



Public Notice

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

In Reply to Application Number
CENAB-OP-RMS (Barnette, John T & Denise/Aquaculture #109)
2013-01402

PN 13-45

Comment Period: July 29, 2013 to August 29, 2013

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 (33 U.S.C. 1344), as described below:

APPLICANT: John T & Denise Barnette
13250 Pruitt Lane
Princess Anne, Maryland 21853

LOCATION: In the Wicomico River near Bay Point and Ellis Bay in Wicomico County, Maryland

WORK: To establish, operate, and maintain an oyster cultivation site by depositing a maximum of 69,535 cubic yards of shell and/or spat on shell, approximately 6 inches in depth without predator controls, within an approximate 86.2-acre area extending a minimum distance of approximately 781 feet channelward of the approximate mean high water shoreline and a maximum distance of approximately 3,356 feet channelward of the approximate mean high water shoreline, as shown on the attached plans. The coordinates are as follows:

Corner	Latitude	Longitude
1	38° 14' 3.4" N	75° 52' 19.7" W
2	38° 14' 9.3" N	75° 52' 23.7" W
3	38° 14' 22.6" N	75° 52' 28.8" W
4	38° 14' 30.0" N	75° 52' 12.1" W
5	38° 14' 24.1" N	75° 52' 1.3" W
6	38° 14' 17.9" N	75° 51' 57.7" W

The proposed aquaculture lease area consists of a mixture of sand, shell, and mud substrate and would be used for purposes of culturing native Eastern Oysters (*Crassostrea virginica*). Average water depths at the proposed project site range from approximately -5.9 feet to -11.9 feet at mean lower low water (MLLW). A vertical clearance varying from 5.4 feet to 11.4 feet at MLLW above the shell is proposed.

The project site would be periodically harvested by oyster dredging, or other harvesting means as approved by the Maryland Department of Natural Resources. Staging and off-loading would be at Webster's Cove Harbor in Mt. Vernon, Maryland. The primary source for the oyster seed would be supplied by University of Maryland Horn Point Hatchery in Cambridge, Maryland. All work will be completed in accordance with the enclosed plan(s). If you have any questions concerning this matter, please contact Ms. Laura Shively at (410) 962-6011.

The purpose of the proposed project is to commercially raise oysters to marketable size, and to promote, support, and restore oysters for ecological purposes.

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. No mitigation measures are proposed by the applicant.

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 Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) for *Urophycis chuss* (red hack) juvenile and adult; *Scophthalmus aquosus* (windowpane flounder) juvenile and adult; *Clupea harengus* (Atlantic sea herring) adult; *Pomatomus saltatrix* (blue fish) juvenile and adult; *Peprilus triacanthus* (Atlantic butterfly) eggs, larvae, juvenile, and adult; *Paralichthys dentatus* (summer flounder) larvae, juvenile and adult; *Stenotomus chrysops* (scup) juvenile and adult; *Centropristus striata* (black sea bass) juvenile and adult; and eggs, larvae, juvenile, and adult stages of *Sciaenops ocellatus* (red drum), *Scomberomorus cavalla* (king mackerel), *Scomberomorus maculatus* (Spanish mackerel), and *Rachycentron canadum* (cobia), all managed species under the MSFCMA.

The project does not comprise the potential to adversely affect EFH or the species of concern by the alteration of spawning, nursery, forage and/or shelter habitat. The project may have an adverse effect on an approximate 86.2-acre area of EFH as described under the MSFCMA for the species and life stages identified above. This habitat consists of a mostly sand, shell, and mud sub-tidal substrate that does not support submerged aquatic vegetation (SAV) or hard clams (*Mercenari mercenari*).

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 impacts, 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, economic, 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, mineral needs, and consideration of property ownership 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, P.O. Box 1715, Baltimore, Maryland, 21203 within the comment period specified above.

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 Federal listed threatened or endangered 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 request 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.

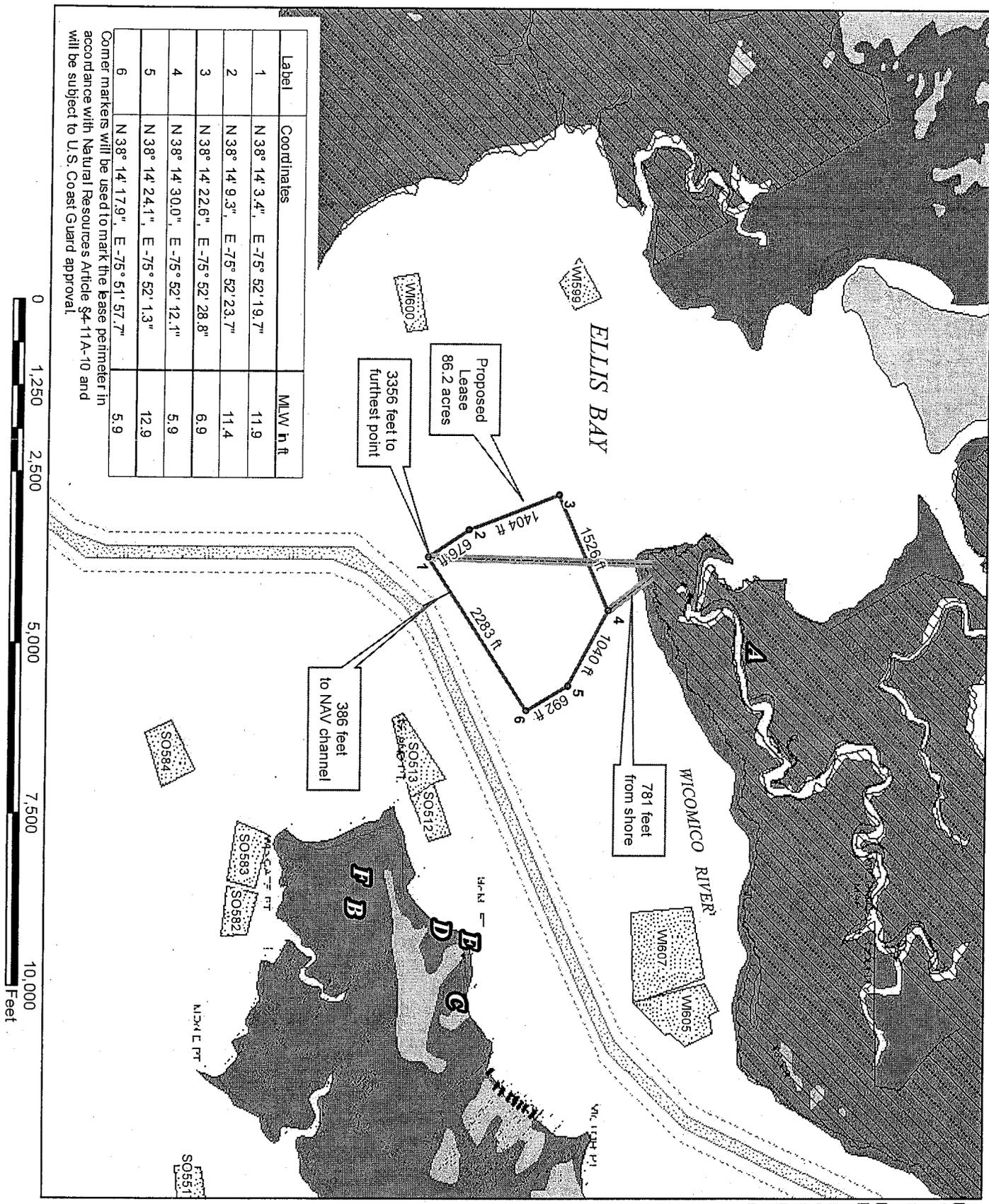
It is requested that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.

FOR THE DISTRICT ENGINEER:

KATHY B. ANDERSON
Chief, Maryland Section Southern

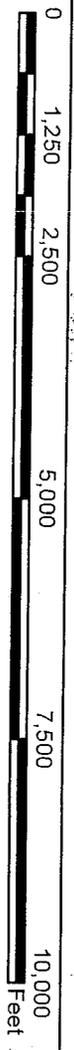
Proposed Shellfish Submerged Land Lease Overview Map

John T. Barnette & Denise Barnette - Wicomico River, Wicomico County, Maryland



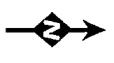
Label	Coordinates	MLV, h ft
1	N 38° 14' 3.4", E -75° 52' 19.7"	11.9
2	N 38° 14' 9.3", E -75° 52' 23.7"	11.4
3	N 38° 14' 22.6", E -75° 52' 28.8"	6.9
4	N 38° 14' 30.0", E -75° 52' 12.1"	5.9
5	N 38° 14' 24.1", E -75° 52' 1.3"	12.9
6	N 38° 14' 17.9", E -75° 51' 57.7"	5.9

Corner markers will be used to mark the lease perimeter in accordance with Natural Resources Article §4-11A-10 and will be subject to U.S. Coast Guard approval.



- Proposed Lease
- Sanctuaries and Refuges (state, federal, private, etc)
- Submerged Aquatic Vegetation (SVM)
- Structures (Piers, Marinas, etc)
- Wetlands of Special State Concern (MD-DNR)
- Active Shellfish Lease
- Tidal Wetlands (NWI Wetland; 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
Joseph P. Gill
Secretary



Maryland Department of Natural Resources
Geospatial Information and Analysis
580 Taylor Ave. E-2 Annapolis, MD 21401
410-260-8985 or 1-877-426-8DNR x8985
dnr.maryland.gov
DNR June 2013

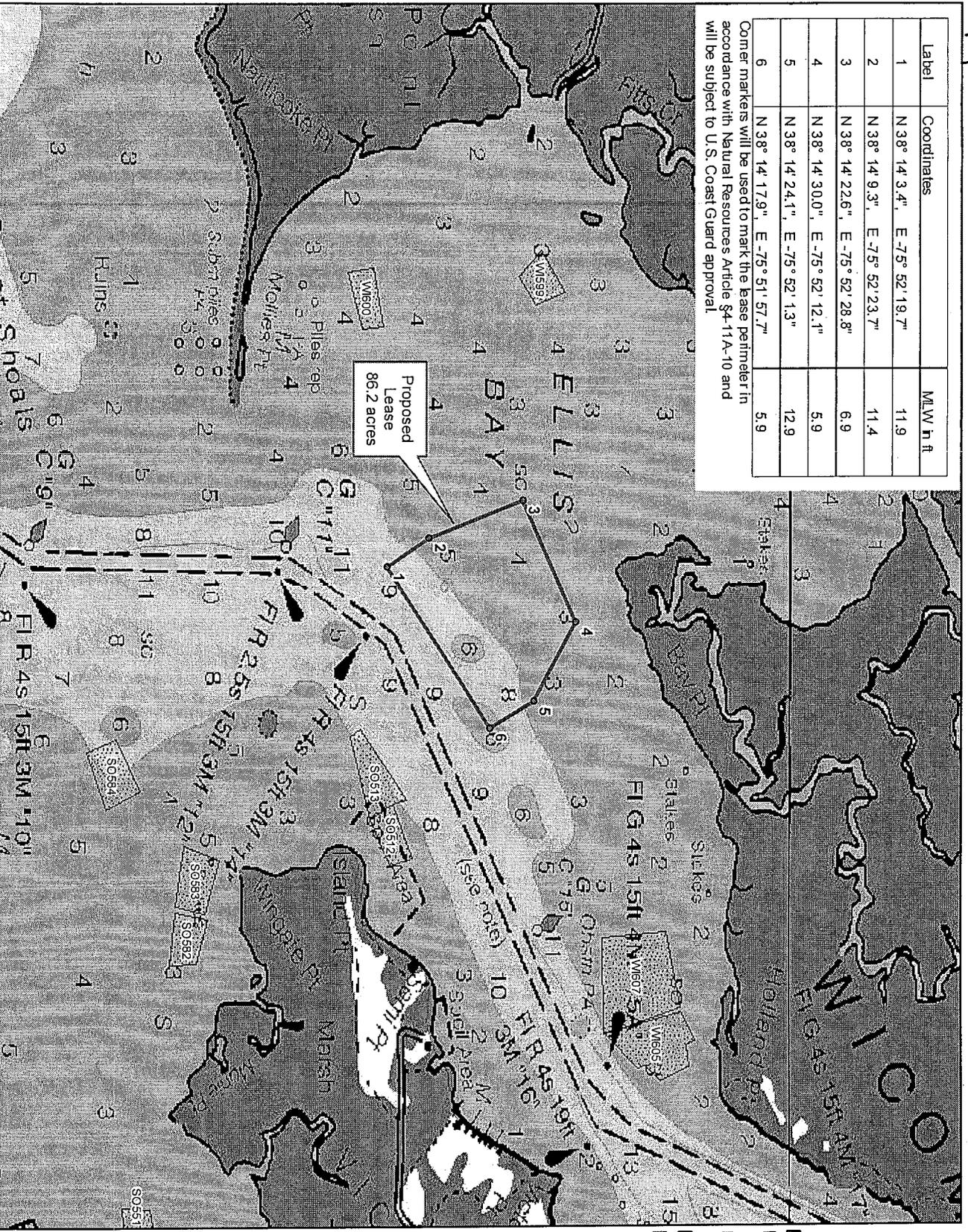
9

Proposed Shellfish Submerged Land Lease NAV Chart Map

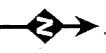
John T. Barnette & Denise Barnette - Wicomico River, Wicomico County, Maryland

Label	Coordinates	MLW in ft
1	N 38° 14' 3.4", E -75° 52' 19.7"	11.9
2	N 38° 14' 9.3", E -75° 52' 23.7"	11.4
3	N 38° 14' 22.6", E -75° 52' 28.8"	6.9
4	N 38° 14' 30.0", E -75° 52' 12.1"	5.9
5	N 38° 14' 24.1", E -75° 52' 1.3"	12.9
6	N 38° 14' 17.9", E -75° 51' 57.7"	5.9

Corner markers will be used to mark the lease perimeter in accordance with Natural Resources Article §4-11A-10 and will be subject to U.S. Coast Guard approval.



- Proposed Lease
- Sanctuaries and Refuges (state, federal, private, etc)
- Submerged Aquatic Vegetation (VMS)
- Structures (Piers, Marinas, etc)
- Wetlands of Special State Concern (MD-DNR)
- Active Shellfish Lease
- Proposed Shellfish Lease
- Tidal Wetlands (NWI Wetlands)



Martin O'Malley
 Governor
 Anthony G. Brown
 Lt. Governor
 Joseph P. Gill
 Secretary

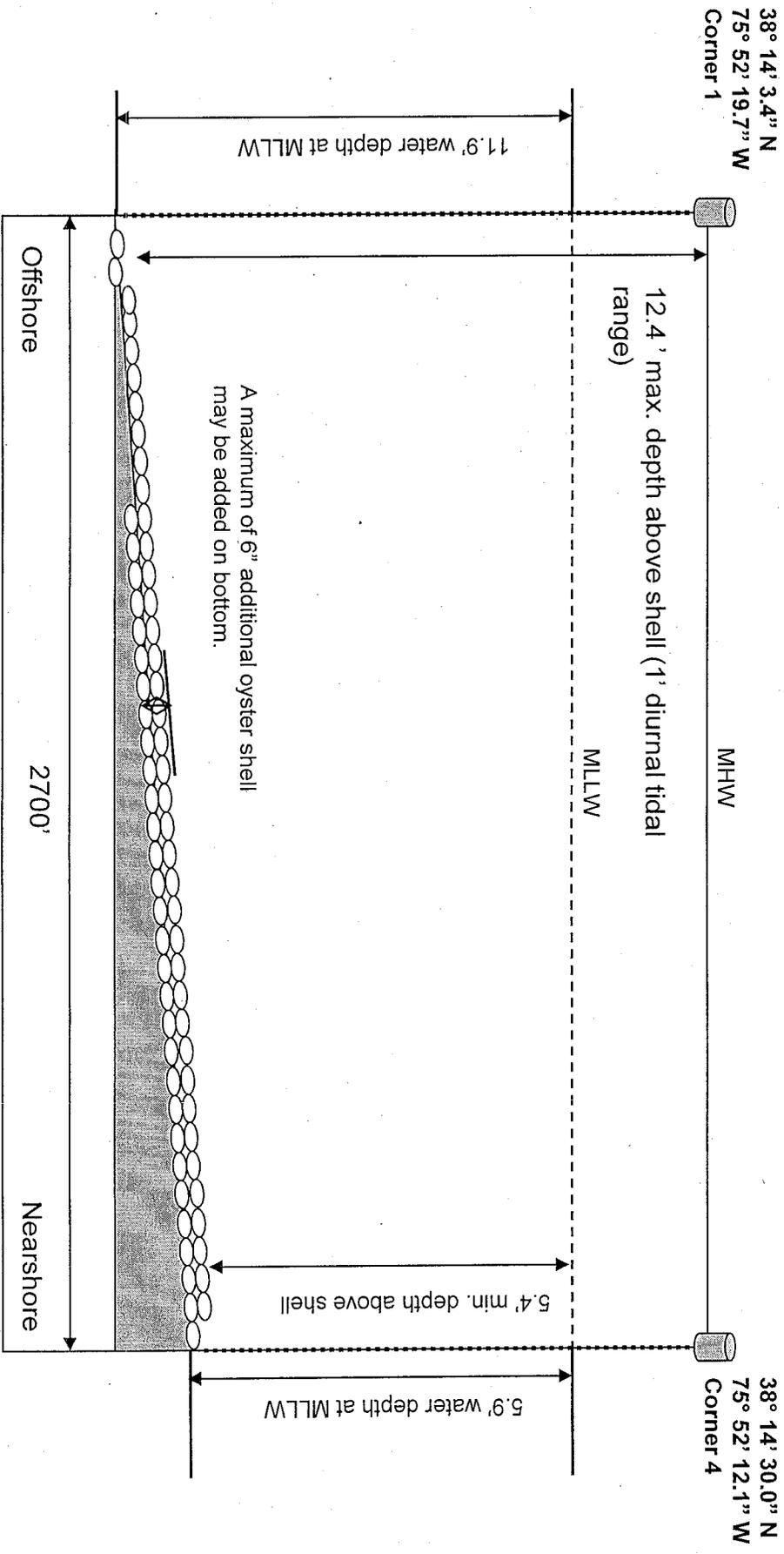


Maryland Department of Natural Resources
 Geospatial Information and Analysis
 410 E. Baltimore St., 15th Floor, Baltimore, MD 21201
 410.526.9035 or 1-877-623-6267
 dnr.gov
 DNR Issue 2013

Barnette Proposed Submerged Land Lease Cross-Section Diagram

Name: John T. Barnette and Denise Barnette
 Town, State: Princess Anne, MD
 Waterbody: Wicomico River
 Date: June 24, 2013

 USCG approved Marker buoy with contact info.
 MHW = mean high water
 MLLW = mean lower low water



H C