



# Public Notice

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

In Reply to Application Number  
CENAB-OP-RMS (MD Water Holdings, LLC/Aquaculture #127)  
2013-02320

PN 13-67

Comment Period: December 12, 2013 to January 14, 2014

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 2255  
Leonardtown, Maryland 20650

LOCATION: In Calvert Bay between the mouths of Calvert Creek and Smith Creek near Lexington Park, St. Mary's County, Maryland

WORK: To establish, operate, and maintain an oyster cultivation site in the water column for purposes of culturing *Crassostrea virginica* (Eastern Oyster) within an approximate 76.6-acre area extending a minimum distance of approximately 161 feet channelward of the approximate mean high water shoreline and a maximum distance of approximately 1,913 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' 0.8" N	76° 23' 37.8" W
2	38° 6' 7.1" N	76° 23' 46.5" W
3	38° 6' 2.7" N	76° 23' 51.2" W
4	38° 6' 3.2" N	76° 23' 53.6" W
5	38° 6' 10.4" N	76° 23' 53.1" W
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The applicant proposes to utilize oysters in bags placed in aquaculture floats that are approximately 3.5 feet wide by 5.7 feet long and 1.5 feet (18 inches) high that would extend a minimum of 15 inches below the water's surface when floating. Oyster floats may be submerged during a portion of the year and would extend a maximum of 18 inches above the bottom substrate. The individual floats would be connected with longlines and anchored to the bottom substrate with anchor posts at each end. Each anchor post would be marked with a 5-inch by 11-inch bullet nose marking float and the corners of the site

would be marked with buoys. The oyster floats would be aligned in 3-acre areas within the overall project area, consisting of 16 rows of 12 floats each spaced approximately 25 feet apart.

The proposed vertical clearance above all the gear at mean lower low water (MLLW) level would vary from approximately 0 inches to 3.5 feet. Average water depths at the proposed project site are approximately -1.2 to -5.0 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 would be located approximately 142 feet north of an existing 3.2-acre cage-on-bottom oyster aquaculture operation authorized under DA permit CENAB-OP-RMS 2013-01313 (Kellam & Kellam/Aquaculture #108). 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 Scotland, Maryland or alternatively at an existing property north of Salt Pond in Lexington Park, St. Mary's County, Maryland. The primary source for the oyster seed would be supplied by Oyster Seed Holdings in Grimstead, Virginia.

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), 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 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 *Scopthalmus aquosus* (windowpane flounder) juvenile and adult; *Pomatomus saltatrix* (blue fish) juvenile and adult; *Paralichthys dentatus* (summer flounder) 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 76.6-acre area of EFH as described under the MSFCMA for the species and life stages identified above. This habitat consists of a mostly sand and shell 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.

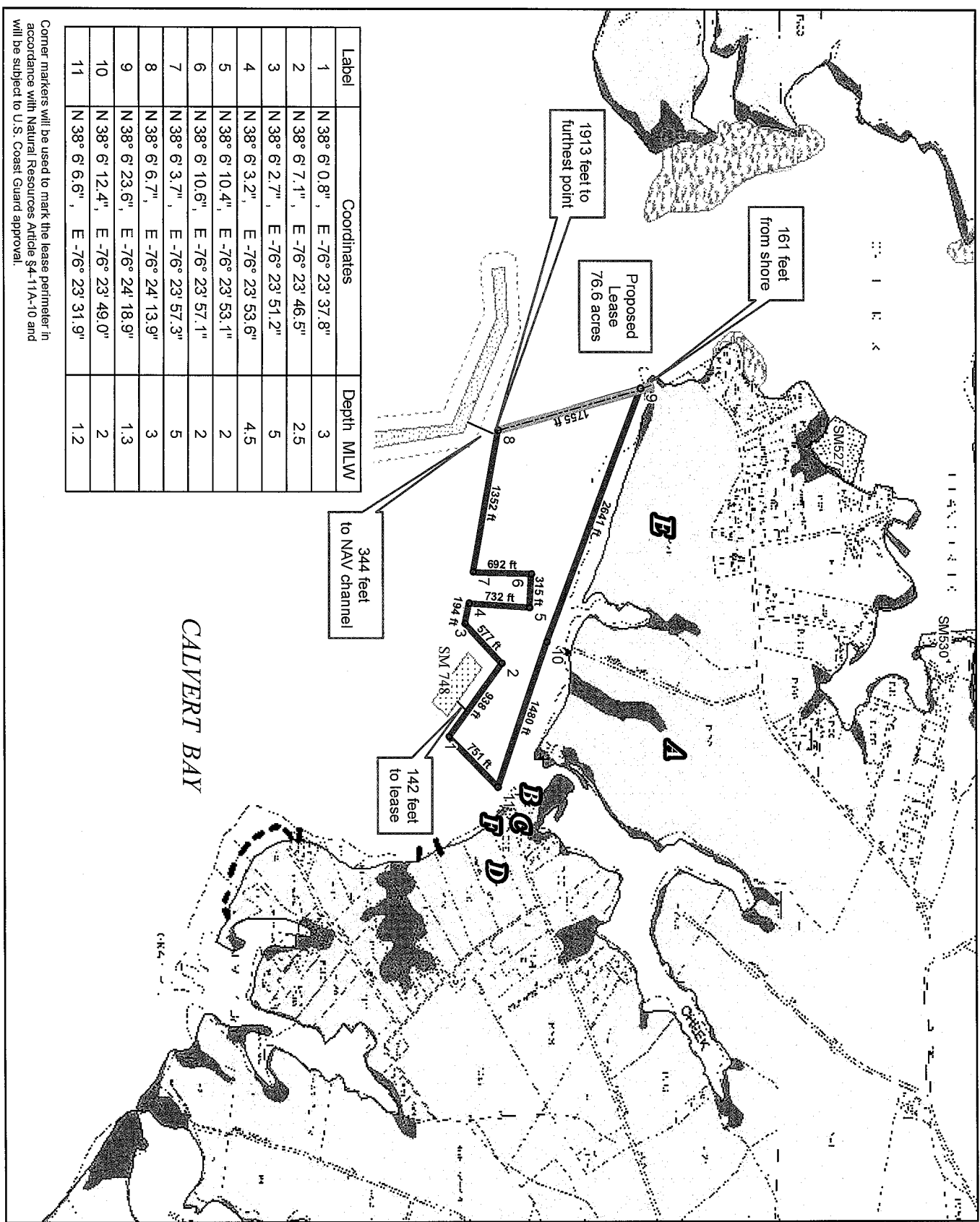
It is requested that you communicate this information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.

FOR THE DISTRICT ENGINEER:

KATHY B. ANDERSON  
Chief, Maryland Section Southern

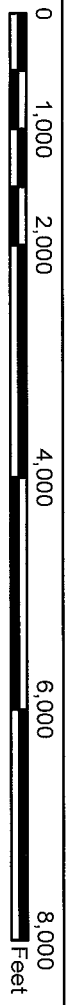
# Proposed Shellfish Water Column Lease Overview Map

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



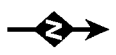
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2	N 38° 6' 7.1", E -76° 23' 46.5"	2.5
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Corner markers will be used to mark the lease perimeter in accordance with Natural Resources Article §4-11A-10 and will be subject to U.S. Coast Guard approval.



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

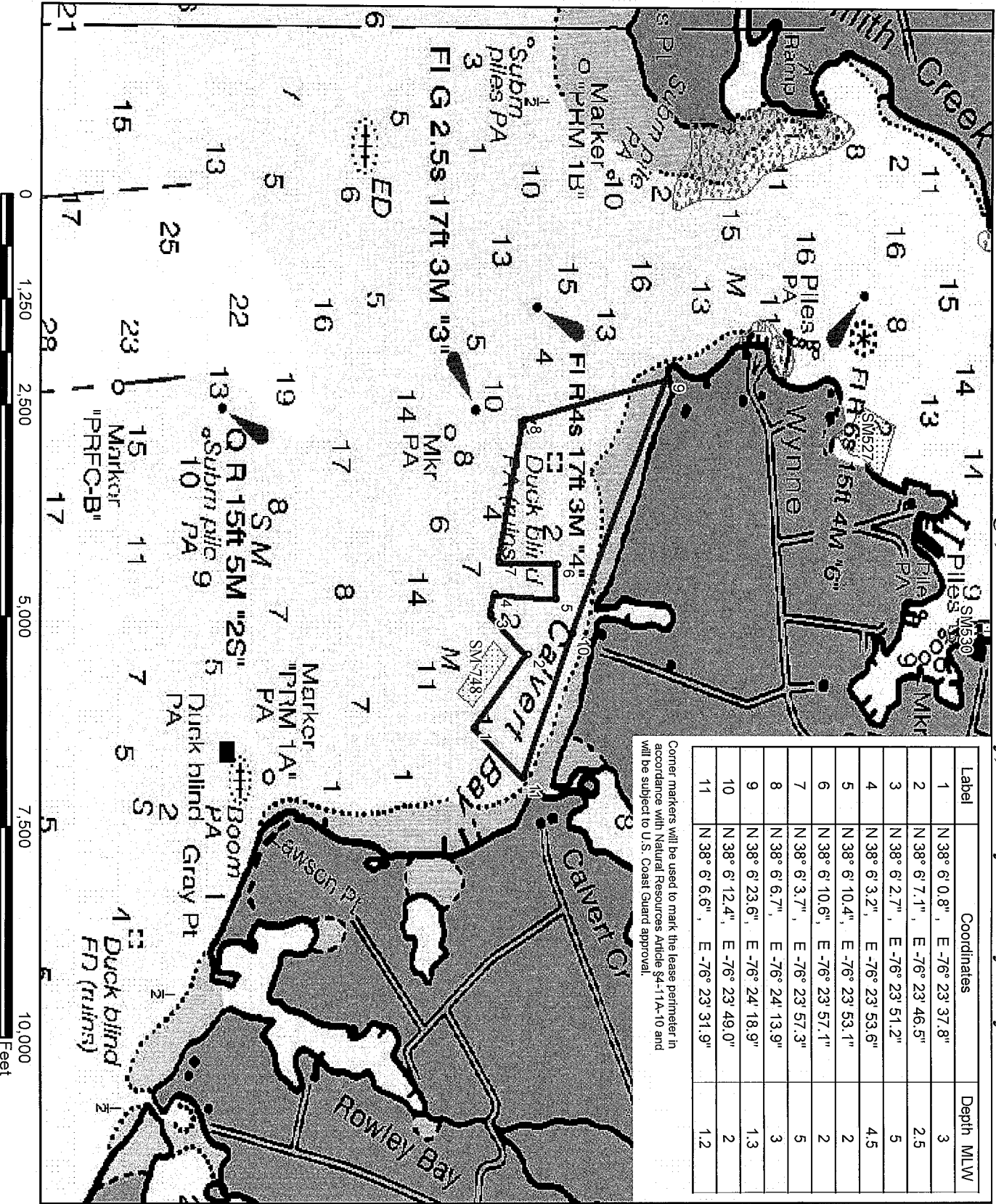
**Joseph P. Gill**  
Secretary



Maryland Department of Natural Resources  
Geospatial Information and Analysis  
500 Poplar Avenue, Suite 21401  
Annapolis, MD 21403  
410.261.8985 or 410.326.8282  
dnr.maryland.gov  
DNR October 2013

# Proposed Shellfish Water Column Lease NAV Chart Map

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



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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.

- 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)
- Wetlands of Special State Concern (MD-DNR)
- Active Shellfish Lease
- Proposed Shellfish Lease
- Tidal Wetlands (NWI Wetland):



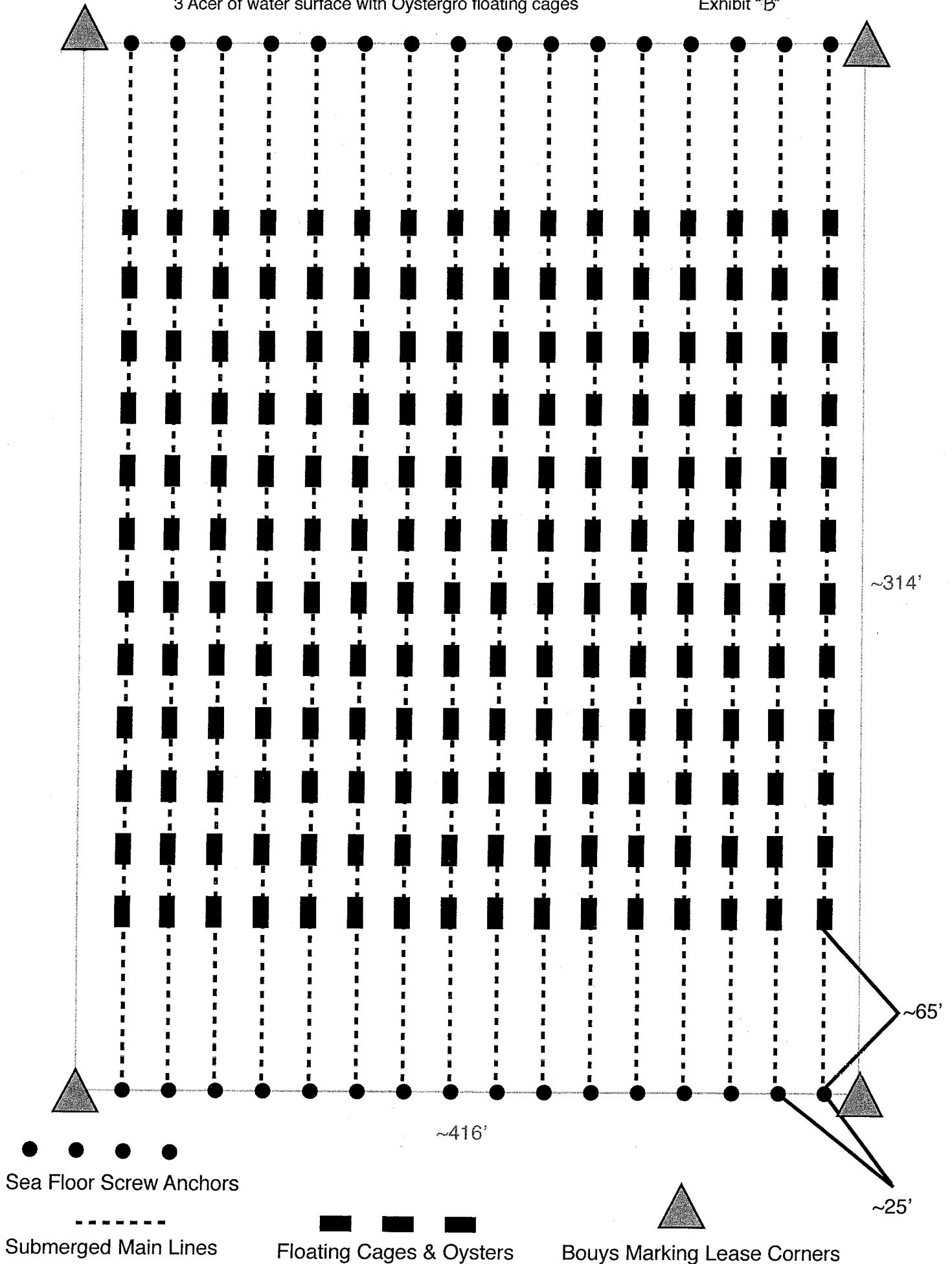
Martin O'Malley  
 Governor  
 Anthony G. Brown  
 Lt Governor  
 Joseph P. Gill  
 Secretary



Maryland Department of Natural Resources  
 Natural Resource Information Services  
 580 Taylor Ave. E-2, Annapolis, MD 21401  
 410-260-8585 or 1-877-620-8DNR 85985  
 dnr@maryland.gov  
 DNR, October 2013

3 Acres of water surface with Oystergro floating cages

Exhibit "B"



Arial view (viewed from above)

# Cross-Section Diagram for Proposed Water Column Lease

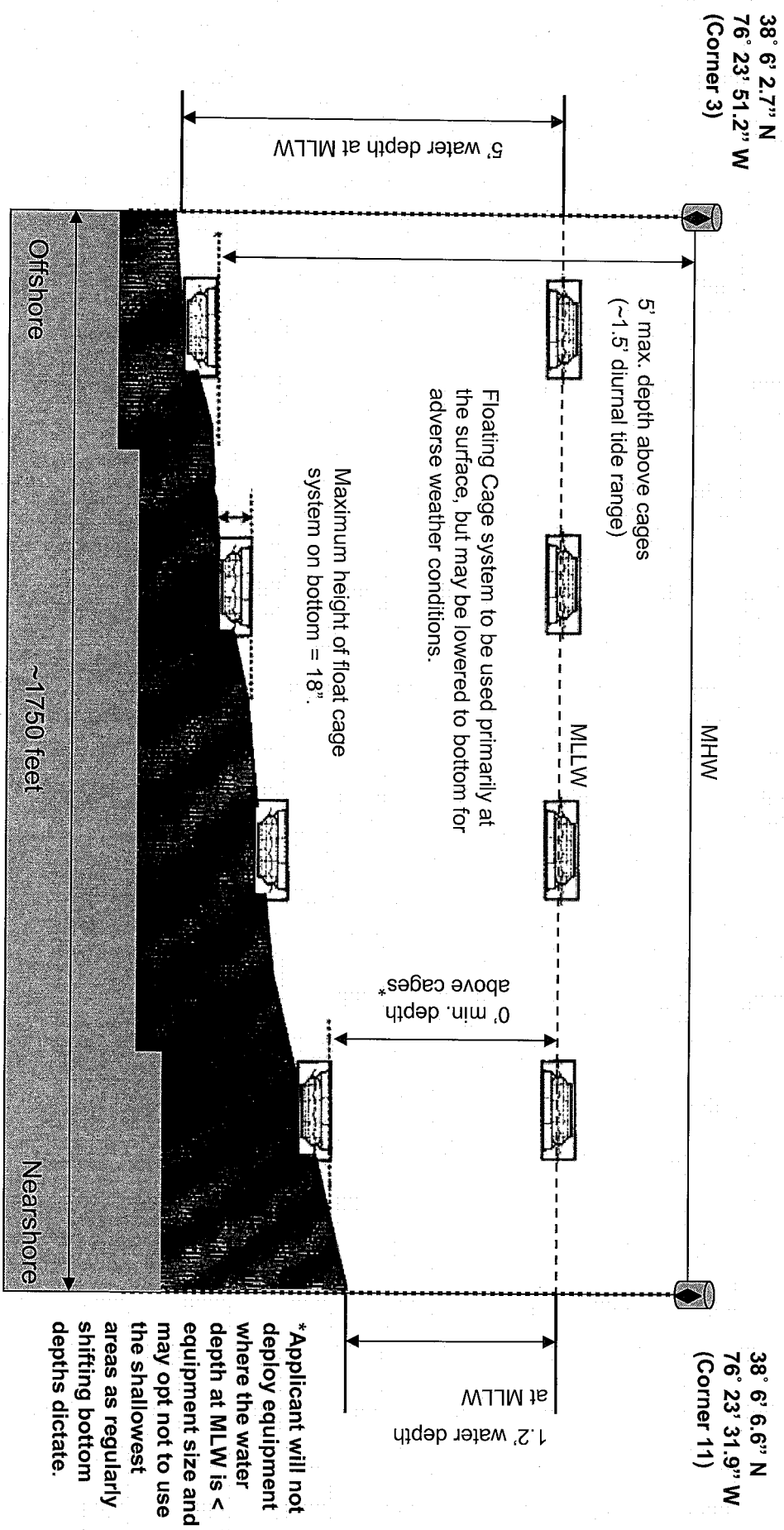
 Regulatory-style marker buoy (with applicant contact info)

MHW = mean high water

MLLW = mean lower low water

 Floating Cage System  
Max dimensions = 5.7' x 3.4' x 18" h

Name/Business: MD Water Holdings, LLC  
Town, State: Lexington Park, MD  
Waterbody: Calvert Bay (Potomac River)  
Date: November 4, 2013



\* Applicant will not deploy equipment where the water depth at MLW is < equipment size and may opt not to use the shallowest areas as regularly shifting bottom depths dictate.