

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

# Public Notice

In Reply to Application Number  
CENAB-OP-RMS (MD Water Holdings, LLC/Aquaculture #191)  
2015-00491

PN 15-32

Comment Period: May 6, 2015 to June 5, 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 (DA) Permit pursuant to Section 10 of the Rivers and Harbors Act of 1899, as described below:

APPLICANT: MD Water Holdings, LLC  
P.O. Box 2  
14665 Bay Front Drive  
Scotland, Maryland 20687

LOCATION: In the Chesapeake Bay near the terminus of Penny Lane in Scotland, St. Mary's County, Maryland.

WORK: To establish, operate, and maintain an oyster cultivation site on the water's surface and in the water column for purposes of culturing *Crassostrea virginica* (Eastern Oyster) within an approximate 18.7-acre area extending a minimum distance of approximately 50 feet channelward of the approximate mean high water shoreline and a maximum distance of approximately 719 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° 6' 2.4" N	76° 19' 54.9" W
2	38° 6' 12" N	76° 19' 59.7" W
3	38° 6' 11.6" N	76° 20' 0.8" W
4	38° 6' 15.9" N	76° 20' 2.7" W
5	38° 6' 16.1" N	76° 20' 1.5" W
6	38° 6' 19.1" N	76° 20' 2.9" W
7	38° 6' 21" N	76° 19' 58.1" W
8	38° 6' 17.4" N	76° 19' 56.1" W
9	38° 6' 15.4" N	76° 20' 0.8" W
10	38° 6' 12.8" N	76° 19' 59.1" W
11	38° 6' 14.4" N	76° 19' 54.3" W
12	38° 6' 4.6" N	76° 19' 48.4" W

The applicant has proposed three alternative configurations for the project site.

Configuration 1: Cages on bottom only

The applicant proposes to deploy, as necessary, a maximum of 4,114 3.5-foot wide by 5.75-foot long and 2-foot high oyster cages, extending a maximum of approximately 2 feet above the bottom substrate. The cages would be placed apart in rows along a long line and anchored at each end to the bottom substrate. Each cage and each anchor would be individually marked with a slack vertical line and small buoy. Cages would be placed a maximum of 10 feet from the approximate edge of the lease. Lines would be spaced approximately 10 feet apart and cages would be spaced approximately 7 feet apart. Rows would be spaced 20 to 30 feet apart throughout the project site. The project corners would be marked with marker buoys with one vertical line each. The proposed vertical clearance above cages on the bottom would vary from 4 inches to 2.8 feet at mean lower low water (MLLW), depending on the location within the project area.

This configuration of the project would include a total of 4,582 slack vertical and horizontal lines (245 lines per acre), 4,114 cages, and 12 marker buoys within the project area.

#### Configuration 2: Floating Cages within the water column only

The applicant proposes to deploy, as necessary, a maximum of 3,740 3.5-foot wide by 5.75-foot long and 2-foot high oyster cages, extending a maximum of approximately 15 inches below the water's surface. The cages would be placed in rows, utilizing two taut vertical lines per cage connected to a long line within the water column and anchored at each end to the bottom substrate. Each anchor would be individually marked with a slack vertical line and small buoy. Floating cages would be placed a maximum of 10 feet from the approximate edge of the lease. Lines would be spaced approximately 12 feet apart and cages would be spaced approximately 9 feet apart. Rows would be spaced 20 to 30 feet apart throughout the project site. The project corners would be marked with marker buoys with one vertical line each.

This configuration of the project would include a total of 7,480 taut vertical lines and 468 slack vertical and horizontal lines (425 lines per acre), 3,740 cages, and 12 marker buoys within the project area.

#### Configuration 3: Combination of floating cages within the water column and cages on the bottom

The applicant proposes to deploy, as necessary, a maximum of 4,114 3.5-foot wide by 5.75-foot long and 1.5-foot high oyster cages, extending a maximum of approximately 9 inches below the water's surface or placed on the bottom substrate, extending a maximum of 1.5 feet above the bottom substrate. The cages would be placed in rows approximately 9 feet apart. Vertical line usage for cages on the bottom is identified in Configuration 1 above and for floating cages in Configuration 2 above. The number of vertical lines would vary depending on the number of cages on the bottom and the number of cages floating within the water column.

The project as a whole would include a maximum total of 7,948 vertical and horizontal lines (425 lines per acre), 4,114 cages, and 12 marker buoys within the project area.

Average water depths at the proposed project site are approximately -2.3 to -4.8 feet at MLLW. The continued operation of the aquaculture activity involves removing and replacing the cage/float structures within navigable waters of the United States on a recurring basis.

The project site is proposed as an expansion to an existing 3-acre cage-on-bottom and floating cage oyster aquaculture operation authorized under DA permit CENAB-OP-RMS 2013-00871 (MD Water Holdings LLC/Aquaculture #106), totaling 21.7 acres of aquaculture located at the same location as this proposal. 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 of this office at (410) 962-6011 or via email at [laura.shively@usace.army.mil](mailto:laura.shively@usace.army.mil).

The cages would be set and retrieved by wading or by boat and winch. Staging and off-loading would be at 20250 Penny Lane in Ridge, St. Mary's County, Maryland. The primary source for the oyster seed would be supplied by the applicant's nursery facilities at 20250 Penny Lane and at 19776 Tower Hill Road in Leonardtown, St. Mary's County, Maryland.

The purpose of the proposed project is to commercially raise oysters to marketable size.

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), waterfowl concentration areas, 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 2009 through 2013. 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 Red hake (*Urophycis chuss*) juvenile and adult; *Scophthalmus aquosus* (windowpane flounder) juvenile and adult; Atlantic sea herring (*Clupea harengus*) adult; *Pomatomus saltatrix* (blue fish) juvenile and adult; *Paralichthys dentatus* (summer flounder) larvae, juvenile, and adult; scup (*Stentopus chrysops*) juvenile and adult; black sea bass (*Centropristus striata*) juvenile and adult; and eggs, larvae, juvenile, and adult stages of Atlantic butterflyfish (*Peprilus tracanthus*), *Sciaenops ocellatus* (red drum), *Scomberomorus cavalla* (king mackerel), *Scomberomorus maculatus* (spanish mackerel), and *Rachycentron canadum* (cobia), all managed species under the MSFCMA.

The project has the potential to adversely affect EFH and the species of concern by the alteration of spawning, nursery, forage and/or shelter habitat. This habitat consists of a mostly sand and silt 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 may affect, but is not likely to adversely affect Federal listed threatened or endangered species or their critical habitat, pursuant to Section 7 of the Endangered Species Act, as amended. The

project location and vicinity is not mapped as critical habitat for any known Federally-listed threatened or endangered species; however, the waterway is known to be utilized by transient individuals of the following species: Loggerhead sea turtles (*Caretta caretta*); Kemp's Ridley sea turtles (*Lepidochelys kempii*); Leatherback sea turtles (*Dermochelys coriacea*); Green sea turtles (*Chelonia mydas*); Shortnose sturgeon (*Acipenser brevirostrum*); and Atlantic sturgeon (*Acipenser oxyrinchus*). The Baltimore District will initiate informal consultation under Section 7(a)(2) of the ESA. 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

# Proposed Shellfish Water Column Lease Overview Map

## MD Water Holdings, LLC - Chesapeake Bay, St. Mary's County Maryland

Label	Coordinates	MLLW in ft
1	N 38° 6' 2.4", E -76° 19' 54.9"	3.3
2	N 38° 6' 12.0", E -76° 19' 59.7"	3.3
3	N 38° 6' 11.6", E -76° 20' 0.8"	2.3
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12	N 38° 6' 4.6", E -76° 19' 48.4"	4.3

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 Lease
- Land-Based-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) (excludes E1 type)
- Federal Navigational Channels (US Army Corps) (MD-DNR)
- 150 foot Channel Boundary (MD-DNR)
- Registered Pound Net Site and 150 ft. buffer (MD-DNR)

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

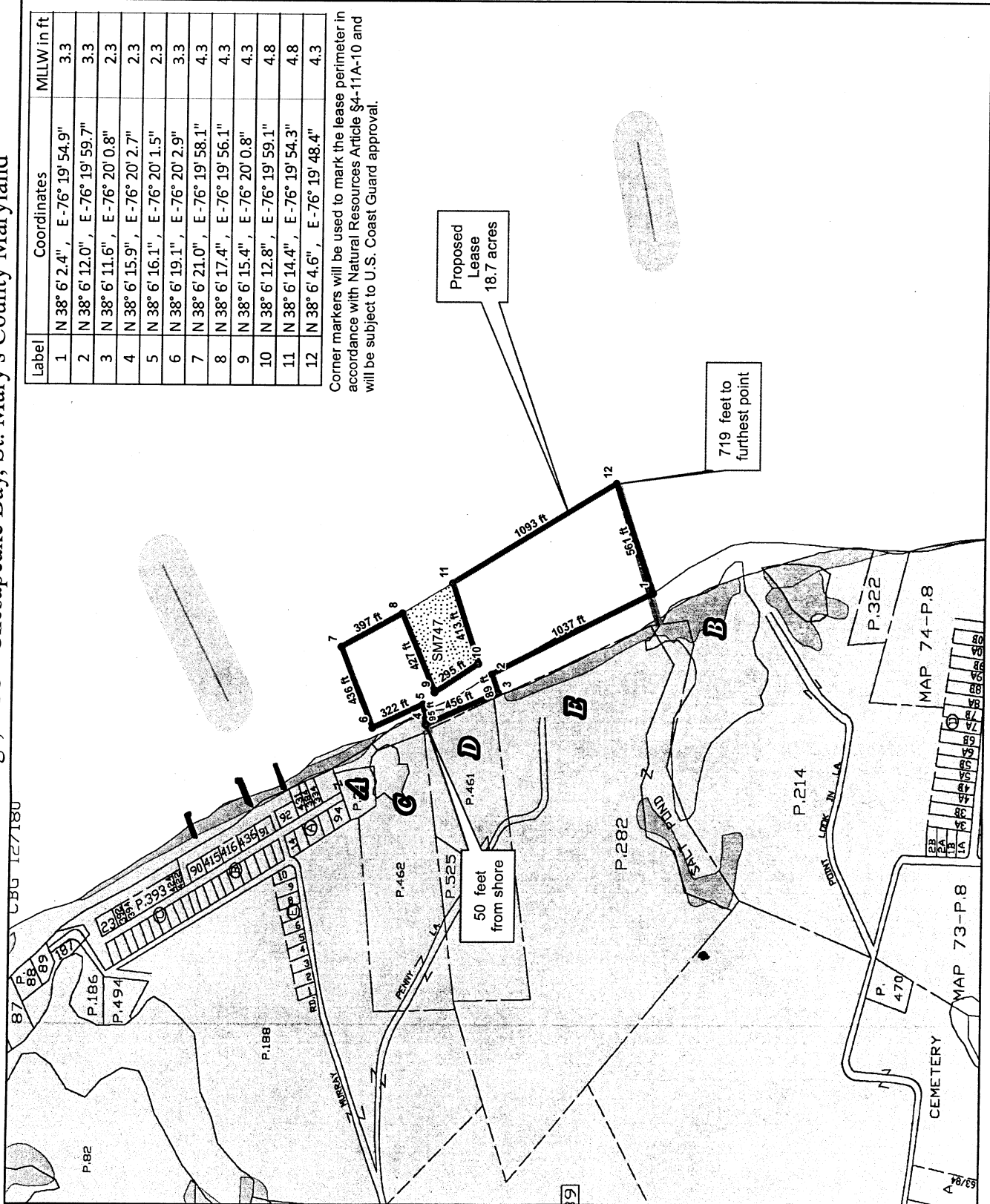


Lawrence J. Hogan, Jr.  
Governor  
Boyd K. Rutherford  
Lt. Governor  
Mark J. Belton  
Secretary



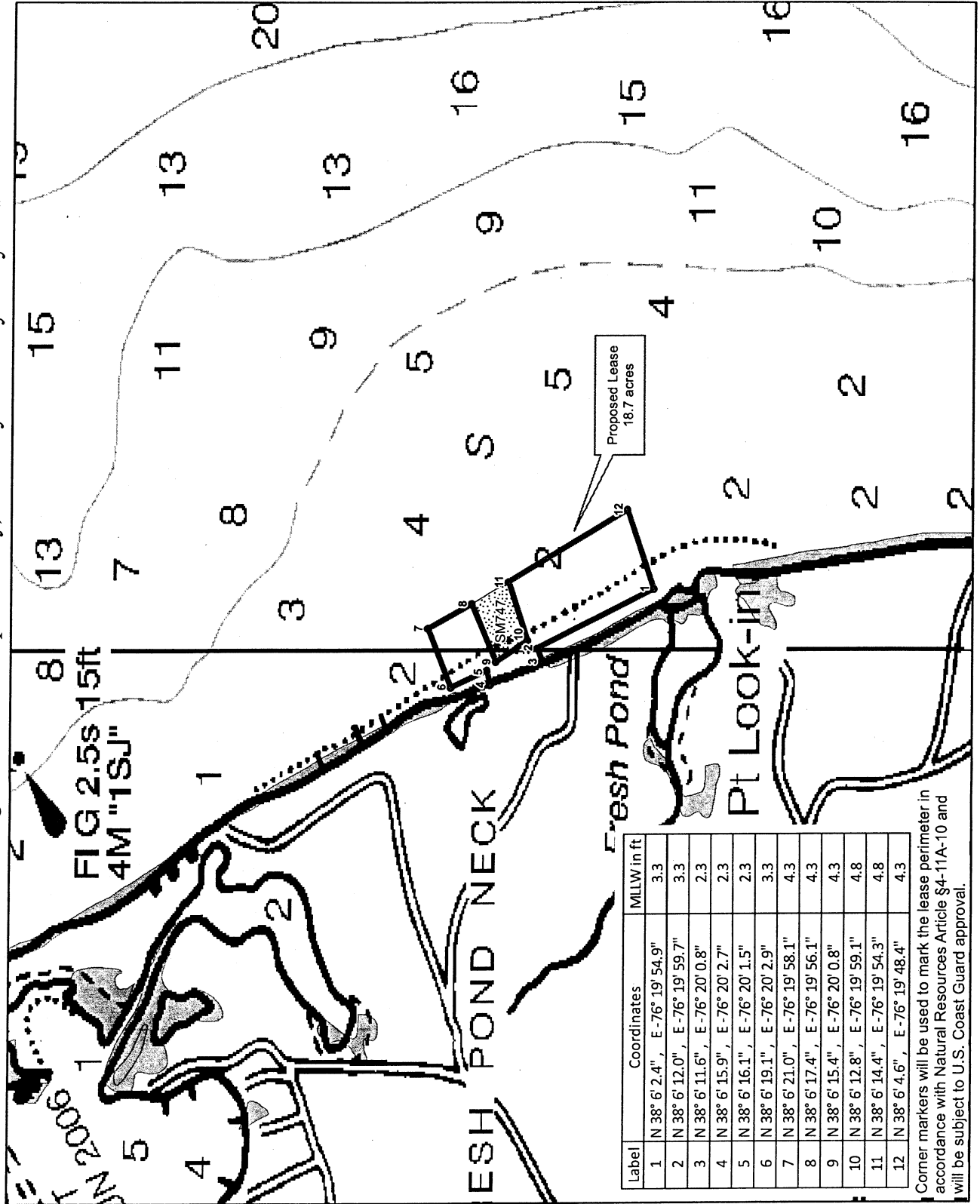
Maryland Department of Natural Resources  
Geospatial Information and Analysis  
580 Taylor Ave. E-2, Annapolis, MD 21401  
410-260-8985 or 1-877-620-MDNR x8985  
dnr.maryland.gov  
DNR February, 2015

IIa.



# Proposed Shellfish Water Column Lease NAV Chart Map

## MD Water Holdings, LLC - Chesapeake Bay, St. Mary's County Maryland



Lease Area shown over  
NOAA Raster  
Navigational Charts.

- Proposed Lease
- Land-Based-Sanctuaries and Refuges (state, federal, private, etc)
- Submerged Aquatic Vegetation (VIMS)
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DNR February 2015

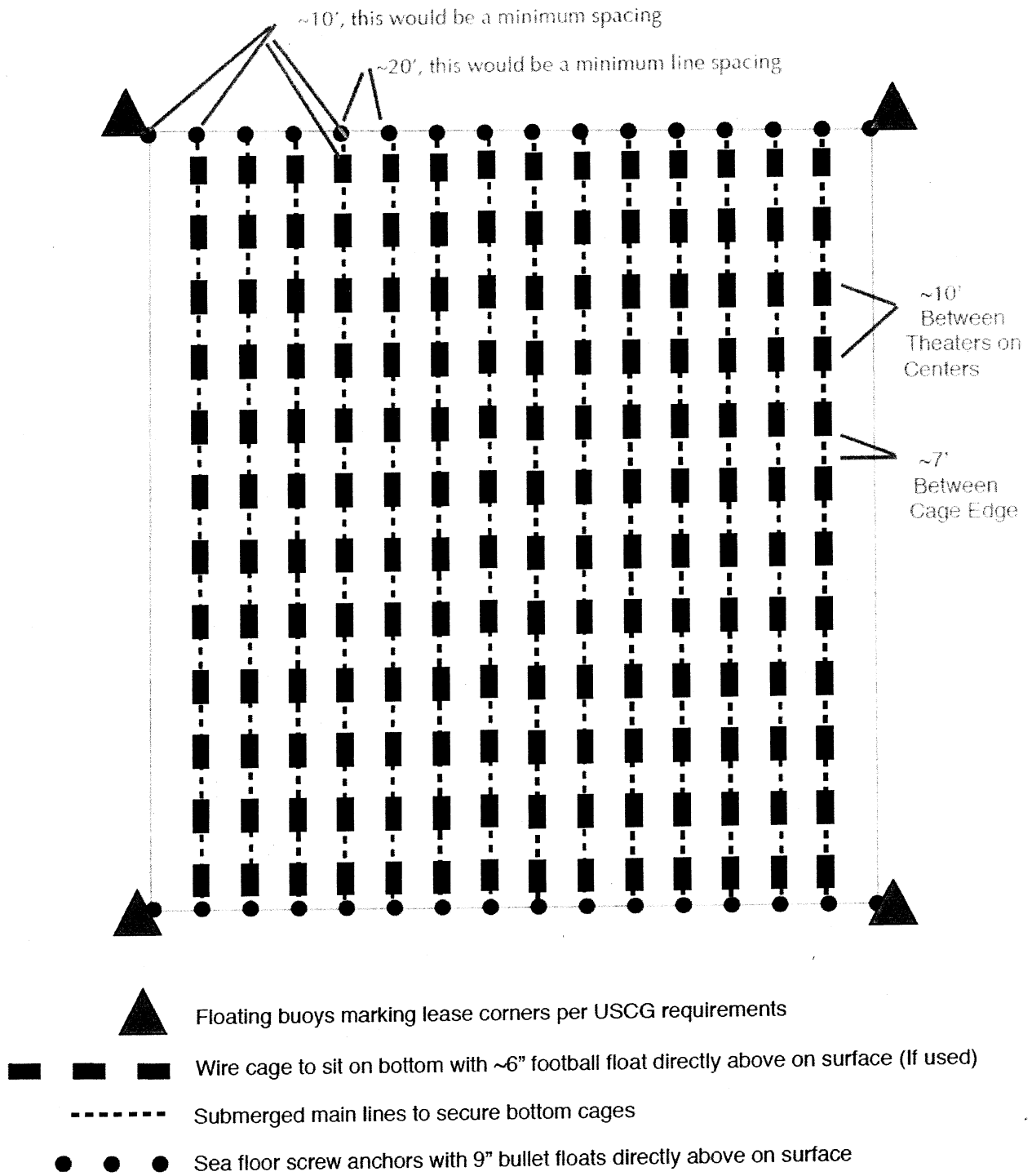
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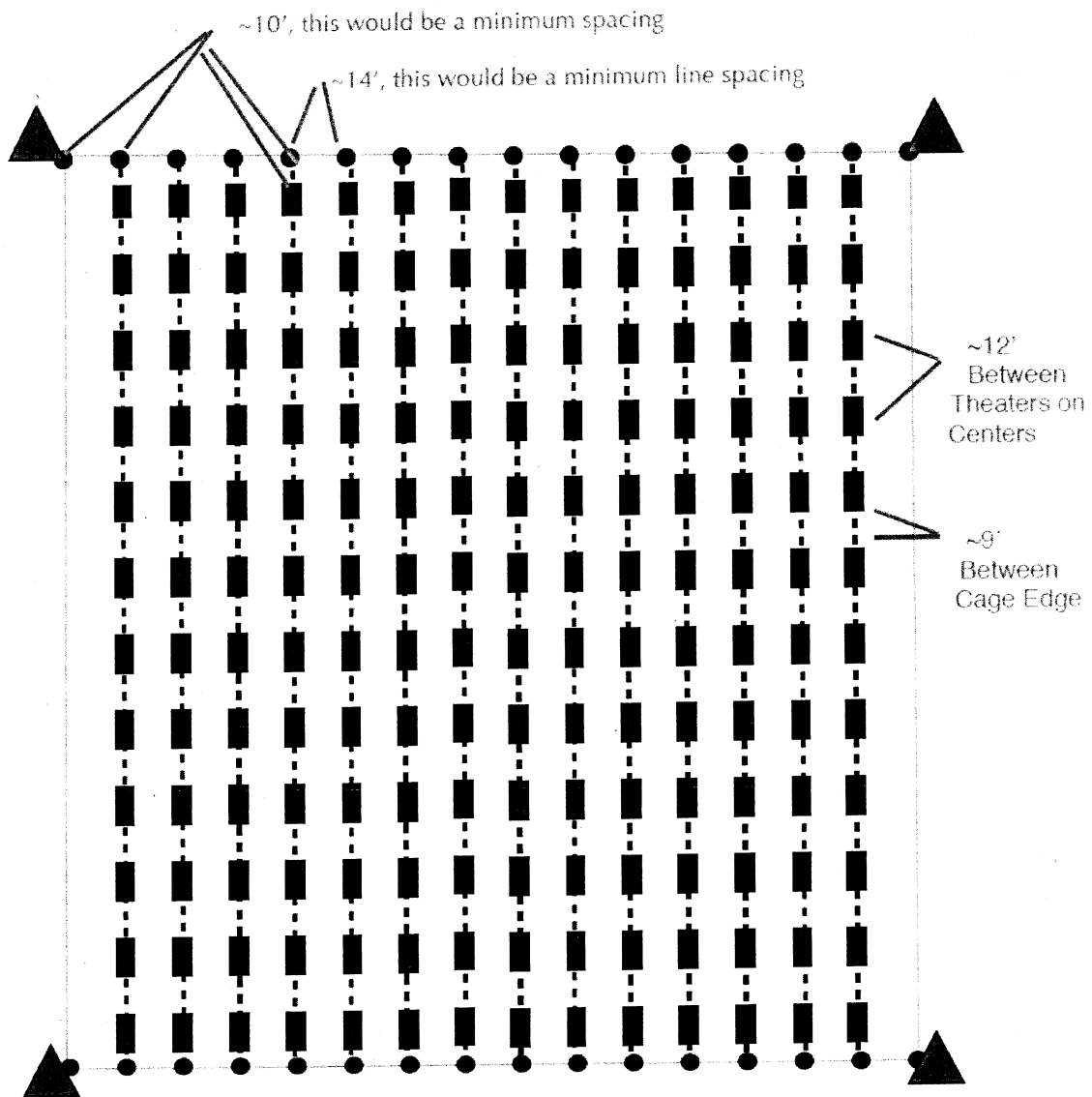
IIb.





Typical aerial view for a cage on bottom lease  
Length and width of lease will vary depending on actual lease issued





Typical aerial view for a floating cage lease  
 Length and width of lease will vary depending on actual lease issued

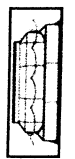


-  Floating buoys marking lease corners per USCG requirements
-  Wire cage to sit on bottom with ~6" football float directly above on surface (If used)
-  Submerged main lines to secure bottom cages
-  Sea floor screw anchors with 9" bullet floats directly above on surface

HC.

Applicant: MD Water Holdings, LLC  
 Town, State: Scotland, Maryland  
 Waterbody: Chesapeake Bay  
 Date: April 2015

Floating Cage System or  
 Cage on Bottom System  
 Max dimensions =  
 68" (w) x 42" (d) x 24" (h) for wire cage

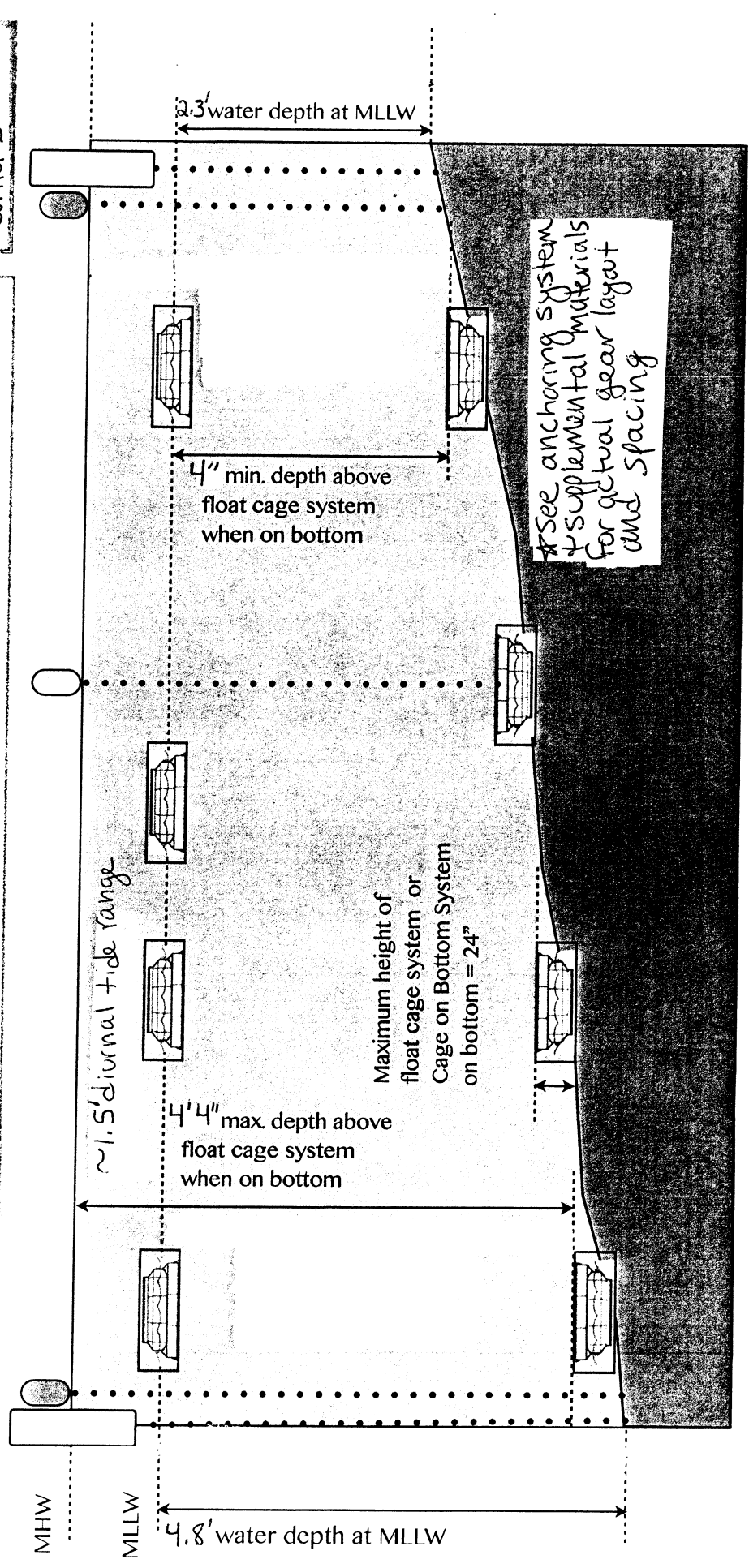


Corner Marker Buoy: As directed by USCG, 9"x5.5"  
 DNR required lease information  
 String Marking Buoy: 11" x 5" Bullet Nose  
 Cage on Bottom Marking Buoy: 7" x 5" Foot Ball

38° 6' 11.6" N  
 76° 20' 0.8" W  
 Corner 3

Floating Cage system to be a surface primarily.  
 Floating Cage system may be lowered to bottom for adverse weather conditions  
 Cage on Bottom System to be sitting on bottom

38° 6' 14.4" N  
 76° 19' 54.3" W  
 Corner 11



See anchoring system  
 + supplemental materials  
 for actual gear layout  
 and spacing

Nearshore

592 feet

Offshore

MLLW = mean lower low water

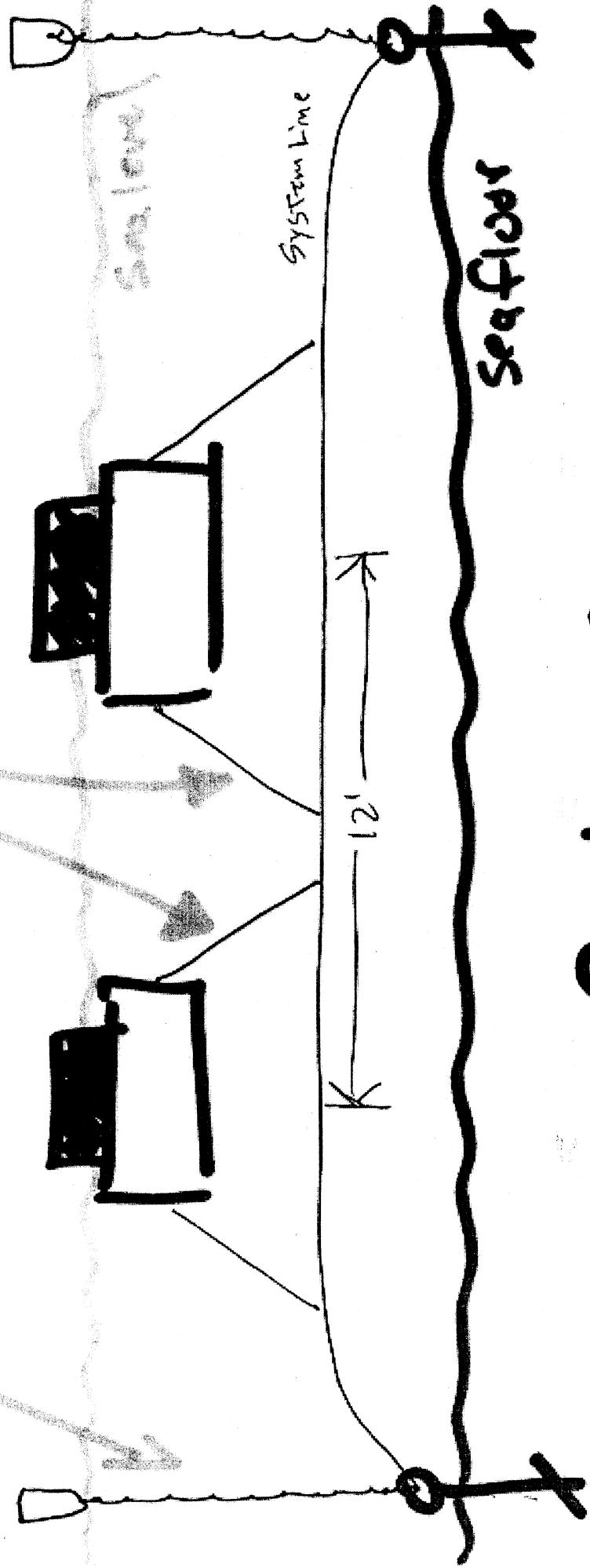
MHW = mean high water



Slack Vertical Lines

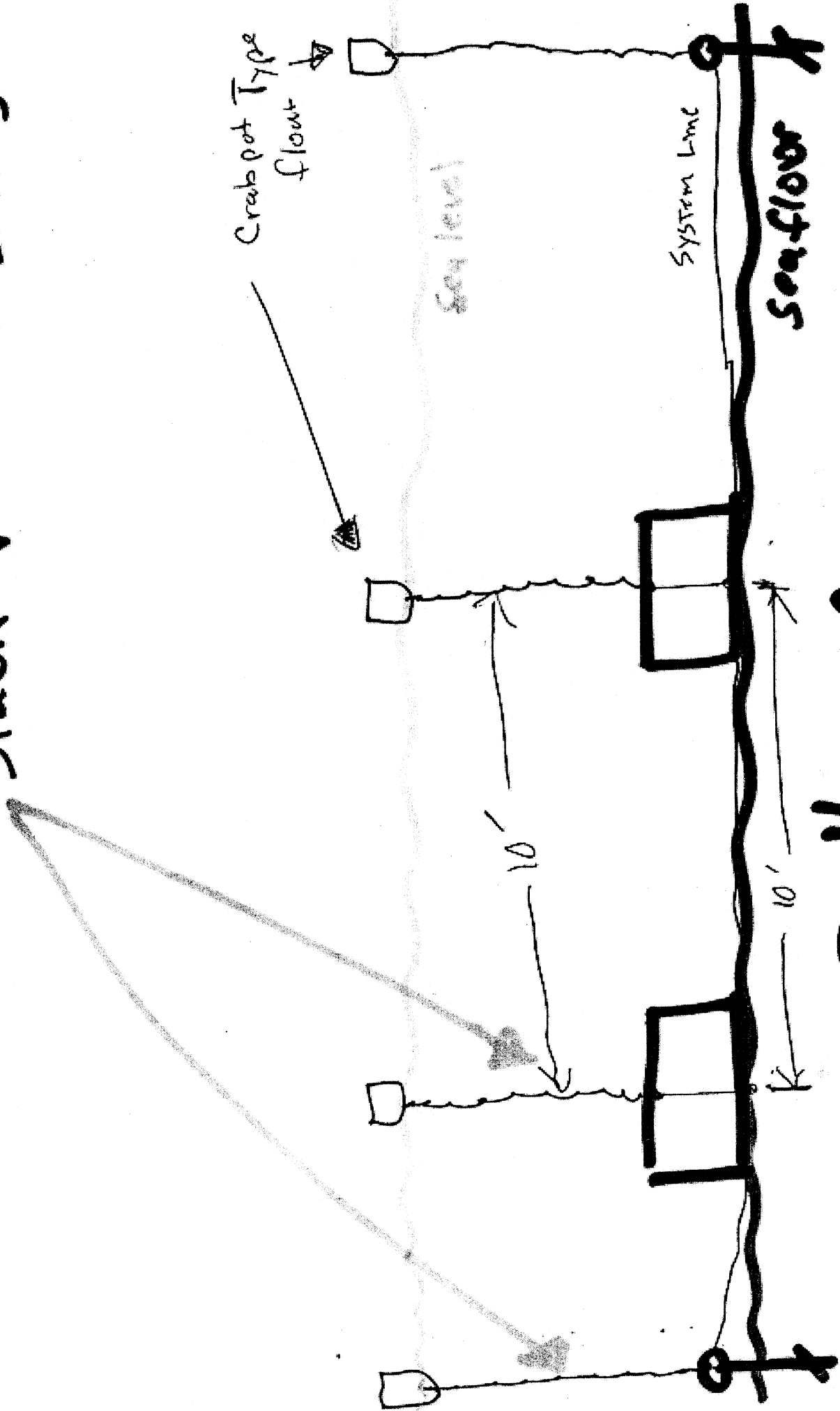
Stiff Diagonal Lines

crab pot type float



Floating Cages

# Slack Vertical Limits



Anchoring System

