



# Public Notice

U.S. Army Corps  
of Engineers  
Baltimore District  
PN 19-30

In Reply to Application Number  
NAB-2019-00167 (Kraft, Jr, Ralph L and Mary/Aquaculture Lease  
#491)  
Comment Period: May 17, 2019 to June 16, 2019

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**THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE WORK DESCRIBED BELOW. NO DECISION HAS BEEN MADE AT THIS TIME AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED.**

This District has received an application for a Department of the Army permit pursuant to **Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (33. U.S.C. 1344)** as described below:

**APPLICANT:** Mr. and Mrs. Ralph L. Kraft Jr., and Mary E. Kraft  
13226 Pine Beach Rd  
Princess Anne, Maryland 21853

**WATERWAY AND LOCATION OF THE PROPOSED WORK:** All work is proposed in the Wicomico River, near Princess Anne, Somerset County, Maryland.

**PROPOSED WORK AND PURPOSE:** The applicant proposes to establish, operate, and maintain an approximate 50-acre oyster aquaculture operation on the bottom of the Wicomico River for purpose of culturing *Crassostrea virginica* (Eastern Oyster) by depositing a maximum of 3-inches of shell and/or spat on shell on the bottom, without predator controls. The site is composed primarily of mud substrate throughout the project area, and the current water depths within the project location vary from -5 feet to -8 feet at mean lower low water (MLLW), depending on the location within the project area. The applicant's plans identify a minimum vertical clearance varying from 4 feet 9 inches to 7 feet 9 inches MLLW, depending on the location within the project area. The project area is located a minimum of 300 feet channelward of the approximate mean high water MHW shoreline and a maximum of 2,300 feet channelward of the MHW shoreline. The project corners would be marked with bamboo stakes marked with contact information on an 8" by 12" board. There will be a maximum of four stakes. The oysters would be harvested, using a power dredge and the shell returned to the bottom. The harvested oysters will be offloaded at Webster Cove Harbor, 13101 Dorsey Harbor Road, Princess Anne, Maryland. All work is to be completed in accordance with the attached plans dated January 9, 2019. If you have any questions concerning this matter, please contact Jessica Miller at (410) 820-8629 or [Jessica.d.miller@usace.army.mil](mailto:Jessica.d.miller@usace.army.mil).

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 based on the existing site conditions. No compensatory mitigation is proposed since no wetland fill impacts are proposed.

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 evaluation of the impacts of the work described above on the public interest will include application of the Clean Water Act 404(b)(1) Guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act.

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, [Attn: Jessica Miller, CENAB-OPR-M], 218 N. Washington Street, Suite 304 Easton, MD 21601 or [jessica.d.miller@usace.army.mil](mailto:jessica.d.miller@usace.army.mil), within the comment period specified above.

**ESSENTIAL FISH HABITAT:** 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 the Chesapeake Bay complex for EFH as described under the MSFCMA for *Scophthalmus aquosus* (windowpane flounder) juvenile; Black sea bass (*Centropristus striata*) juvenile and adult; *Pomatomus saltatrix* (blue fish) juvenile and adult; *Paralichthys dentatus* (summer flounder) juvenile and adult; *Clupea harengus* (Atlantic herring) juvenile and adult; *Raja eglanteria* (clearnose skate) juvenile and adult; *Leucoraja erinacea* (little skate) adult; *Leucoraja ocellata* (winter skate) adult; and the eggs, larvae, juvenile, and adult stages of *Urophycis chuss* (red hake), *Sciaenops ocellatus* (red drum), *Scomberomorus cavalla* (king mackerel), *Scomberomorus maculatus* (Spanish mackerel), and

Rachycentron canadum (cobia), managed species under the MSFCMA., all managed species under the MSFCMA.

The project has the potential to adversely affect EFH or the species of concern by loss of spawning, nursery, forage and/or shelter habitat. The project may have an adverse effect on an approximate total of 50 acre area of EFH as described under the MSFCMA for the species and life stages identified above. This habitat consists of a mostly mud substrate which does not support SAV. The project area is not a Habitat Area of Particular Concern (HAPC). According to the Virginia Institute of Marine Science (VIMS) survey maps, there was no SAV within the area from 1984 to 2017. 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 to minimize adverse effects on EFH at this time. This determination may be modified if additional information indicates otherwise and would change the preliminary determination.

**WATER QUALITY CERTIFICATION:** 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, Montgomery Park Business Center, 1800 Washington Boulevard, Suite 430, Baltimore, Maryland 21230-1708 within the comment period as specified above to receive consideration. The Section 401 certifying agency has a statutory limit of one year from the date of this public notice to make its decision.

**COASTAL ZONE MANAGEMENT PROGRAMS:** 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.

**ENDANGERED SPECIES ACT:** 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.

**NATIONAL HISTORIC PRESERVATION ACT:** 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 this project 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, U.S. Army Corps of Engineers, Baltimore District, 218 N. Washington Street, Suite 304 Easton, MD 21601, 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:

Woodson F. Francis, Jr.  
Aquaculture Specialist, Maryland Section  
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