



PUBLIC NOTICE

US Army
Corps
of Engineers
Baltimore
District

In Reply to Application Number
CENAB-OP-RMS(MD DNR, SHELLFISH
DIV/UPPER BAY SITE/ALTERNATE MATERIAL
REEF)02-61637-13

Comment Period: May 28, 2002 to June 11, 2002

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 Harbor Act of 1899 and the Section 404 of the Clean Water Act:

APPLICANT: *Eric Campbell*
MD DNR, Shellfish Division
Tawes State Office, Bldg B2
Annapolis, MD 21401

LOCATION *In the Chesapeake Bay, Kent County, Maryland*

WORK *The Maryland Department of Natural Resources proposes to conduct alternative material reef construction in two separate locations at the following coordinates: (SW Box) 39 12.05'N 76 18.75'W, 39 12.05'N 76 18.50'W, 39 11.9'N 76 18.75'W, 39 11.9'N 76 18.50'W, (NE Box) 39 12.40'N 76 18.65'W, 39 12.55'N 76 18.25'W, 39 12.00'N 76 18.30'W, 39 12.20'N 76 18.00'W. The SW Box is 24.69 acres and the NE Box is 120.95 acres in size. The height of the proposed reefs will maintain a minimum water depth of eight feet mean low water. Approximately 50,000 cubic yards of alternative reef material are to be planted in the years 2002-2011. During 2002 DNR is proposing to emplace approximately 10,000 cubic yards of concrete rubble and approximately 75 concrete preformed structures within an area totalling six acres, within the designated area of the NE Box. The proposed work is to enhance finfish and shellfish habitat, and to investigate alternative oyster reef materials and restoration methods to help restore the Chesapeake Bay oyster population and preserve the dwindling oyster shell resources. The proposed sites are located in the Chesapeake Bay, approximately 5,600 yards off shore, WSW of Tolchester, Kent County, Maryland.*

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 effect 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* (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), managed species under the MSFCMA. The project has the potential to adversely effect EFH or the species of concern by loss of spawning, nursery, forage and/or shelter habitat. The Baltimore District has determined That the adverse effects of this project would not be substantial and an abbreviated consultation will be conducted with NMFS. No mitigative measures are recommended to minimize adverse effects on EFH. This determination may be modified if additional information indicates otherwise and would change the preliminary determination.

All work is to be completed in accordance with the enclosed plans. If you have any questions concerning this matter, please contact Rod Schwarm at 410-820-8550.

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 are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

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 Standards and Certification Division Maryland Department of the Environment, Building 30, First Floor, 2500 Broening Highway, Baltimore, Maryland 21224 within the comment period as specified above to receive consideration. Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the District Engineer, US Army Corps of Engineers, Baltimore District, PO Box 1715, Baltimore, Maryland 21203-1715, 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, 2500 Broening Highway, Baltimore, Maryland, 21224, 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.

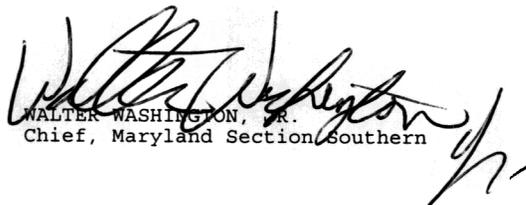
A preliminary review of this application indicates that the proposed work will not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify 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 request, which must be in writing, must be received by the District Engineer, US 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 which 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.

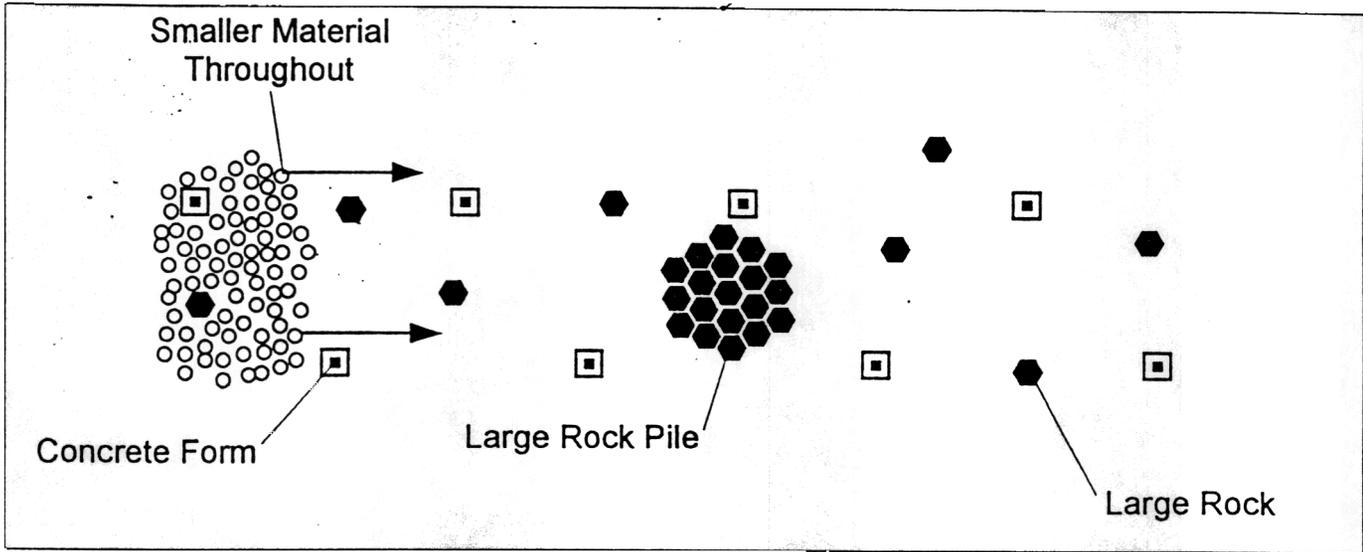
FOR THE DISTRICT ENGINEER:


WALTER WASHINGTON, JR.
Chief, Maryland Section Southern

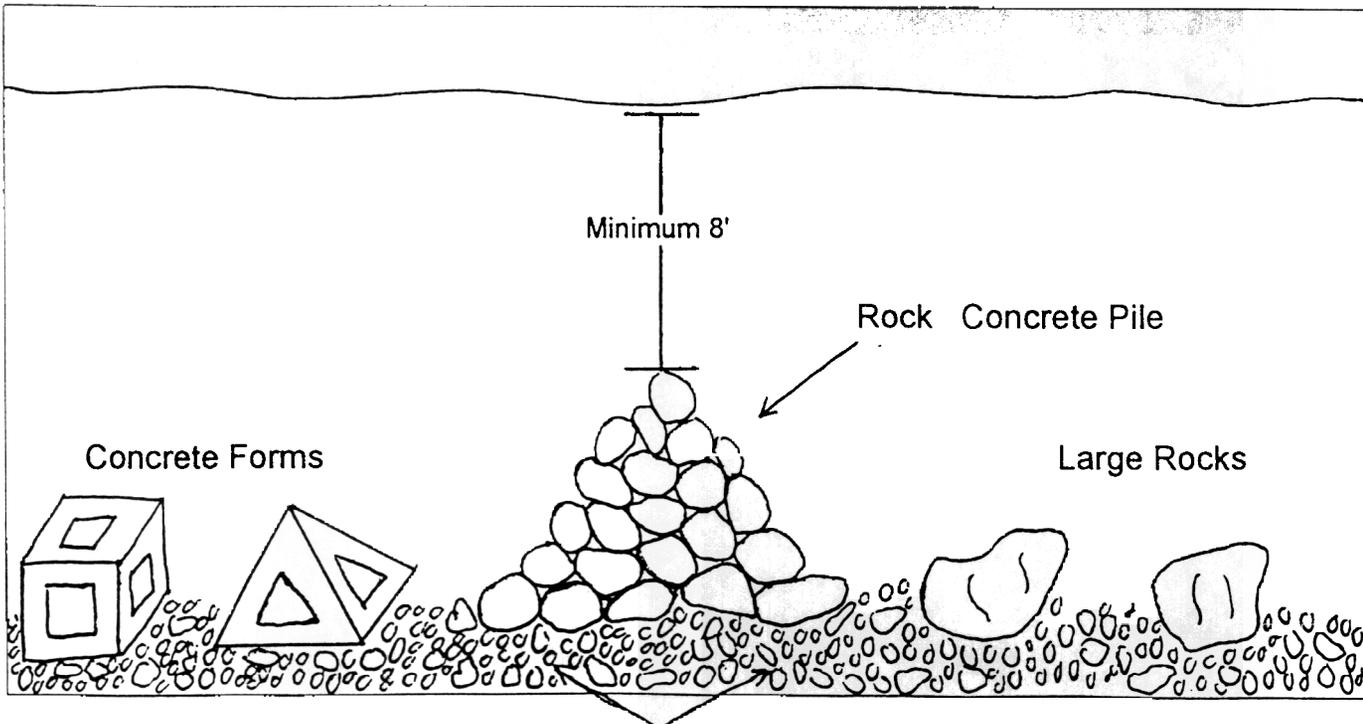
NOTE: The drawing below is a conceptual diagram of expected efforts within the sanctuary sites. Material selection and specific design will vary with each site. Actual size of the area to be planted will vary with the budget and costs for each effort.

Top View

Sanctuary



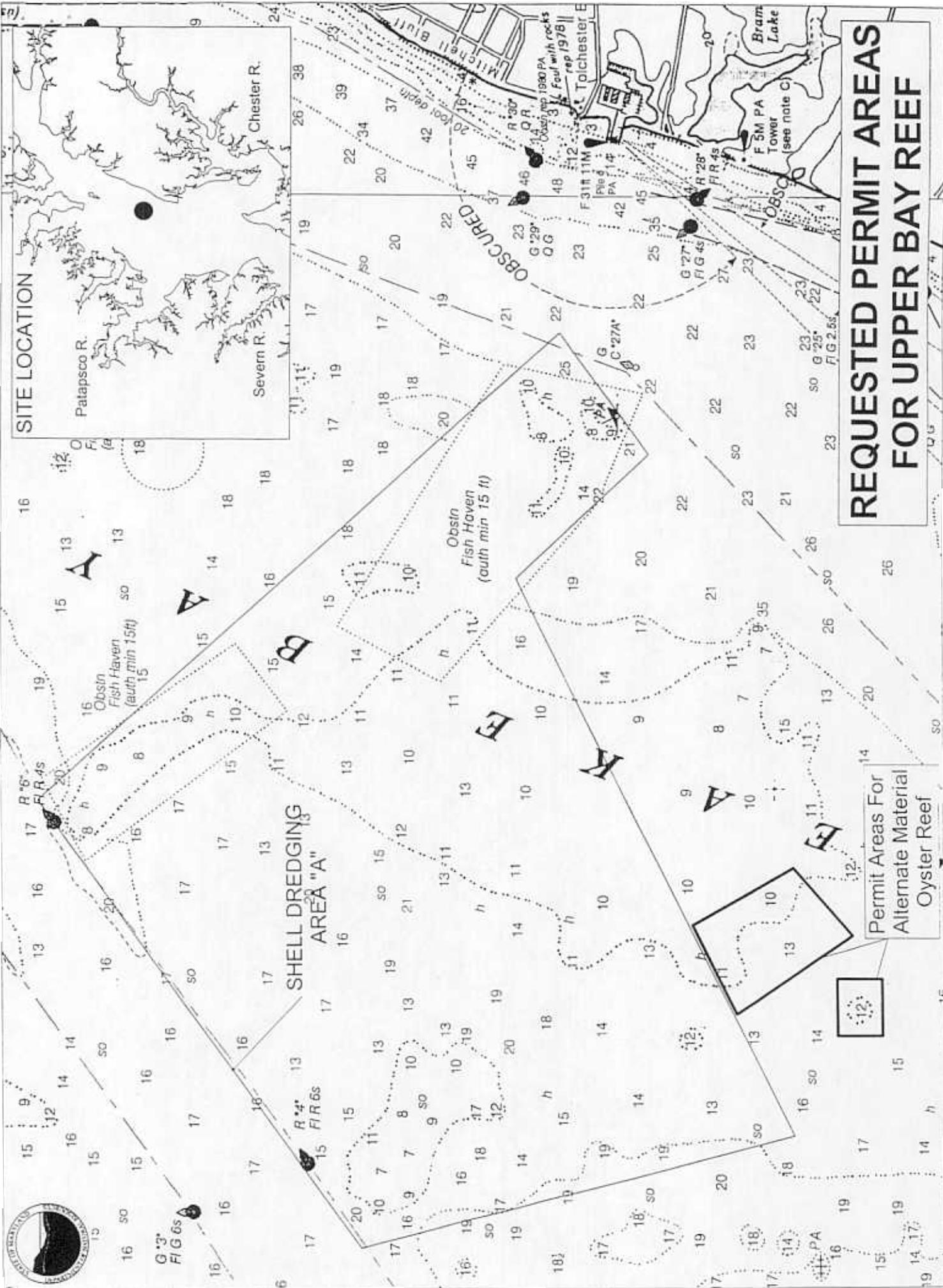
Side View



Variable size concrete, rock or other material to catch a natural set or to hold a seed planting.



SITE LOCATION



REQUESTED PERMIT AREAS FOR UPPER BAY REEF

Permit Areas For Alternate Material Oyster Reef

