



U.S. Army Corps
of Engineers
Baltimore District

Public Notice

In Reply to Application Number
NAB-2019-00055 (Mitchell, Christopher R. &
Terrin/Aquaculture Lease #438)

PN 19-43

Comment Period: July 1, 2019 to August 1, 2019

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. Christopher Mitchell
8057 Farm House Drive
Hebron, Maryland 21830

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

PROPOSED WORK AND PURPOSE: The applicant proposes to establish, operate, and maintain an approximate 24.5-acre oyster aquaculture operation on the bottom substrate for purposes of culturing *Crassostrea virginica* (Eastern Oyster) by dredging/dragging/scraping existing shell on bottom to clean, and then depositing an approximate 2-inch layer of shell and/or spat on shell on the bottom, without predator controls, in the Wicomico River, near Mt. Vernon, Somerset County, Maryland. The site is composed of sand and mud substrate throughout the project area, and the current water depths within the project location vary from -4.8 feet to -16.8 feet at mean lower low water (MLLW), depending on the location within the project area. The project area is located a minimum of 397 feet channelward of the approximate mean high water (MHW) shoreline and a maximum of 1,323 feet channelward of the approximate MHW shoreline. A maximum of six (6) project corners will be marked with an 8-inch by 12-inch placard attached to a bamboo pole. The applicant has advised that the proposed submerged land lease area would be subject to periodic dredging and additional deposition of spat on shell, as needed, to maintain the site. Harvesting would be done by power dredging, hand tonging, or other means as approved by the Maryland Department of Natural Resources (DNR). Products would be offloaded at Slip #41 of Webster's Cove Mt. Vernon, Maryland and staged in upland locations at the applicant's residence at 8057 Farm House Drive, Hebron, Maryland. The primary source for oyster seed would be supplied by local seed sources within the state of Maryland or other sources as approved by the Maryland DNR. All work would be

completed in accordance with the attached plans dated February 2019. If you have any questions concerning this matter, please contact Steve Elinsky at 410.962.4503 or, Steve.Elinsky@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: Steve Elinsky, CENAB-OPR-M], 2 Hopkins Plaza, Regulatory Branch, Baltimore, MD 21201 or, Steve.Elinsky@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 *Scopthalmus 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/Pennsylvania Department of Environmental Protection/District of Columbia 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.

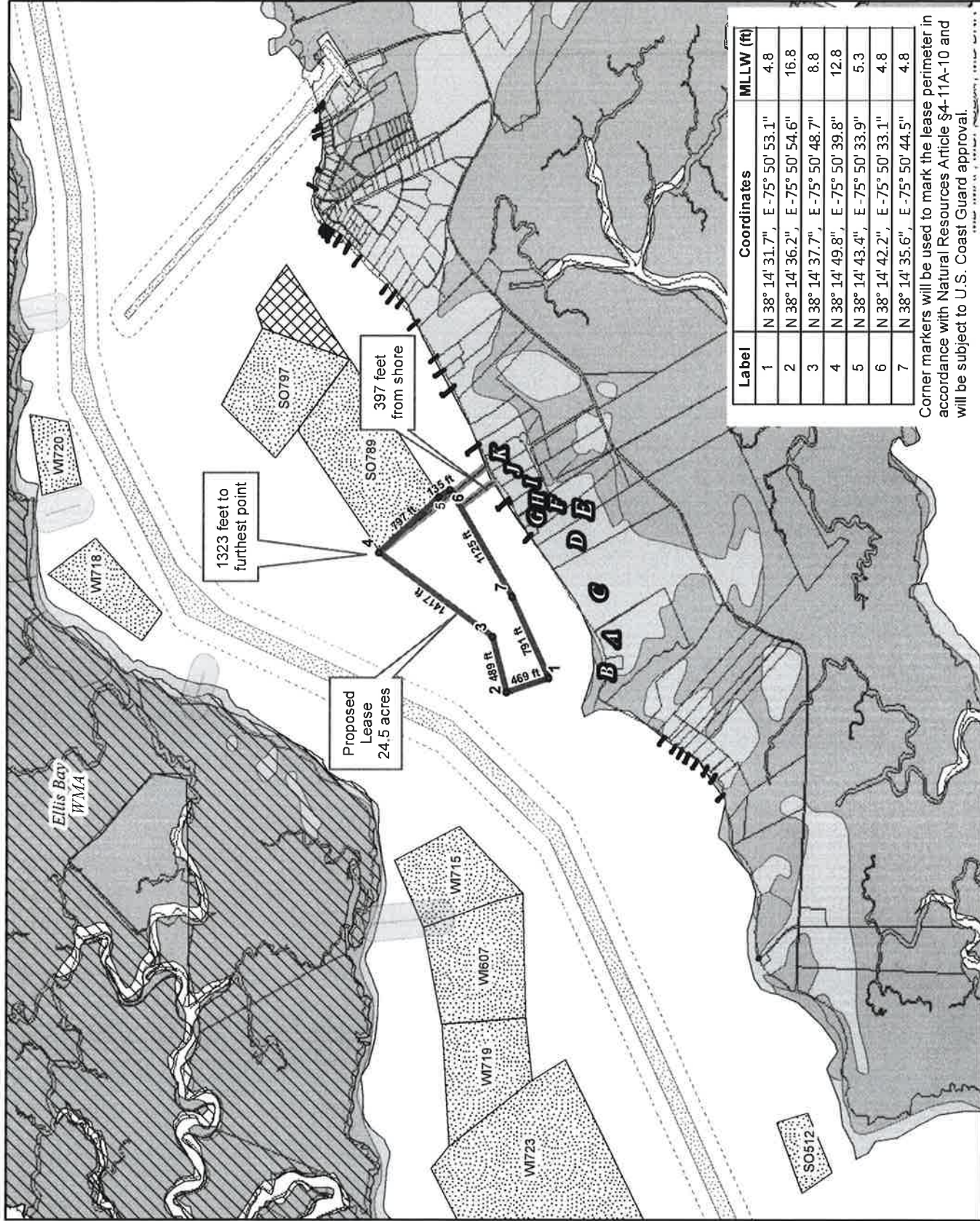
The evaluation of the impact of this project on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act.

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, 2 Hopkins Plaza, Baltimore, MD 21201, 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. This public notice is issued by the Chief, Regulatory Branch.

Proposed Shellfish Submerged Land Lease Overview Map

Christopher R. Mitchell & Terrin L. Mitchell #438 - Wicomico River, Somerset County Maryland



Larry Hogan
Governor
Boyd K. Rutherfordford
Lt. Governor
Mark J. Belton
Secretary

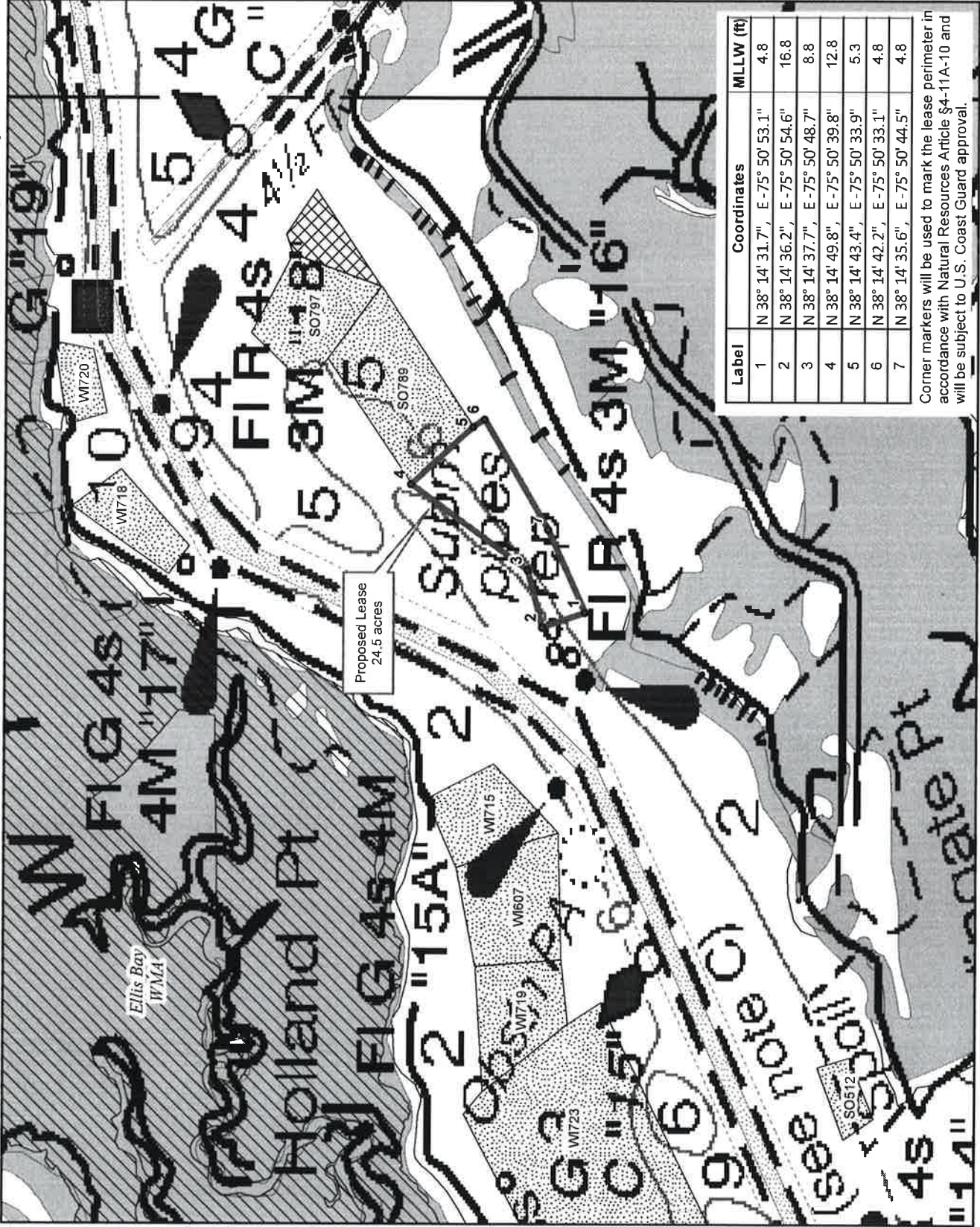


Maryland Department of Natural Resources
Center for Coastal Products and Services
380 Taylor Ave. E-2, Annapolis, MD 21401
410-326-7000 or 1-877-635-6262 (38983)
dnr@dnr.state.md.us
DNR, January 2019

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Proposed Shellfish Submerged Land Lease NAV Chart Map

Christopher R. Mitchell & Terrin L. Mitchell #438 - Wicomico River, Somerset 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)
- Structures (Piers, Marinas, etc)
- Wetlands of Special State Concern (MD-DNR)
- Active Shellfish Lease
- Proposed Shellfish Lease
- Tidal Wetlands (NWI Wetlands) (excludes E1 type)



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Mark J. Belton
Secretary




Maryland Department of Natural Resources
Center for Geospatial Products and Services
580 Taylor Ave. E-2 Annapolis, MD 21401
410-260-8985 or 1-877-620-8DNR.8985
dnr.maryland.gov
DNS, January 2019



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.

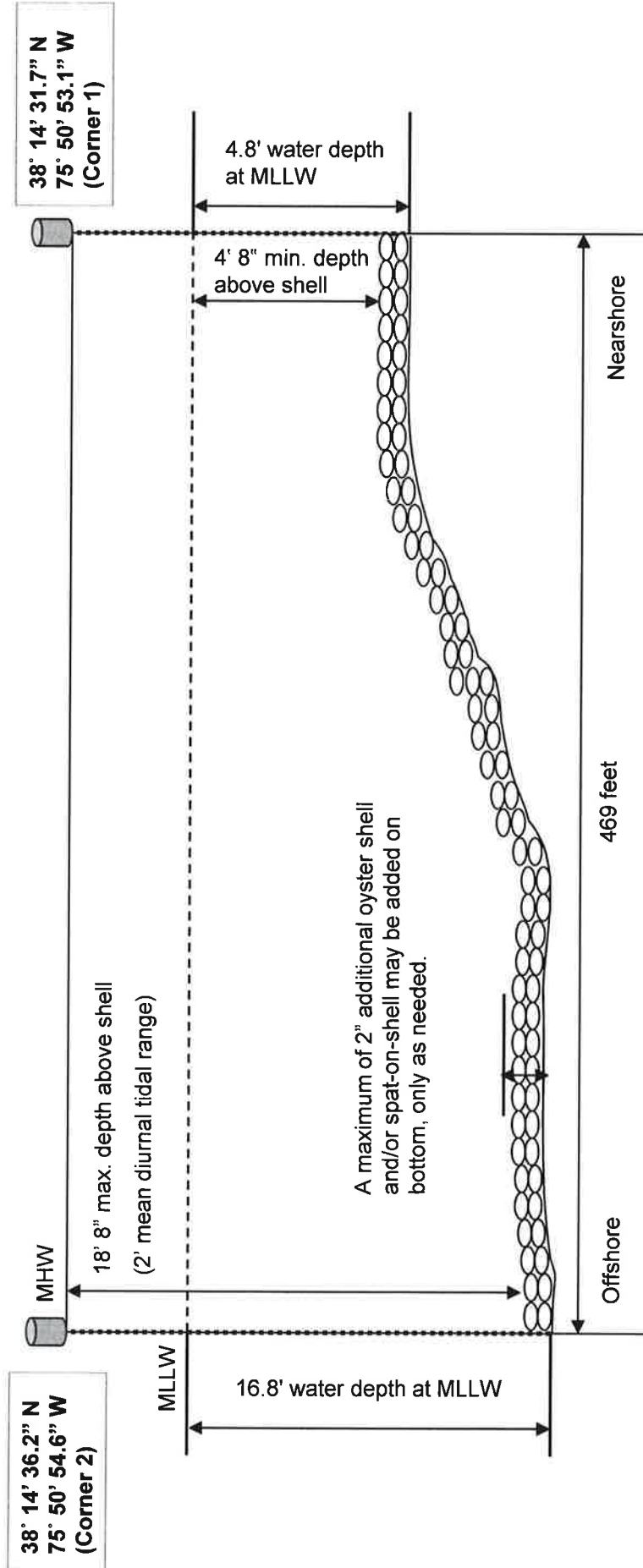
Cross-Section Diagram for Proposed Submerged Land Lease #438

Name: Christopher & Terrin Mitchell
 Town, State: Mt. Vernon, MD
 Waterbody: Wicomico River
 Date: February 2019

 Corner markers with applicant contact info (see pg. 7 and sketch insert for details)

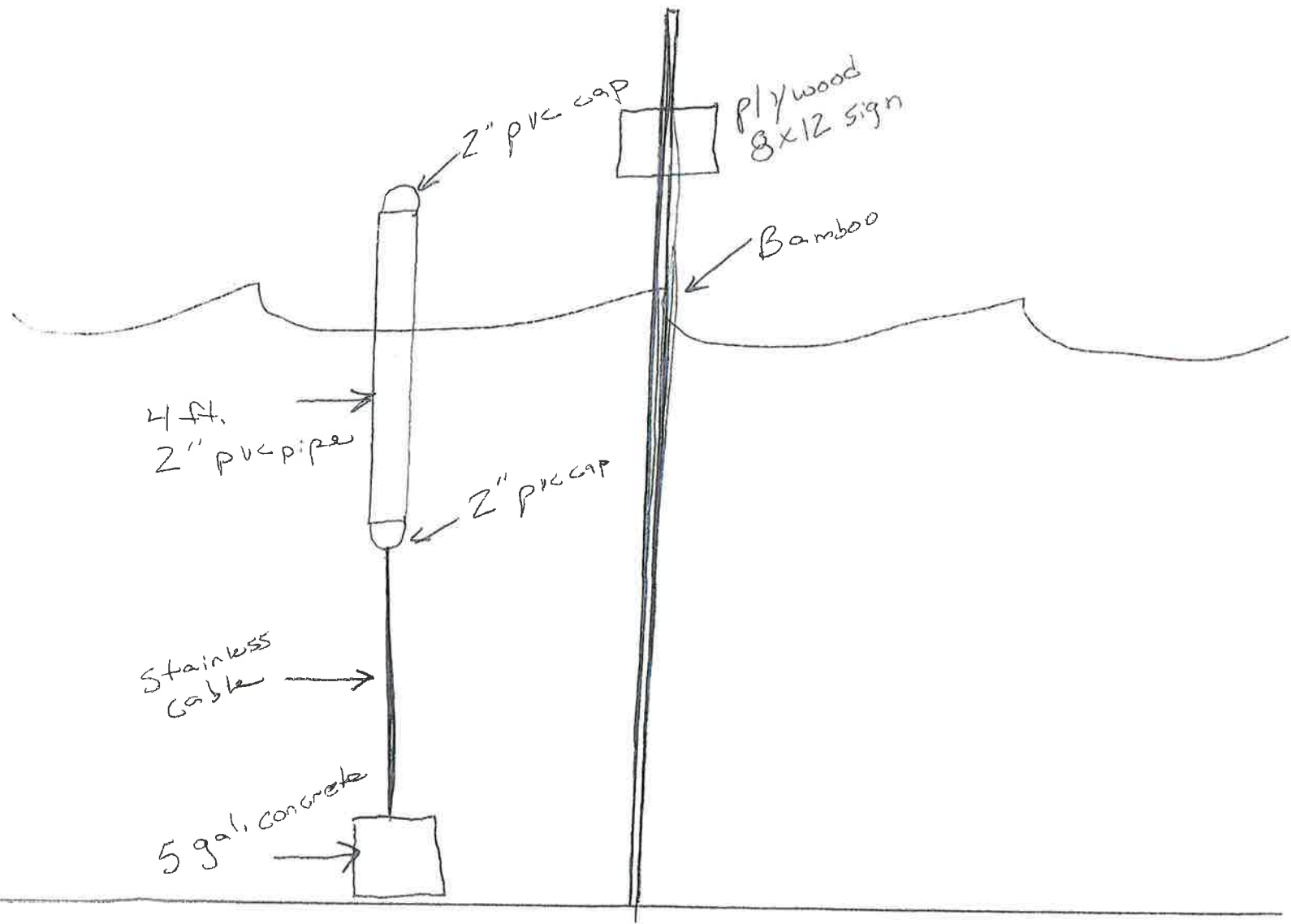
MHW = mean high water

MLLW = mean lower low water

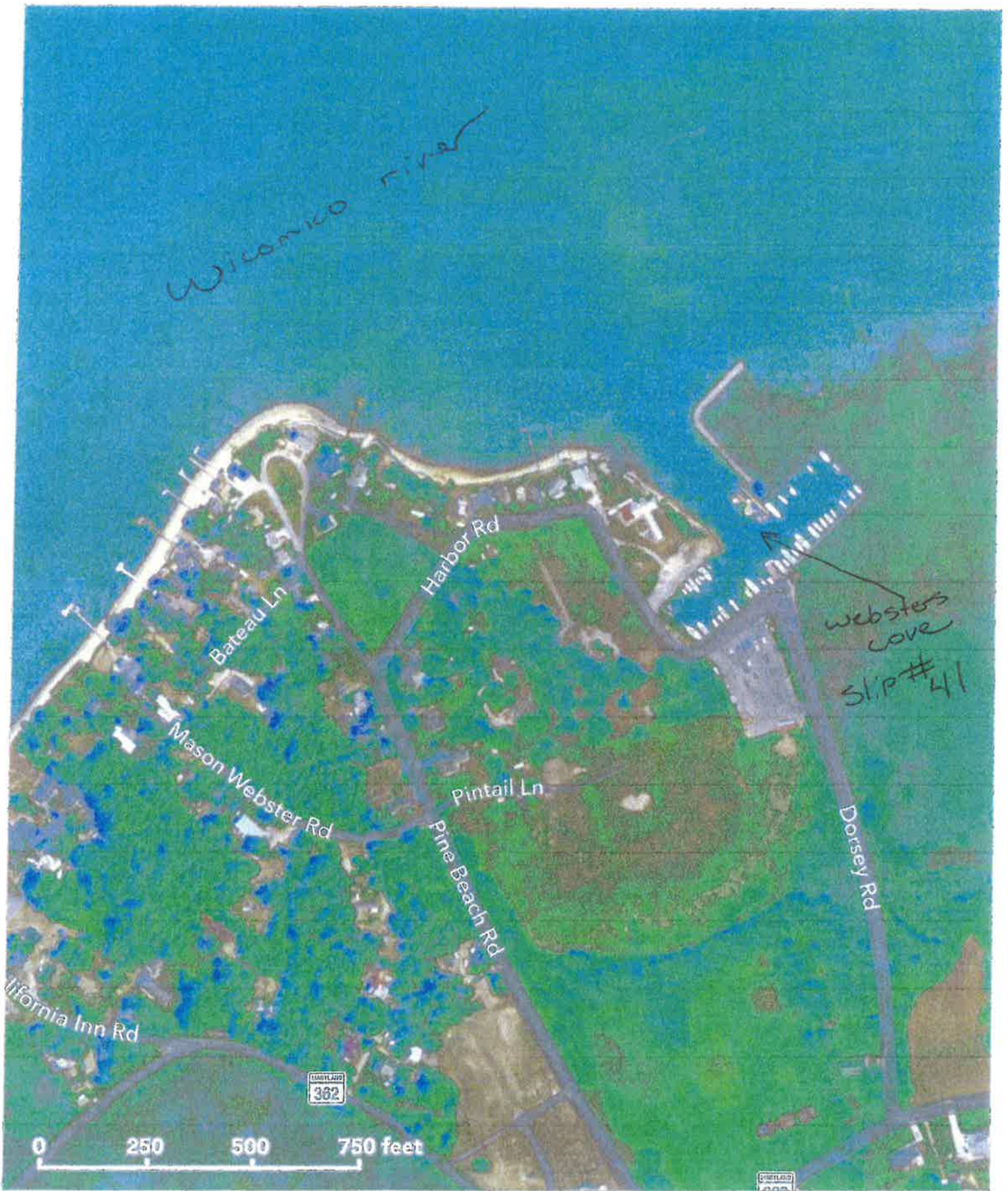


J.C.

Corner Marker Configuration



Chris & Terrin Mitchell
Hebron, MD
Wilomico River
December 26, 2017



Chris & Terrin Mitchell 1 of 1
Hebron, MD
Wicomico River
December 26, 2017

3057 Farm House Dr
Hebron MD 21830



No Street View available here. Tap a location highlighted in blue to enter Street View.

Chris & Terri Mitchell
Hebron, MD
Wisconsin River
December 26, 2017