An analysis of Rhode Island’s tidal land laws, policy and conservation potential.
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Executive Summary

Worldwide, nations generally hold their submerged lands and coastal waters to be the property of the state. As a result, the majority of marine conservation actions and programs are government driven and managed. This contrasts with the terrestrial situation, where there is a longer history of successful private conservation initiatives, and considerable private land ownership. It is often felt that conservation efforts in marine ecosystems lag behind those employed on terrestrial lands, however, there are examples worldwide of private conservation initiatives operating in the marine environment.

Leases of submerged lands in the US have commonly been granted for marinas, aquaculture uses, and in some instances for oil and mineral exploration. The leasing systems of most coastal states emphasize economic activity and production resulting from the leases. Recently interest has grown in the potential use of leasing as a conservation tool in marine ecosystems by organizations such as The Nature Conservancy. This report shall explore the potential of leasing and ownership of submerged lands as a conservation strategy in Rhode Island.

There is a long tradition of leasing for aquaculture purposes in Rhode Island. In 1844 a Shellfish Commission was established in Rhode Island. This had authority to lease tidelands for oyster growing; by 1880 there were over 1,000 acres of leased ground in Narragansett Bay. Oysters made up more than half of the total value of all fisheries in Rhode Island in 1880, and imported seed oysters were planted in the Bay. Oyster production reached a pronounced peak in 1910, when 20,000 acres of tidal lands were leased. This is interesting in the context of conservation leasing, as there has been much research highlighting the beneficial filtering effects which oysters have on estuarine ecosystems.

Currently, the Coastal Resource Management Council (CRMC) is the key state body empowered by statute to create plans for the management of tide and submerged lands of Rhode Island. Some of the findings of this research relating to CRMC policy are:

- CRMC currently issues leases for state-owned tideland under an aquaculture leasing system, for a maximum period of five years.
- There is a requirement for leases to be actively farmed, however there is no minimum production requirement.
- Aquaculture permits are usually a maximum of three square acres in extent.
- CRMC also has the authority to issue permits for activities taking place on tidelands, for aquaculture activities a lease and a permit are required, however for other activities, including some which may be considered as restoration, only a permit may be required.
- Permits for activities other than aquaculture have been issued for a period of up to fifty years.
- Activities may be excluded from an aquaculture lease to the extent to which they would affect the successful growth of the species being farmed.

Rhode Island’s current aquaculture leasing program has features which make it suitable for obtaining leases for the restoration of shellfisheries in Rhode Island. Obtaining rights to carry out activities other than aquaculture may be possible through the permitting system.