

**U.S. Army Corps  
of Engineers**  
Baltimore District

# Public Notice

**In Reply to Application Number  
CENAB-OP-RMS (Chesapeake Fresh Oyster Company) 2011-60116**

PN 13-25

Comment Period: May 1, 2013 to June 2, 2013

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THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC ABOUT THE WORK DESCRIBED BELOW. AT THIS TIME, NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED.

The Baltimore District has received an application for a Department of the Army (DA) permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (33 U.S.C. 1344), as described below:

**APPLICANT:** Chesapeake Fresh Oyster Company, LLC  
209 Goodwood Gardens  
Baltimore, Maryland 21210

**LOCATION:** In the northern prong of St. Jerome's Creek near 49944 Airedele Road, Ridge, St. Mary's County, Maryland.

**WORK:** The purpose of the proposed project is to expand the existing project area to commercially raise oysters to marketable size, and to promote, support, and restore oysters for ecological purposes.

Three existing areas within approximately 3.5 acres of tidal open waters have been approved by the Corps for oyster aquaculture, utilizing cages placed on the bottom and oyster floats at the project location. The applicant has proposed to modify the authorized work to include the following:

Area 1: The applicant has requested After-the-Fact authorization for installation of one 8-foot wide by 20-foot wide floating nursery system within Area 1; a 5-foot wide by 10-foot long outtake conveyor; and a 6-foot wide by 18-foot long tumbler and hopper conveyor system on the existing pier. The applicant also requested to install two new 8-foot wide by 20-foot long floating upweller systems; one new 8-foot wide by 20-foot long floating nursery system; to place a new 10-foot wide by 15-foot long upweller on the existing work platform; and to deposit approximately 116 cubic yards of clam and/or oyster shell, 3 inches in depth, within the existing 12,540 square foot area to provide a firm bottom substrate.

Area 4: To establish, operate, and maintain an oyster cultivation site in the water column for purposes of culturing *Crassostrea virginica* (Eastern Oyster) within an approximate 1.4-acre area extending a minimum distance of approximately 50 feet channelward of the approximate mean high water (MHW) shoreline and a maximum distance of approximately 229 feet channelward of the approximate MHW shoreline, as shown on the attached plans. The project area would be located a minimum of 150 feet from the St. Jerome Creek Federal Navigation Channel and a minimum of approximately 42 feet from the existing neighboring pier.

The coordinates of Area 4 are as follows:

Corner	Latitude	Longitude
1	38° 07' 7.3" N	76° 20' 46.7" W
2	38° 07' 9.1" N	76° 20' 49.3" W
3	38° 07' 11" N	76° 20' 50" W
4	38° 07' 11.8" N	76° 20' 48.1" W
5	38° 07' 9.2" N	76° 20' 47.2" W
6	38° 07' 8.1" N	76° 20' 46.3" W

The applicant proposes to deposit approximately 605 cubic yards of oyster or clam shell, 3 inches in depth on the bottom substrate and to utilize oyster cages that are approximately 3 feet wide by 4 feet long and 14 inches high placed on the bottom substrate within the 1.4-acre area. The proposed vertical clearance above all gear at mean low water (MLW) level would vary from approximately 1.6 feet to 3.6 feet depending on the location within the proposed project site. Average water depths at the proposed project site range from -5.0 to -3.0 feet at MLW. The continued operation of the aquaculture activity involves removing and replacing structures in navigable waters of the United States on a recurring basis. The proposed new area would be directly adjacent to the previously approved Area 1 along the existing pier.

The individual cages and floats would be attached together with 3/8-inch sinking lines. The individual cages would be connected together in rows, spaced approximately 10 to 20 feet apart and anchored at each end. The primary sources for the oyster seed would be University of Maryland Horn Point Hatchery in Cambridge, Maryland, Oyster Seed Holdings in Virginia, and the Oyster Recovery Partnership in Annapolis, Maryland. All work would be completed in accordance with the enclosed plan(s). If you have any questions concerning this permit application, please contact Ms. Laura Shively of this office at 410-962-6011 or by email at [laura.shively@usace.army.mil](mailto:laura.shively@usace.army.mil).

As part of the planning process for the proposed project, steps were taken to ensure avoidance and minimization of impacts to aquatic resources to the maximum extent practicable. This area was chosen to minimize potential impacts to submerged aquatic vegetation (SAV) and navigation. According to the Virginia Institute of Marine Science (VIMS) survey maps, there is no SAV mapped within the project footprint of the proposed aquaculture operation for years 2007 through 2012.

The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267), requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH).

The project site lies in or adjacent to EFH as described under the MSFCMA for *Pomatomus saltatrix* (bluefish) juvenile and adult; *Scophthalmus aquosus* (windowpane flounder) juvenile and adult; *Pomatomus saltatrix* (bluefish) juvenile and adult; *Paralichthys dentatus* (summer flounder) larvae, juvenile, and adult; *Centropristus striata* (black sea bass) juvenile and adult; and egg, larvae, juvenile, and adult of *Peprilus triacanthus* (Atlantic butterfish), *Scomberomorus cavalla* (king mackerel), *Scomberomorus maculatus* (Spanish mackerel), *Rachycentron canadum* (cobia), and *Sciaenops ocellatus* (red drum), all managed species under the MSFCMA.

The project has the potential to adversely affect EFH or the species of concern by alteration of spawning, nursery, forage and/or shelter habitat. The project may have an adverse effect on an approximate 1.79-acre area of EFH as described under the MSFCMA for the species and life stages identified above. This habitat consists of a mostly sand, silt, and mud substrate which does not support SAV. The Baltimore District has made a preliminary determination that site-specific impacts would not be substantial and an abbreviated consultation will be conducted with NMFS. No mitigative measures are recommended at this time to minimize adverse effects on EFH. This preliminary determination may be modified if additional information indicates otherwise and could change the Corps' preliminary determination.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above.

Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments provided will become part of the public record for this action. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the District Engineer, U.S. Army Corps of Engineers, Baltimore District, PO Box 1715, Baltimore, Maryland 21203-1715, within the comment period as specified above to receive consideration.

The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act from the Maryland Department of the Environment. Any written comments concerning the work described above which relate to water quality certification must be received by the Wetlands and Waterways Program, Maryland Department of the Environment, 1800 Washington Blvd. Suite 430, Baltimore, Maryland 21230 within the comment period as specified above to receive consideration. The 401 certifying agency has a statutory limit of one year to make its decision.

The applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the Maryland Coastal Zone Program. This certification statement is available for inspection in the District Office; however, public comments relating to consistency must be received by the Coastal Zone Division, Maryland Department of the Environment, 1800 Washington Blvd. Suite 430, Baltimore, Maryland 21230, within the comment period as specified above. It should be noted that CZ Division has a statutory limit of 6 months in which to make its consistency determination.

The applicant must obtain any State or local government permits, which may be required.

A preliminary review of this application indicates that the proposed work will not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

Review of the latest published version of the National Register of Historic Places indicates that no registered properties listed as eligible for inclusion therein are located at the site of the proposed work. Currently unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by the work to be accomplished under the requested permit.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act. Any person who has an interest, which may be adversely affected by the issuance of this permit, may request a public hearing. The District Engineer must receive the request, which must be in writing, U.S. Army Corps of Engineers, Baltimore District, PO Box 1715, Baltimore, Maryland 21203-1715, within the comment period as specified as above to receive consideration. Also, it must clearly state forth the interest that may be adversely affected by this activity in the manner in which the interest may be adversely affected.

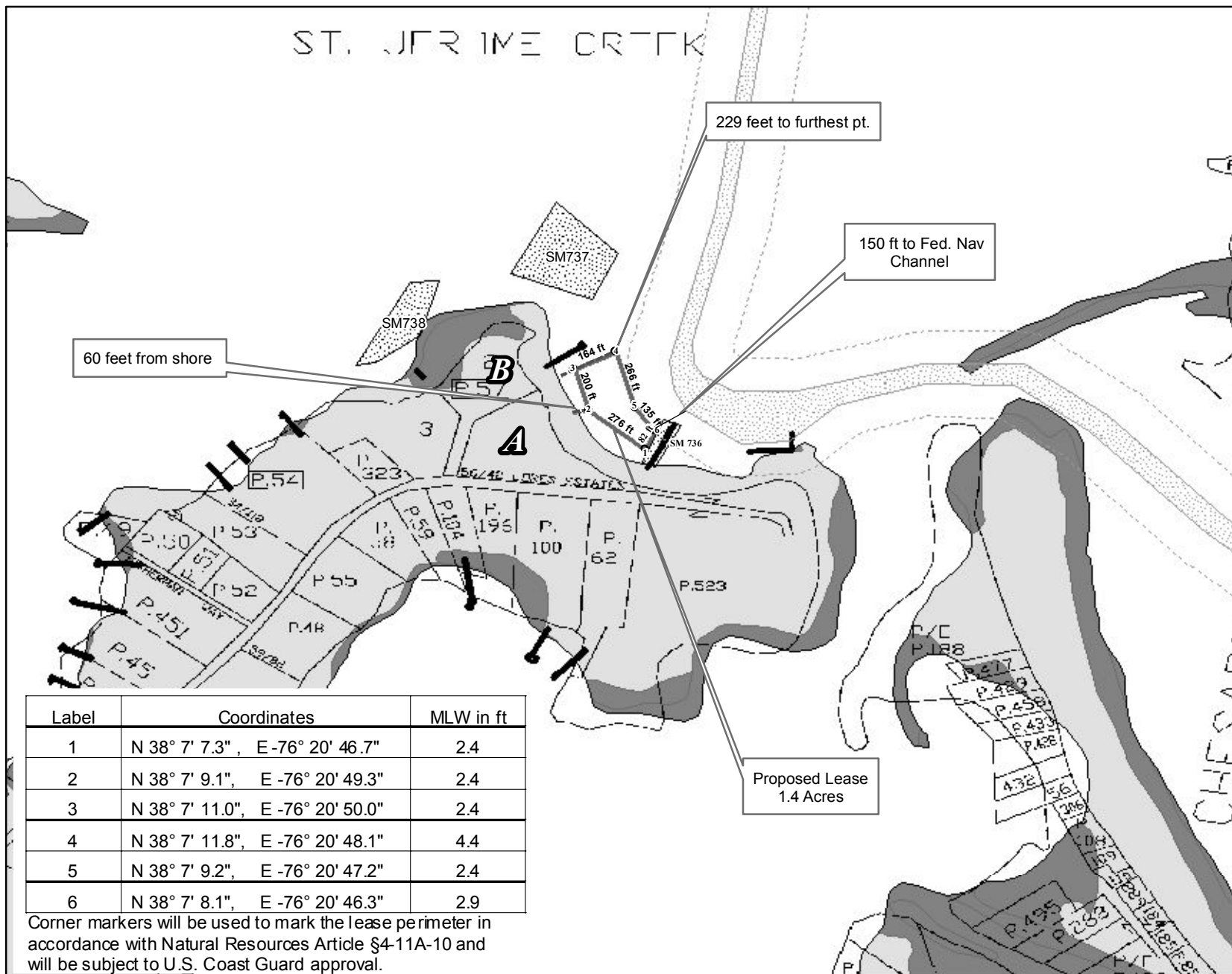
It is requested that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.











FOR THE DISTRICT ENGINEER:

Kathy B. Anderson  
Chief, Maryland Section Southern

# Proposed Shellfish Water Column Lease Overview Map

## Chesapeake Fresh Oyster Co., LLC - St. Jerome Creek, St. Mary's County Maryland



-  Proposed Lease
-  Sanctuaries and Refuges (state, federal, private, etc)
-  Submerged Aquatic Vegetation (VIMS)
-  Structures (Piers, Marinas, etc)
-  Wetlands of Special State Concern (MD-DNR)
-  Active Shellfish Lease
-  Proposed Shellfish Lease
-  Tidal Wetlands (NWI Wetlands)
-  Federal Navigational Channels (US Army Corps)
-  150 foot Channel Boundary (MD-DNR)

Also shown on this map is Maryland State Tax data from the MD Property View CD Series (Maryland Department of Planning).



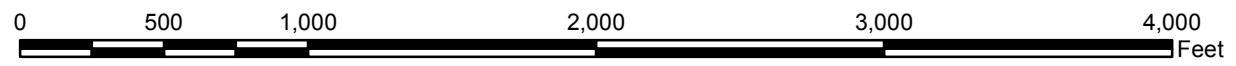
**Martin O'Malley**  
Governor

**Anthony G. Brown**  
Lt. Governor

**John R. Griffin**  
Secretary

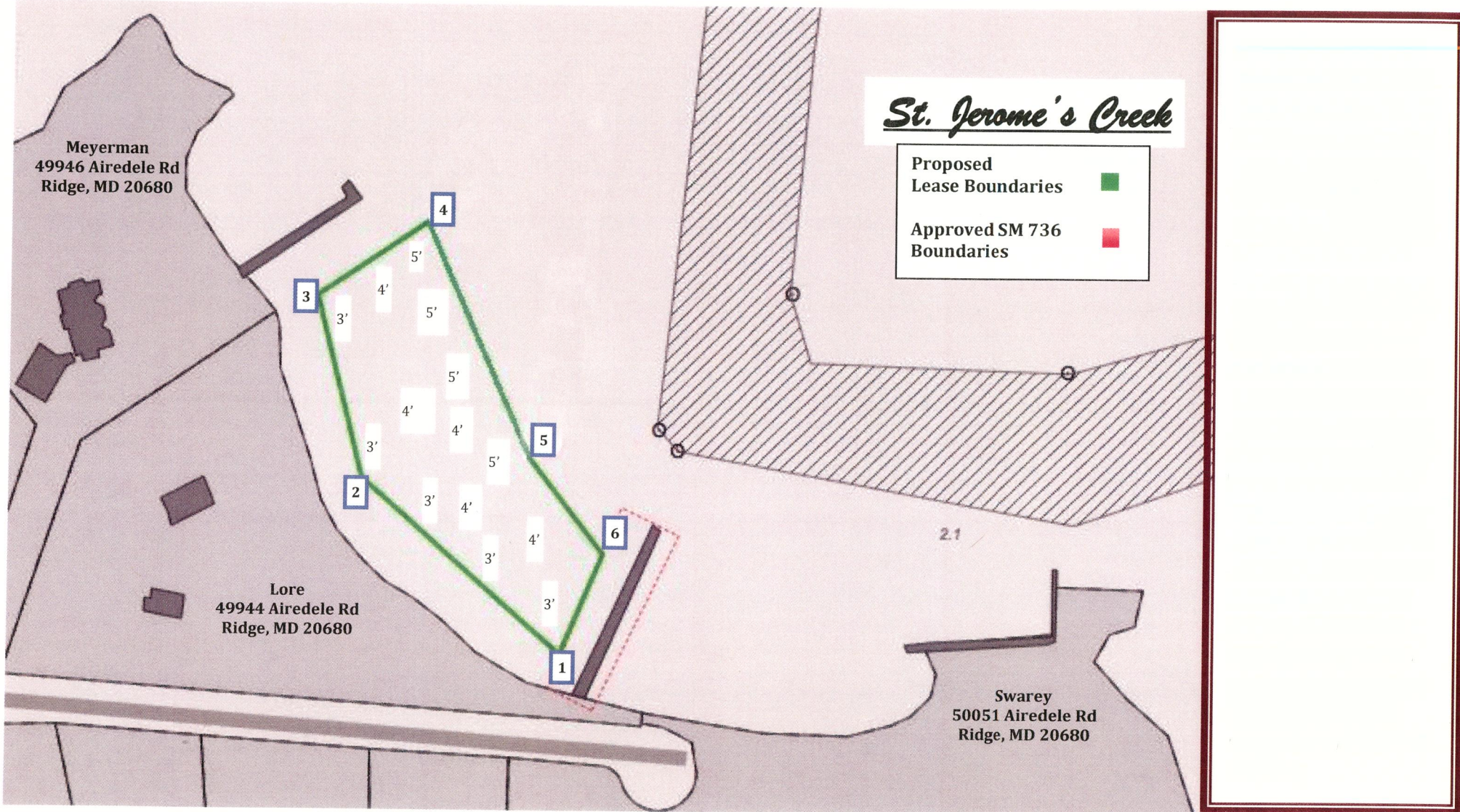


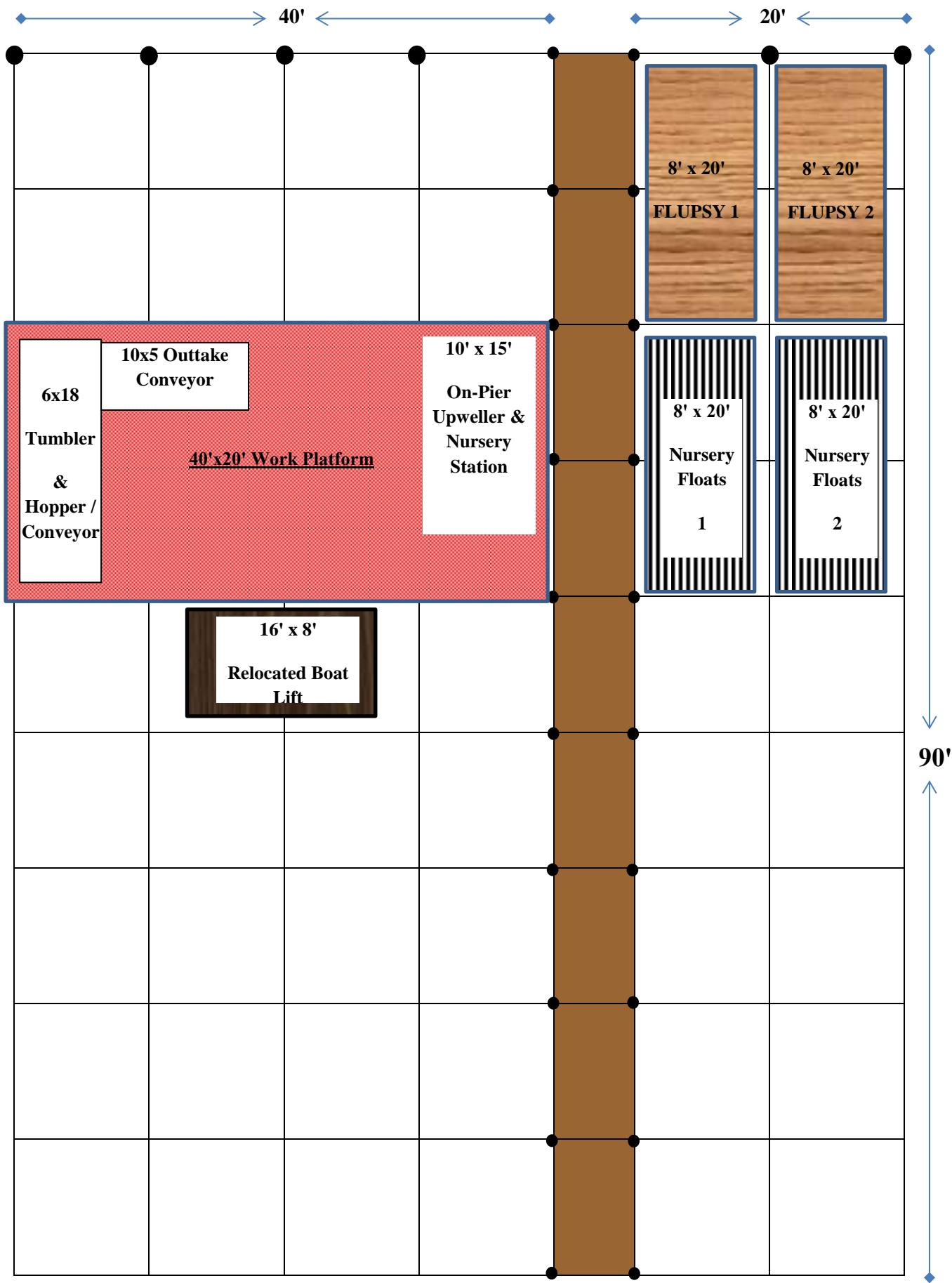
Maryland Department of Natural Resources  
Geospatial Information and Analysis  
580 Taylor Ave. E-2 Annapolis, MD 21401  
410-260-8985 or 1-877-620-8DNR x8985  
dnr.maryland.gov  
DNR April 2013





Applicant Name: Chesapeake Fresh Oyster Co., LLC  
St. Mary's County, MD  
St. Jerome's Creek - Northern Prong  
UPDATED MAP - APRIL 2013





6x18  
Tumbler  
&  
Hopper /  
Conveyor

10x5 Outtake  
Conveyor

40'x20' Work Platform

10' x 15'  
On-Pier  
Upweller &  
Nursery  
Station

16' x 8'  
Relocated Boat  
Lift

8' x 20'  
FLUPSY 1

8' x 20'  
FLUPSY 2

8' x 20'  
Nursery  
Floats  
1

8' x 20'  
Nursery  
Floats  
2

90'

### Cross-Section Showing Shell Base and Water-Column Cage Grow-Out

