

Appendix F
Aquaculture Approvals (DCS, DMF)



The Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Division of Conservation Services
Levitt Saltzman Building
100 Cambridge Street, Boston 02202

July 7, 1997

By FAX and Mail

George Macdonald
Natural Resources Officer
P.O. Box 1419
South Dennis, MA 02660-1419

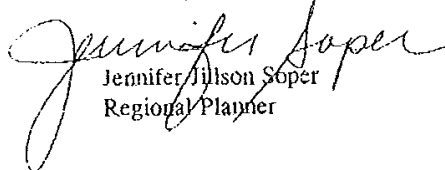
Re: Crowes Pasture

Dear Mr. Macdonald:

Thank you for your recent letter concerning the possibility of growing seed shellfish on a portion of the tidal flats. DCS Director Joel Lerner asked me to respond to you and I am happy to write that an annual permit for this purpose is consistent with Self-Help regulations. The Conservation Commission should issue the permit, but it will not trigger a conversion, i.e. a change of use regulated by Article 97.

We appreciate being kept up to date on what is planned for Crowes Pasture. If you have any questions, please call me at 617/727-1552, extension 292.

Sincerely,


Jennifer Jillson Soper
Regional Planner



PHILIP G. COATES
DIRECTOR

The Commonwealth of Massachusetts

*Division of Marine Fisheries
Leverett Saltonstall State Office Building
100 Cambridge Street
Boston, Massachusetts 02202*

727-3193

July 8, 1997

Stephan J. Lombard
Town Administrator
Town of Dennis
P.O. Box 1419
South Dennis, MA 02660-1419

Dear Mr. Lombard:

I have reviewed the documentation provided in your letter of 18 June 1997 regarding the application before the Board of Selectmen for a private aquaculture license on flats adjacent to Crowe's Pasture conservation lands.

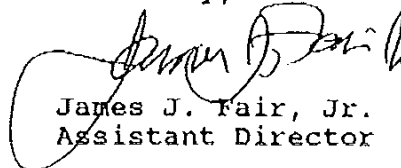
There is nothing in the Supreme Judicial Court's opinion in the case Pazolt v. Director of the Division of Marine Fisheries, 417 Mass. 565 (1994) that would have a bearing on this particular application. The Pazolt case simply requires that a c.130, §57 or §68A license holder must secure the permission of the upland owner before undertaking any aquaculture activity that involves the use of structures of any kind, including predator exclusion systems. Many municipalities are issuing licenses with this understanding, putting the onus on the applicant to secure appropriate permission of the upland owner. In this instance the Town is the upland owner and may, through the Board of Selectmen, authorize the use of the subject flats to plant and grow shellfish, including the use of structures. G.L. c.130, §57, which does not distinguish between public and private lands, provides the authority for the Selectmen to issue such a license.

The only legal impediment to the issuance of this license may be the 2/12/82 Self Help Program Agreement between the Town and the State Division of Conservation Services. Although the Agreement references the original application in several places relating to use of the property, and I have not seen that document, there appears to be room for a decision that the operation of the license will not alter the purposes for which the land was purchased. In the alternative, there is the option of amending the agreement to allow specific uses. The Weld Administration is on record as supportive of the development of an aquaculture industry in the Commonwealth, and agencies within EOEA are cooperating to

facilitate that development.

Please contact me if I can be of any further assistance.

Sincerely,



James J. Fair, Jr.
Assistant Director



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Executive Office of Environmental Affairs
Division of Conservation Services
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100 Cambridge Street, Boston 02202

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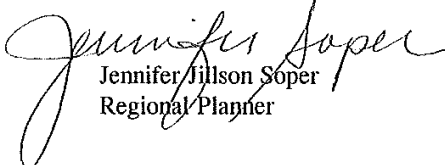
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Regional Planner