JUN 21 2024

COASTAL RESOURCES
MANAGEMENT COUNCIL

3

8. Identify, where feasible, pre-construction characteristics and habitat type of wetlands and waters filled or altered and/or provide any environmental or ecological assessment reports or survey of the resources already completed on the parcel(s).

9. Identify any alternatives that would accomplish the project purpose while avoiding impact to wetlands or waters, and why these alternatives were not used.

No additional regulated work within our jurisdiction may be started or allowed to continue until you receive a permit signed by the District Engineer or his authorized representative. Any such future work without a permit may be considered willful, repeated, or flagrant per 33 CFR Part 326.5(a) warranting legal action.

Please respond to our request for information within **fifteen (15) days** of the date of this letter. If you fail to respond to this notification or to provide the requested information within the specified time frame we may seek immediate legal action to halt any ongoing activity, conduct our investigation with the information available to us and take enforcement action as allowed by federal law. Our action may include referral to the U.S. Environmental Protection Agency, the U.S. Attorney's Office or the Environment and Natural Resources Division of the U.S. Department of Justice.

In summary, we request that you respond to our information request within 15 days of the date of this letter. Also, note that this letter will not foreclose our options to initiate appropriate legal action or to later require a submission of a permit application. If you have any questions or wish to arrange a meeting to discuss this matter, please contact Elizabeth Waterhouse of my staff at (978) 318-8943 or elizabeth.c.waterhouse@usace.army.mil.

Sincerely,

Kevin R Kotelly

Kevin R. Kotelly, P.E.
Chief, CT/RI Section
Regulatory Division

Enclosure

cc:

Ray Putnam, U.S. EPA New England, Region 1, OEP Wetland Enforcement, USEPA SUITE 100 (Mail Code OES05-1), 5 Post Office Square - Suite 100, Boston, MA 02109-3912.

Lisa A. Turner, Office Manager and Record Keeper, Programming Services Officer, Coastal Resources Management Council, Oliver Stedman Government Center, 4808 Tower Hill Road, Room 116, Wakefield, RI 02879



**US Army Corps
of Engineers**®
New England District



JURISDICTION FACT SHEET

Under **Section 10 of the Rivers and Harbors Act of 1899** (USC 403), a U.S. Army Corps of Engineers (USACE) permit is required for all work, including structures, seaward of the mean high water line in navigable waters of the U.S. In New England, for purposes of Section 10, navigable waters of the U.S. are those subject to the ebb and flow of the tide, as well as a few of the major rivers used to transport interstate or foreign commerce.

Under **Section 404 of the Clean Water Act (CWA)** (33 U.S.C. 1344), a permit from USACE is required for activities which involve the **discharge of dredged or fill material** into waters of the United States (U.S.), including not only navigable waters of the U.S. but also inland rivers, lakes, streams, and **wetlands**. In inland waters, USACE jurisdiction under the CWA extends landward to the **ordinary high water mark** or the **landward limit** of any wetlands, whichever is more extensive.

The term **"wetlands,"** as used above, is defined by Federal regulations as "...areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas." (33 CFR 328.3(c)(16)). Forested and meadow areas that lack standing water can also be wetlands. Note that such boundaries might not be the same as wetland boundaries determined by state or local regulations, since those agencies sometimes use different criteria to delineate wetlands.

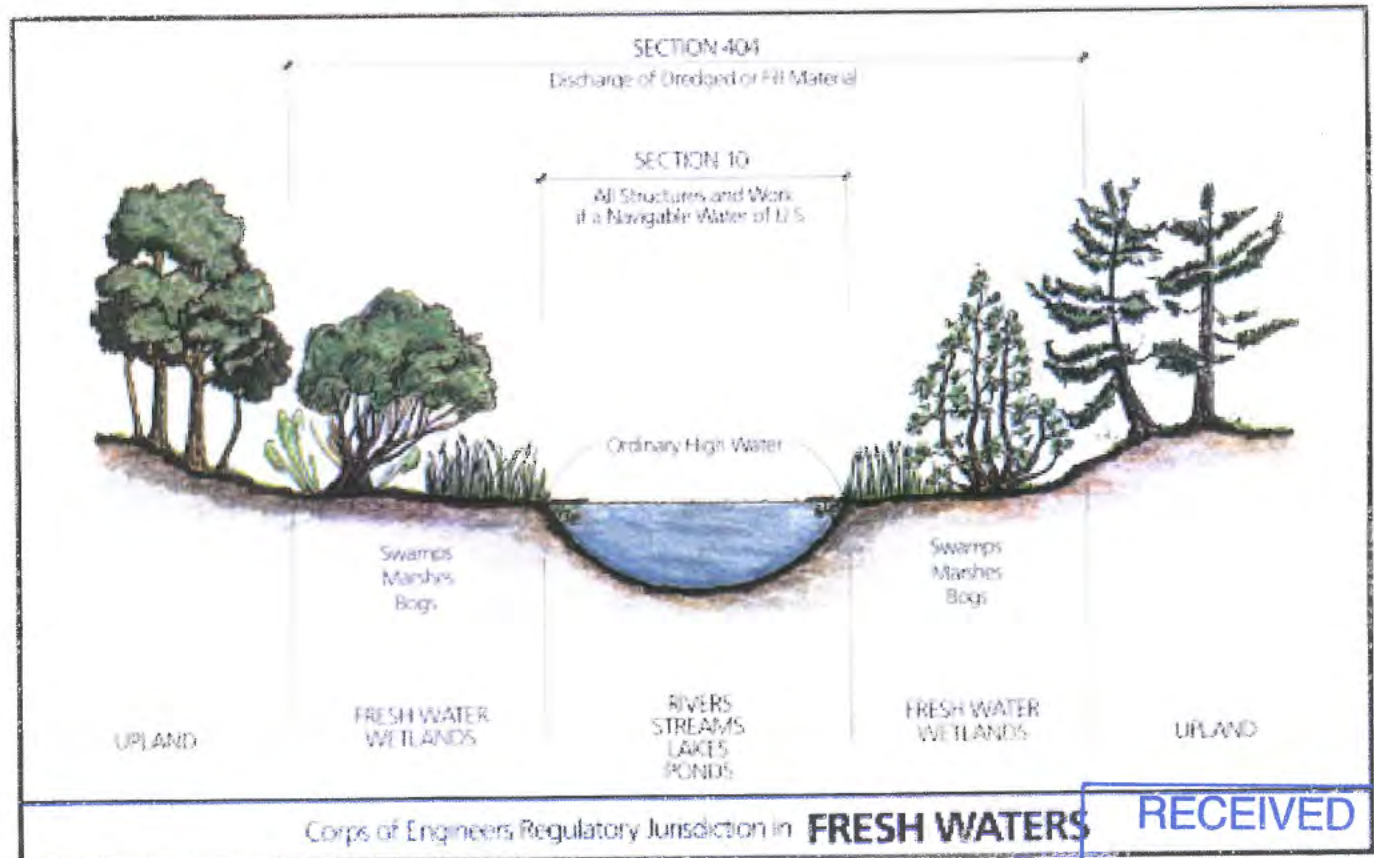
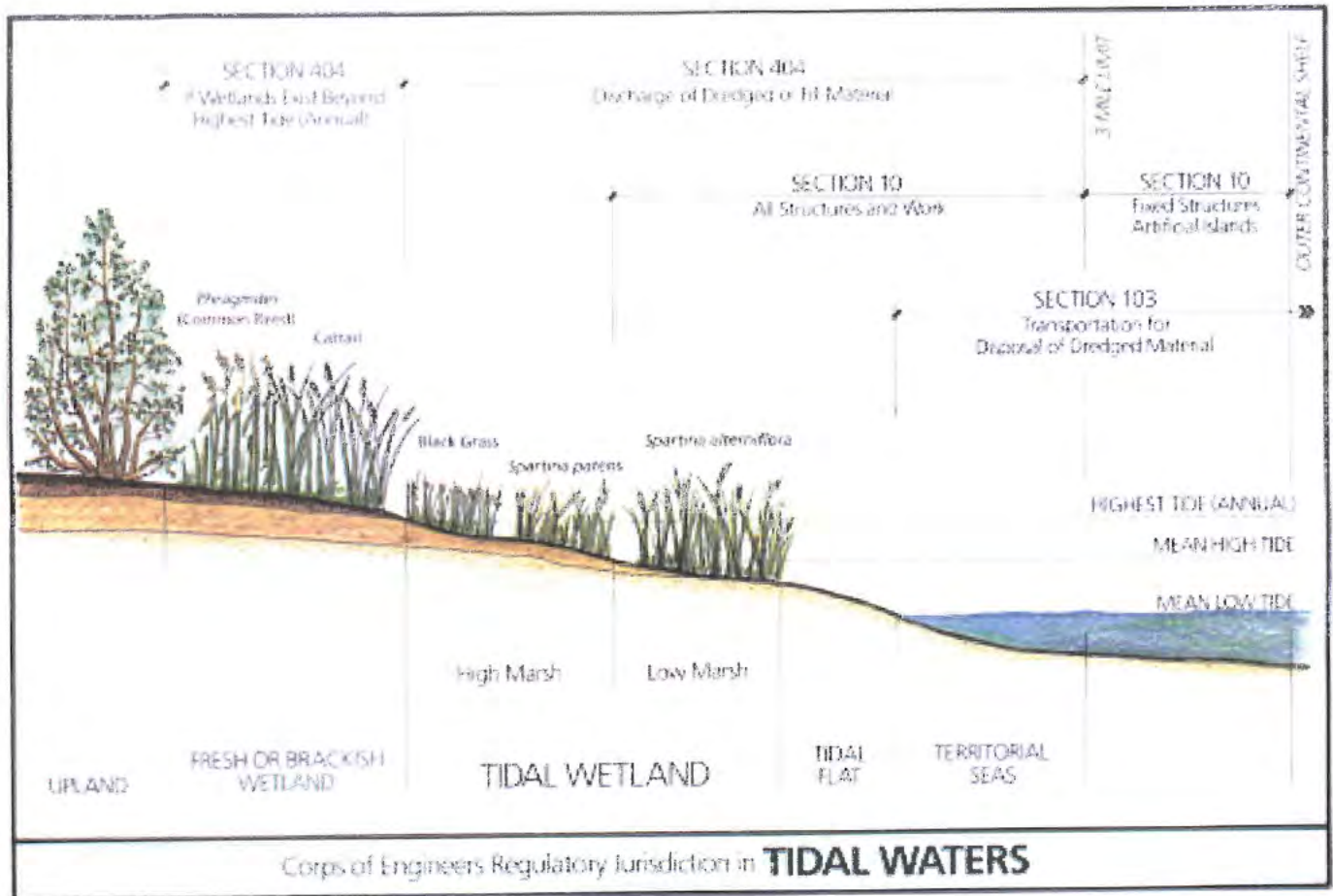
The term **"discharge"** is defined as the addition of dredged or fill material into waters of the U.S. This may include the redeposition of wetland soils such as occurs during mechanized land clearing activities, including grubbing, grading, and excavation.

The term **"fill material"** is defined by Federal regulation as "...material placed in waters of the U.S. where the material has the effect of: (i) Replacing any portion of a water of the U.S. with dry land; or (ii) Changing the bottom elevation of any portion of a water of the U.S. Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the U.S. The term fill material does not include trash or garbage." (33 CFR 323.2 (e), May 9, 2002 Federal Register). The Environmental Protection Agency is responsible for regulating discharges of wastes and other pollutants.

You must obtain authorization for any work within USACE jurisdiction before you can legally undertake such work. USACE permits are a limited form of authorization containing a stated set of terms and conditions which must be complied with. Before starting any work in waters of the U.S., people doing such work or having such work done for them should: (1) be certain that a DA permit has been obtained or is not needed and (2) familiarize themselves and their contractor with the terms and conditions of the permit. Performing any work which requires, but is not authorized by, a USACE permit, or failing to comply with the terms and conditions of a USACE permit, may subject the developer, the landowner or other responsible party, including the contractor, to criminal and/or civil liability.

The USACE New England District has issued general permits (GPs) for each New England state and these are located at www.nae.usace.army.mil/Missions/Regulatory/StateGeneralPermits. Projects in USACE jurisdiction may be authorized under GPs or may require an individual permit (IP) if the project exceed the thresholds of the GPs. A pre-construction notification (PCN) to USACE is not required for activities meeting self-verification and all the terms and conditions of the GPs, but a self-verification notification is required in some states (see the GPs for more details). Project proponents performing work under the assumption that the work is eligible for self-verification are responsible to ensure compliance with the terms and conditions of the GPs. They should carefully check the GPs or consult our office for verification. The same situation applies if someone incorrectly determines that a project is outside USACE jurisdiction. Activities that require a PCN or individual permit require applicants to submit an application to our office for project-specific authorization in writing before work in USACE jurisdiction may commence.

February 12, 2024



RECEIVED
JUN 21 2024
COASTAL RESOURCES
MANAGEMENT COUNCIL