



Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

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TO: W. Michael Sullivan, Director DEM
FROM: Mark Gibson, Deputy Chief DFW

DATE: August 26, 2010

SUBJECT: Request for decision on proposed Quonochontaug Pond spawner sanctuary and oyster harvest moratorium, Potter pond/Sycamore Cove spawner sanctuary, and Bissell Cove/Fox Island oyster harvest moratorium

Proposed regulatory changes pertaining to the oyster restoration program have moved through the review process and are hereby presented for final decision.

The RI Marine Fisheries Council (RIMFC) considered these items at their July 12, 2010 meeting and provided advice to you on these items. Shellfish Management Area regulations can be modified without a public hearing. A decision from the Director of DEM, upon consultation with the RIMFC, is adequate to promulgate Shellfish Management Area regulations (RIGL § 20-3-4). The regulations become effective 20 days after filing with the Secretary of States Office.

Having reviewed the entire record, and conferred with staff, I hereby urge adoption of the proposed changes. If you concur, please indicate by affirming each section of this memo and returning it to me. Upon receipt of the affirmed memo, I will initiate the filing process. If you wish to make any changes that differ from those proposed, please delineate those changes as amendments to this memo.

The proposed changes are summarized below:

Quonochontaug Pond spawner sanctuary and oyster harvest moratorium:

A 14-acre shellfishing closure area (spawner sanctuary) will be established along the eastern shoreline of Quonochontaug Pond. Additionally, oyster harvest in Quonochontaug Pond in its entirety would be prohibited from September 15, 2010 to September 15, 2013 (3 years). As you may recall, The Natural Resource Conservation Service (NRCS), The Nature Conservancy (TNC), and Roger Williams University through the oyster restoration initiative and the oyster gardening program (OGRE) are producing shellfish for the Department for restoration purposes. Given that placement of shellfish in polluted waters poses a health risk, these recommendations are intended to provide protected areas for juvenile oyster stocking and future recruitment.

The RIMFC Shellfish Advisory Panel (SAP) was concerned with the original size of the spawner sanctuary, which was 23 acres, and the entirety of Quonochontaug Pond being closed to oyster harvesting for 5 years. The SAP voted and offered a counter proposal

requesting that the size of the spawner sanctuary be reduced and the pond-wide closure period be reduced from 5 years to 3 years.

Division Staff recalculated the area of the proposed spawner sanctuary using a more precise method and found the acreage to be 14 acres rather than 23 acres, the amount initially proposed to the SAP. The SAP members were not in favor of the pond-wide closure to oyster harvest beyond 3 years, however, the Division feels there is a need to close the pond to oyster harvesting for 5 years in order to establish a self-sustaining, disease-resistant population of oysters and allow recruitment of juvenile oysters throughout the pond. The older oysters that remain after the 5-year period may be disease-resistant and could be allowed to spawn and contribute to the establishment of a disease-resistant population. Additionally, SAFIS data indicates there have only been 150 individual oysters landed in the last three years in Quonochontaug Pond, therefore the project would not be displacing commercial shell fishermen. Staff investigations found no oysters and very few other shellfish within the proposed spawner sanctuary footprint.

In a 7 to 1 vote taken at a meeting on December 1, 2008, the RIMFC approved a motion to recommend to the Director to go forward with the Quonochontaug Pond oyster restoration project for a 3-year period. Oyster harvest in Quonochontaug Pond in its entirety would be prohibited from January 1, 2009 to December 31, 2011 (3 years) with the stipulation that at the end of the 3-year period, Division staff would report back to the Council on the status of the project to determine whether to extend the closure period for another two years or not. Since no action had been taken, the proposal to establish a Quonochontaug Pond spawner sanctuary and oyster harvest moratorium was presented at the July 12, 2010 RIMFC meeting for consideration. The proposal to establish a Quonochontaug Pond spawner sanctuary and oyster harvest moratorium for three years was unanimously supported by the Council.

I am in agreement with the Council decision, especially the stipulation to report back to the RIMFC with the intent to extend the closure period for another two years. I believe closing off Quonochontaug Pond in its entirety for a 5 year period is appropriate for the reasons mentioned above. Pre-mature harvest when they attained the 3-inch minimum size would undermine the restoration efforts. If after 5 years there were measurable recolonization success, the intent would be to reopen the fishery with realistic commercial and recreational possession limits.

The Division recognizes there is an oyster disease problem statewide, not just in the pond. We will work toward development of an oyster disease testing policy to include suppliers of restoration oysters, and oysters placed in established spawner sanctuaries to avoid spreading oyster diseases through the restoration efforts. I urge adoption of the Council recommendation to establish a Quonochontaug Pond spawner sanctuary, and a moratorium on oyster harvest for the initial three year period.

Affirmed as recommended:



Date: August 30, 2010

Potter Pond/Sycamore Cove spawner sanctuary:

Sycamore Cove in Potter Pond was proposed as a spawner sanctuary by the Division and then discussed at three RIMFC SAP meetings and at the July 12, 2010 RIMFC meeting. Residents were opposed to closing the entire cove. At a May 27, 2010 SAP meeting the Division proposed an alternative which was to splitting the proposed area in half. The SAP voted unanimously to recommend that the RIMFC support establishment of the compromised spawner sanctuary boundary.

The proposal to establish a Potter Pond/Sycamore Cove spawner sanctuary was presented at the July 12, 2010 RIMFC meeting for consideration. The Council unanimously supported the compromised spawner sanctuary boundary.

I urge adoption of the recommendation.

Affirmed as recommended: W. Michael Sullivan Date: August 30, 2010

Bissell Cove/Fox Island oyster harvest moratorium:

Bissell Cove Shellfish Management Area was proposed by the Division for oyster moratorium rather than establishment of a new spawner sanctuary to avoid displacement of quahog harvest. The intent is for reestablishment of self-sustaining population and habitat. The SAP voted to support the project with a moratorium on oyster harvest until 2015 with continued monitoring and evaluation of success, and to revisit as necessary.

The proposal to establish a moratorium on oyster harvest in Bissell Cove Shellfish Management Area was presented at the July 12, 2010 RIMFC meeting for consideration. The Council unanimously supported the establishment of a moratorium on oyster harvest in this area.

I urge adoption of the recommendation.

Affirmed as recommended: W. Michael Sullivan Date: August 30, 2010