

U.S. Army Corps
of Engineers

Baltimore District
PN-19-39

Public Notice

In Reply to Application Number
NAB-2019-60829-P24 (MD DNR - Cooperative Oxford
Lab/Temporary Research)

Comment Period: June 17, 2019 to July 2, 2019

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

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/or Section 404 of the Clean Water Act (33. U.S.C. 1344) as described below:

APPLICANT:

Ms. Suzanne Skelley
NOAA – Cooperative Oxford Laboratory
904 South Morris Street
Oxford, Maryland 21654

WATERWAY AND LOCATION OF THE PROPOSED WORK:

Located on the Tred Avon River (38.679167°, -76.175532°), approximately 600 feet from the shoreline, at the Cooperative Oxford Laboratory, 904 South Morris Street, Oxford, Talbot County, Maryland 21654.

PROPOSED WORK AND PURPOSE:

The Cooperative Oxford Laboratory (COL) proposes to place one single layer of oyster shell bags on the river bottom in the COL oyster sanctuary at three discrete locations (38.679167°, -76.175532°; 38.680037°, -76.175182°; and 38.681109°1 -76.174773°). The shell bags will remain on the river bottom for ~10-14 days, in 10-15' of water, during which calcein labeled oyster larvae would be released onto each plot. Each plot would be approximately 133 square feet in size, with a total coverage of approximately 400 square feet. The proposal is to conduct the aforementioned work twice (exact replication of study in two consecutive months). Shell bags would be deployed and retrieved using NOAA scientific divers. Mitigation for the project is not proposed to be required due to the project's impacts being temporary and not resulting in a permanent loss of waters.

All work is proposed to be completed in accordance with the enclosed plan(s).

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, 710 Ives Run Lane Tioga, Pennsylvania 16946 within the comment period specified above.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, 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 on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat. The Corps has determined this project will not adversely affect any Essential Fish Habitat.

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 Environment. 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 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 Coastal Zone Management Program has a statutory limit of six months to make its consistency determination.

The applicant must obtain any state or local government permits which may be required.

A 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. Additionally, the applicant has coordinated the project with the United States Fish and Wildlife Service and in a letter dated 4 April 2019 the United States Fish and Wildlife Service indicates that there are no federally proposed or listed endangered and threatened species known to exist in the area of the project. Additionally, the Corps has coordinated with the National Marine Fisheries Service-GARFO pursuant section 7 of the Endangered Species Act and received concurrence on 14 June 2019 that the project is not likely to adversely affect the listed species or critical habitat present.

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.

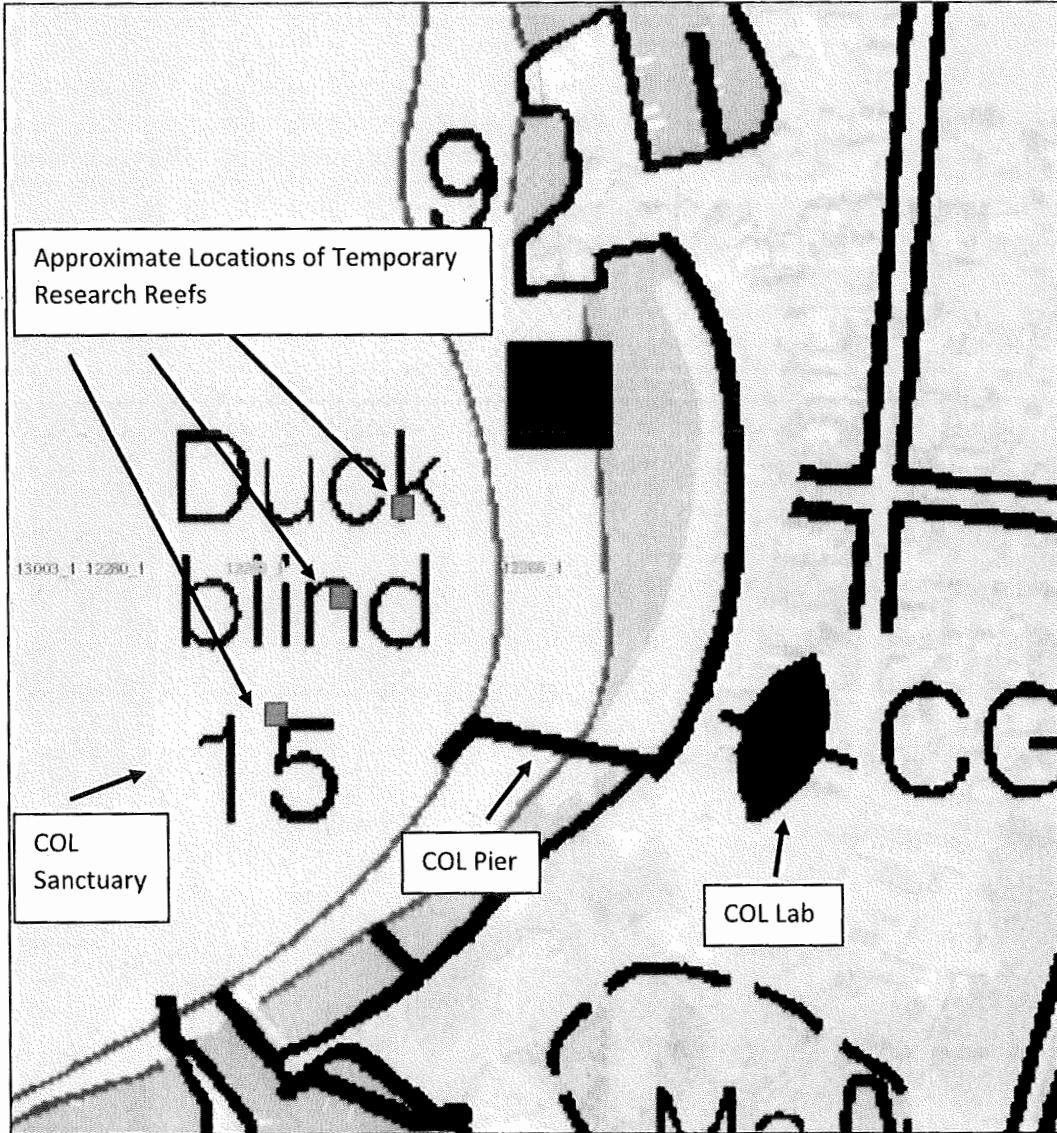
Any person who has an interest which may be adversely affected by the issuance of this permit may request a public hearing. The request, which must be in writing, must be received by the District Engineer, U.S. Army Corps of Engineers, Baltimore District, 710 Ives Run Lane Tioga, Pennsylvania 16946, 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 know by you to be interested and not being known to this office, who did not receive a copy of this notice.

If you have any questions concerning this matter, please contact Mr. Shawn Gill, (570) 835-4263 or shawn.r.gill@usace.army.mil.

FOR THE DISTRICT ENGINEER:

Wade B. Chandler
Chief, Pennsylvania Section
Regulatory Branch

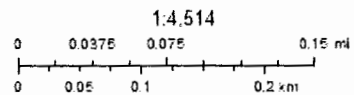


April 1, 2019

Existing Conditions for: the adjacent waters to the
Cooperative Oxford Laboratory;

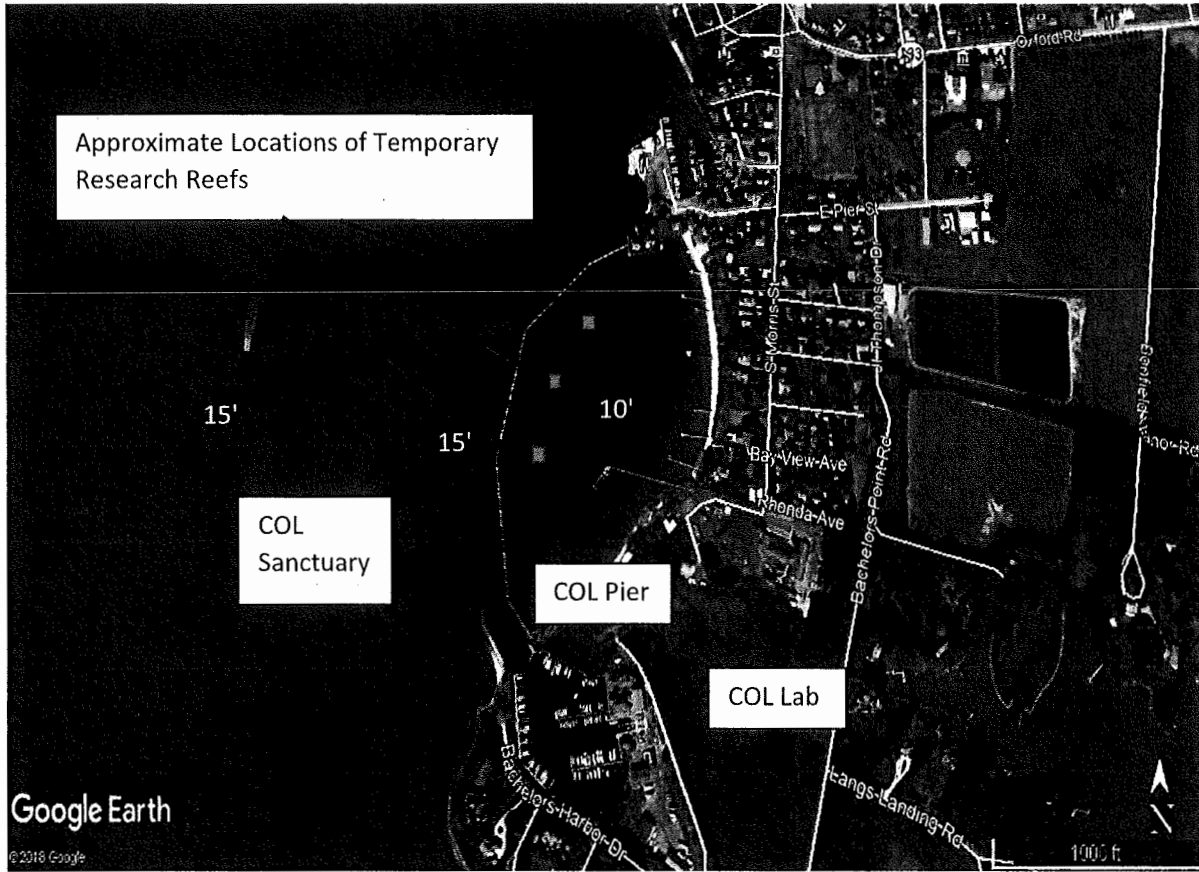
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Any Labels / DE
MD MAP / DE
MD DNR Fisheries
NOAA / NOS Special Projects / Office of Coastal Survey
DNR Fisheries



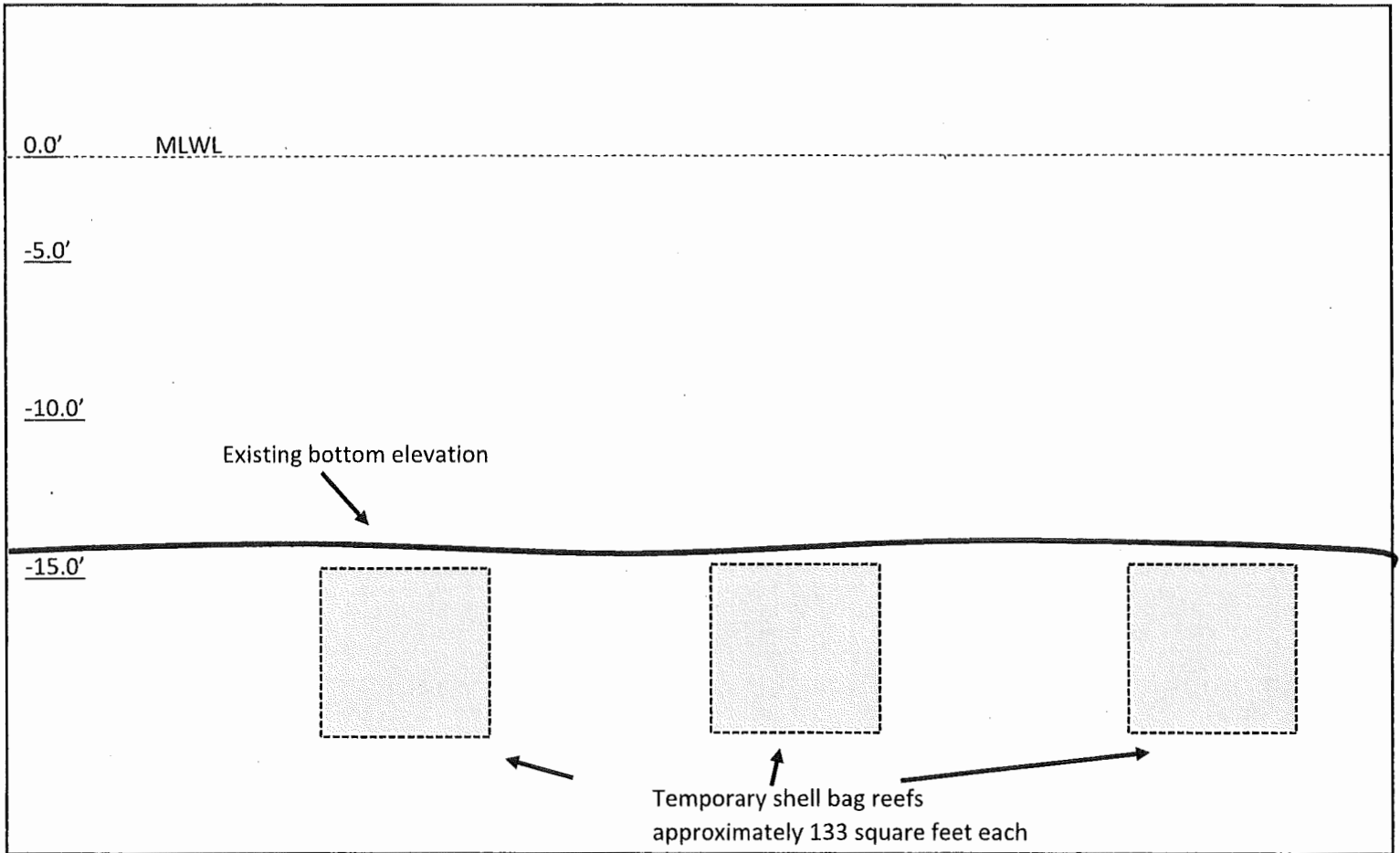


April 1, 2019

Vicinity map for: the adjacent waters and land to the
Cooperative Oxford Laboratory;

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PROPOSED PROJECT for: the adjacent waters and land to the Cooperative Oxford Laboratory;
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Temporary Research Site:
 ~400 square ft. total
 Maximum height above the bottom ~8"
 Oyster shell bags will be placed on the bottom in a continuous layer within the specified locations.