



Public Notice

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

In Reply to Application Number
CENAB-OP-RMS (Kitching, J. Mark & Floros, Robert
C./Aquaculture Lease) 2013-02247

PN 15-19

Comment Period: March 17, 2015 to April 7, 2015

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 Permit pursuant to Section 10 of the Rivers and Harbors Act of 1899, as described below:

APPLICANTS: Mr. J. Mark Kitching
20803 Severn Road
Ewell, Maryland 21824

Mr. Robert C. Floros
20833 Caleb Jones Road
Ewell, Maryland 21824

LOCATIONS: In the Chesapeake Bay just below the south jetty protecting the Big Thorofare Federal Navigation channel, northwest of Goose Island Cove, Somerset County, Maryland and at an existing crab shanty and pier owned by Mark Kitching, off of Basin Road, Ewell, Smith Island, Somerset County, Maryland. (See Attached Google Map 10-19-13).

WORK: To establish an oyster aquaculture operation by installing cages on bottom within an approximate 5.3-acre area to extend a minimum of 617 feet channelward and a maximum of 1,327 feet channelward of the approximate mean high water (MHW) shoreline. The coordinates are as follows:

Corner	Latitude	Longitude
1	37° 59' 41.3" N	76° 03' 5.9" W
2	37° 59' 48.3" N	76° 03' 5.7" W
3	37° 59' 48.4" N	76° 03' 1.7" W
4	37° 59' 41.3" N	76° 03' 1.7" W

The applicant proposes to utilize 3-foot long by 4-foot wide by 18-inch high oyster cages placed on the bottom substrate with a maximum height of 18 inches. The individual cages would be connected with longlines and anchored to the bottom substrate with anchor posts at each end. The proposed vertical clearance above all the gear at mean low low water (MLLW) level would be approximately 9.8 feet offshore and approximately 4.3 feet nearshore. The shellfish species proposed to be raised within the proposed area is *Crassostrea virginica* (Eastern Oyster). Average water depths at the proposed project site range from approximately -5.8 feet to -9.8 feet at MLLW. The continued operation of the aquaculture activity involves removing and replacing structures in navigable waters of the United States on a recurring basis. The project site would be an area to accept oysters of sufficient size for final growout. The cages would be set and retrieved by using hydraulic lift equipment and workboat.

The applicant also proposes to install an 8-foot wide by 20 foot long floating upweller deck to be secured to existing pilings within an existing boat slip to extend a maximum of 25 feet channelward from the approximate MHW shoreline. The upweller unit includes a 1/3 horsepower ice eater pump, 8 silos, 1 trough, and two 4-foot wide by 8-foot long by 1-foot high floating docks. The coordinates are as follows:

Latitude	Longitude
37° 59' 46.6" N	76° 02' 3.5" W

Staging and off-loading would be at the proposed up-weller site at an existing crab shanty and pier owned by Mark Kitching, off of Basin Road, Ewell, Smith Island, Somerset County, Maryland. The primary source for the oyster seed would be supplied by Chesapeake Gold Oyster Company, Hoopers Island, in Somerset County, Maryland, and the University of Maryland, Horn Point Laboratory, Dorchester County, Maryland. All work will be completed in accordance with the enclosed plan(s). If you have any questions concerning this matter, please contact Mr. Eugene Morgenthaler of this office at 410-820-8629 or by email at eugene.j.morgenthaler@usace.army.mil

The overall 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 2008 through 2012. However, some SAV beds were mapped in the area to the north of the proposed project. 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 MSFCMA for *Scophthalmus aquosus* (windowpane flounder) juvenile and adult; *Pomatomus saltatrix* (bluefish) juvenile and adult; *Paralichthysdentatus* (summer flounder) larvae, juvenile, and adult; egg, larvae, juvenile, and adult of *Scomberomoruscavalla* (king mackerel), *Scomberomorus maculatus* (Spanish mackerel), *Rachycentron canadum* (cobia), and *Sciaenops ocellatus* (red drum), 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. This habitat consists of a mostly sandy, clay and hard 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 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 reasonable 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.

Where applicable, the applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the approved Coastal Zone Management (CZM) Program. By this public notice, we are requesting the State concurrence or objection to the applicant's consistency statement. It should be noted that the CZM Program has a statutory limit of 6 months 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.

Any person who has an interest which may be adversely affected by the issuance of this permit may request a public hearing. The request, which must be in writing, must be received by the District Engineer, U.S. Army Corps of Engineers, Baltimore District, P.O. Box 1715, 21203-1715, within the comment period as specified above to receive consideration. Also it must clearly set forth the interest which may be adversely affected by this activity and the manner in which the interest may be adversely affected.

It is requested that you communicate this 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



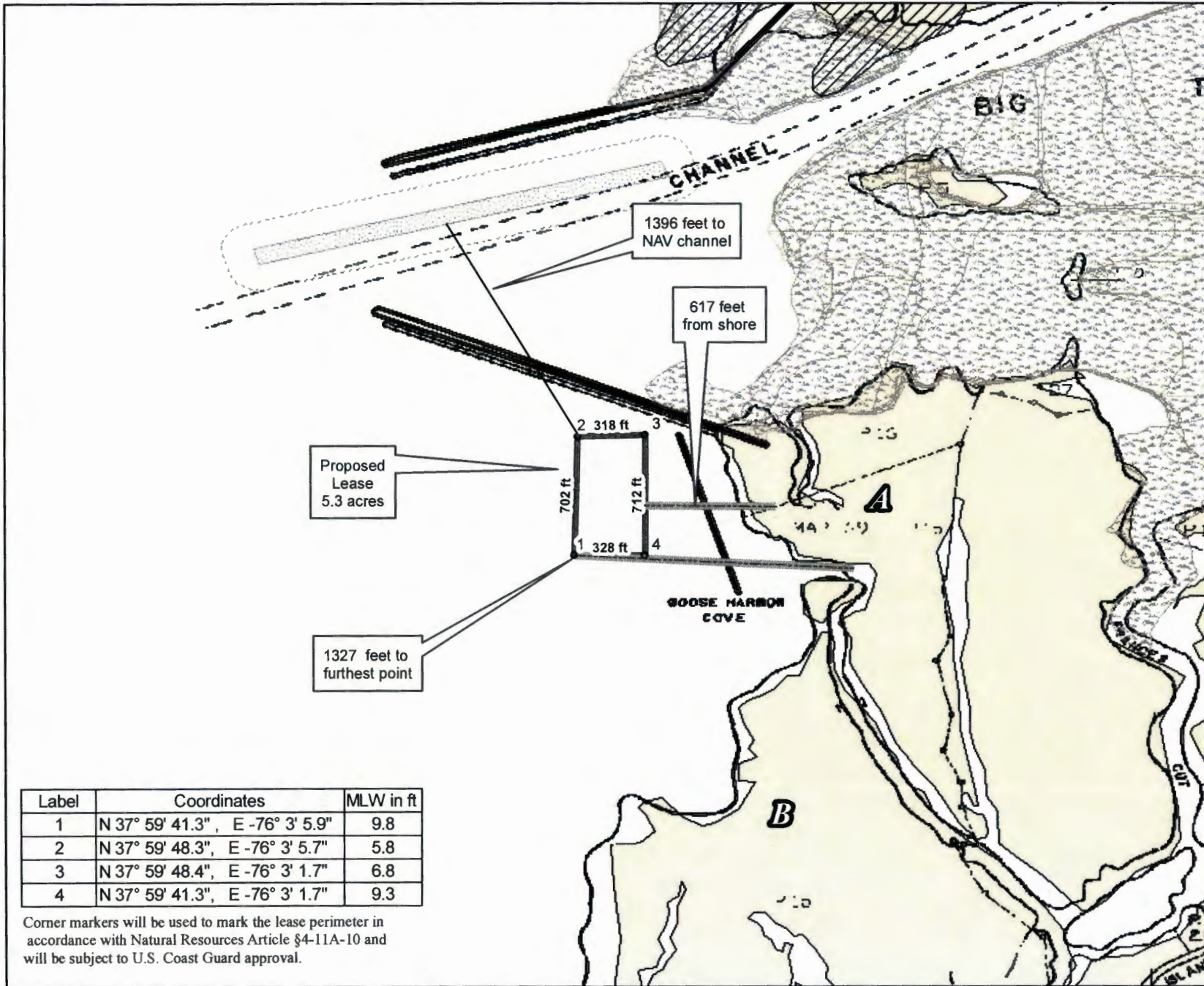
1 inch = 1,500 feet

Kitching & Floros / Aquaculture

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Proposed Shellfish Water Column Lease Overview Map

J. Mark Kitching & Robert C. Floros - Chesapeake Bay, Somerset 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)

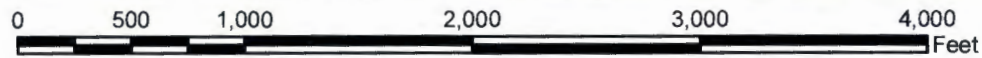
Also shown on this map is Maryland State Tax data from the MD Property View CD Series (Maryland Department of Planning).



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

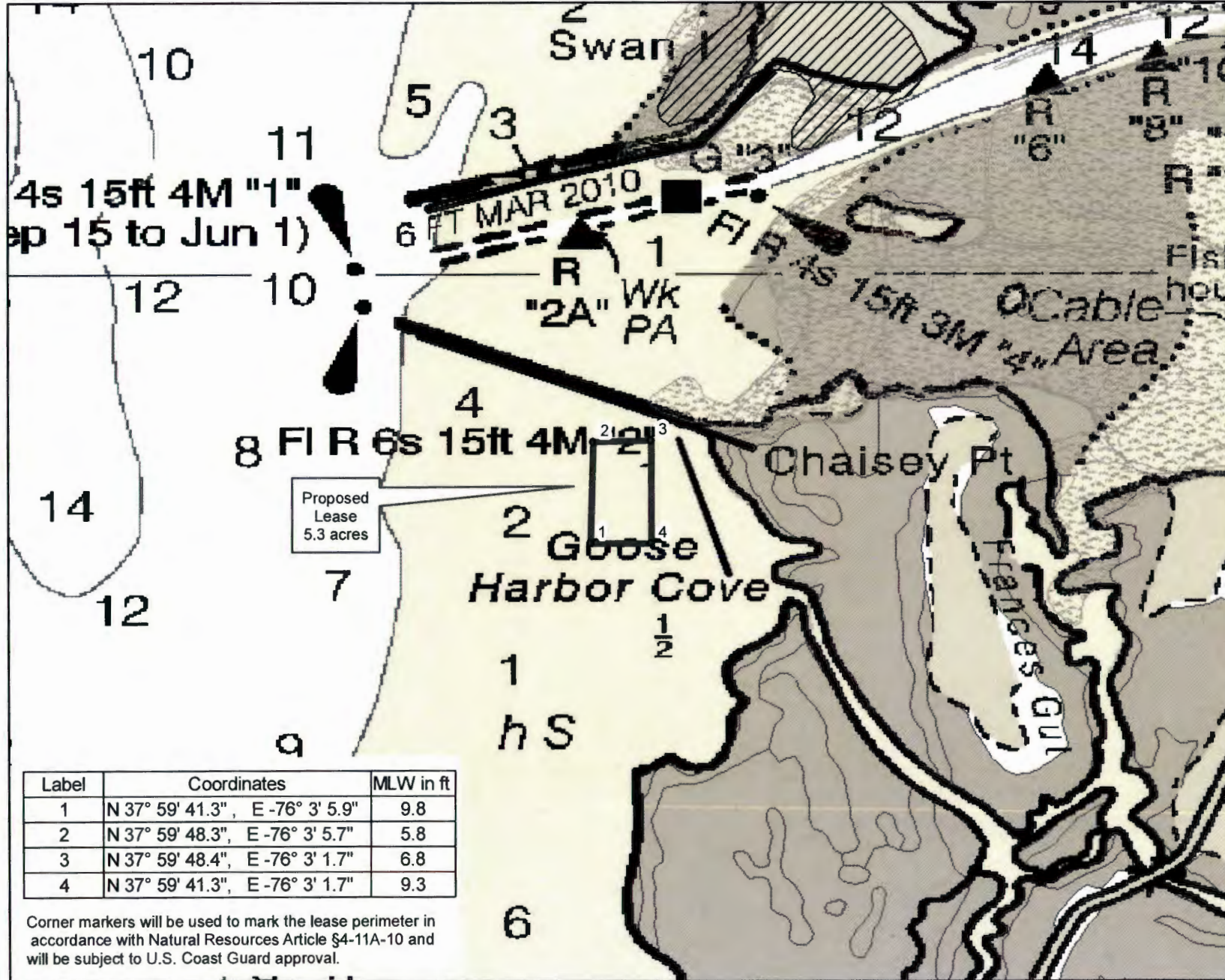
Label	Coordinates	MLW in ft
1	N 37° 59' 41.3", E -76° 3' 5.9"	9.8
2	N 37° 59' 48.3", E -76° 3' 5.7"	5.8
3	N 37° 59' 48.4", E -76° 3' 1.7"	6.8
4	N 37° 59' 41.3", E -76° 3' 1.7"	9.3

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 Shellfish Water Column Lease NAV Chart Map

J. Mark Kitching & Robert C. Floros - Chesapeake Bay, Somerset County Maryland



Lease Area shown over NOAA Raster Navigational Charts.

- Proposed Lease
- Sanctuaries and Refuges (state, federal, private, etc)
- Submerged Aquatic Vegetation (VIMS)
- Structures (Piers, Marinas, etc)
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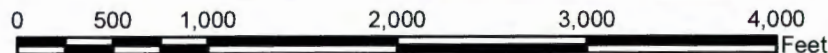
Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

John R. Griffin
Secretary



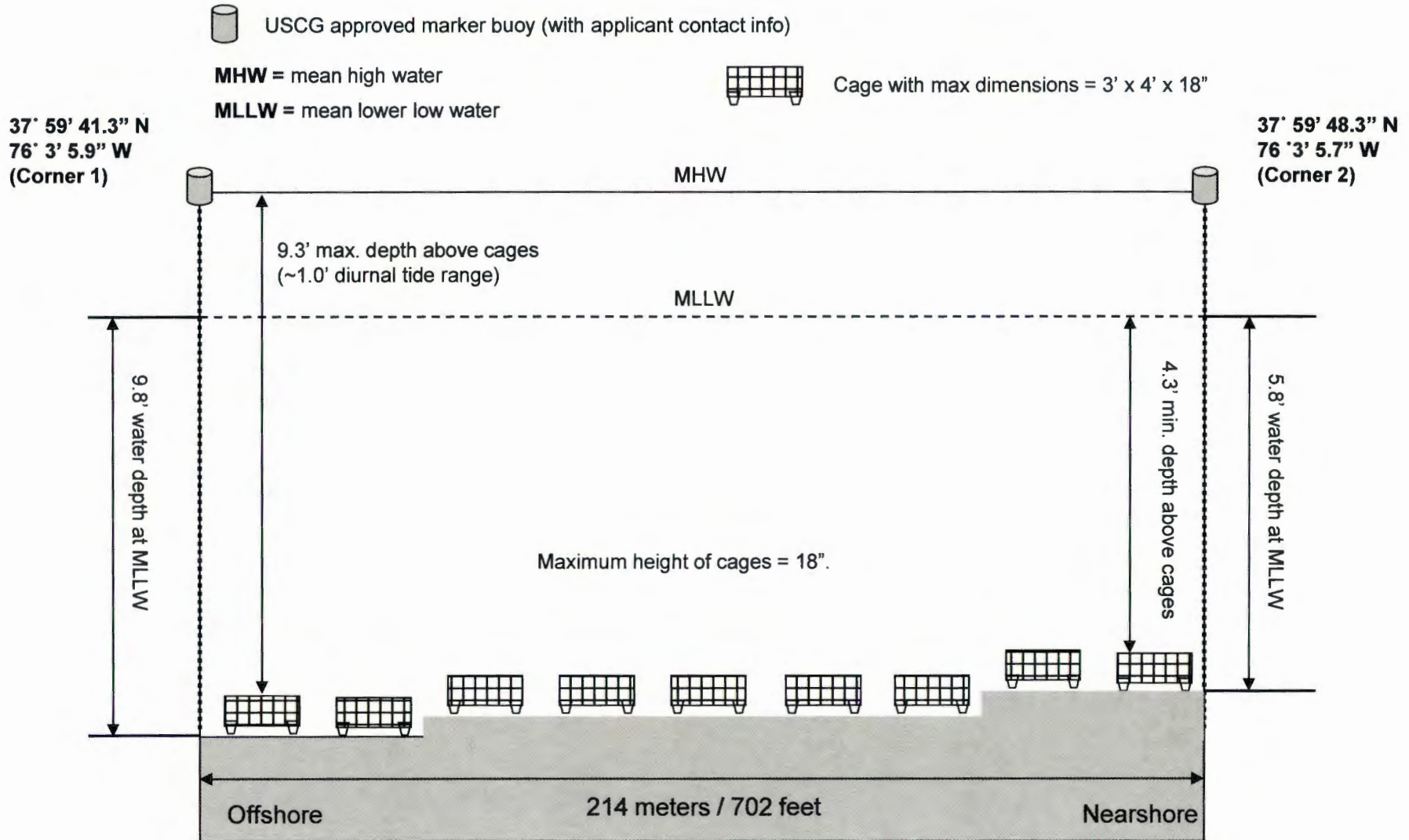
Maryland Department of Natural Resources
Geospatial Information and Analysis
580 Taylor Ave. E-2 Annapolis, MD 21401
410-260-8985 or 1-877-620-DNR x8985
dnr.maryland.gov
DNR September 2013



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.

Cross-Section Diagram for Proposed Water Column Lease

Name/Business: J. Mark Kitching & Robert C. Floros
Town, State: Ewell, Maryland
Waterbody: Chesapeake Bay
Date: September 23, 2013





Mark Kitching
Crab Shack

Upweller Location

Point Lookout - Smith Island Ferry

Galeb Jones Rd

Imagery Date: 10/19/2013

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37°59'46.55" N 76°02'02.60" W

Eye alt 526 ft

Google

