



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

# Public Notice

In Reply to Application Number  
CENAB-OP-RMS (POTOMAC RIVER FISHERIES COMM/  
LOWER POTOMAC RIVER ARTIFICIAL REEF) 2006-64905

PN 13-54

Comment Period: August 20, 2013 to September 4, 2013

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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 Harbors Act of 1899 and Section 404 of the Clean Water Act (33 U.S.C. 1344), as described below:

**APPLICANT:** Potomac River Fisheries Commission  
C/o Mr. Martin Gary  
222 Taylor Street  
Colonial Beach, Virginia 22443

**LOCATION:** In the Lower Potomac River, at Kitts Point, near St. Inigoes Neck, St. Mary's County, Maryland or at Hog Island, near Lewisetta, between Northernland County, Virginia and St. Mary's County, Maryland. The Kitts Point site is located approximately 1.4 miles from the Kitts Point shoreline and the Hog Island site is approximately 1.6 miles from the Hog Island shoreline, both in the Lower Potomac River.

**Kitts Point Site in Potomac River:**

| Corner | Latitude    | Longitude    |
|--------|-------------|--------------|
| 1      | 38°04.908'N | -76°25.113'W |
| 2      | 38°05.084'N | -76°24.898'W |
| 3      | 38°04.903'N | -76°24.689'W |
| 4      | 38°04.730'N | -76°24.903'W |

**Hog Island Site in Potomac River:**

| Corner | Latitude    | Longitude    |
|--------|-------------|--------------|
| 1      | 38°02.276'N | -76°27.503'W |
| 2      | 38°02.274'N | -76°27.194'W |
| 3      | 38°03.030'N | -76°27.199'W |
| 4      | 38°02.033'N | -76°27.508'W |

**WORK:** To emplace approximately 40,000 cubic yards of clean beneficial fill material to include broken-up concrete by crane or dump barge for constructing two artificial reef habitats, with the top elevation of the reef no more than half the depth of the water column and a minimum vertical clearance of minus -16.0 feet below mean low water (MLW),

impacting approximately 100 acres in water depths ranging from minus -23.0 to -33.0 feet MLW at either the 50-acre Kitts Point site or the 50-acre Hog Island site.

In addition, the applicant is requesting approval for a 10-year period for maintenance of the two artificial reef sites, including the addition of clean fill materials as needed, not to exceed a total volume of approximately 40,000 cubic yards between the two sites. The initial construction of the Kitts Point and Hog Island artificial reef sites were authorized under DA permit CENAB-OP-RMS (POTOMAC RIVER FISHERIES COMM/ LOWER POTOMAC RIVER ARTIFICIAL REEF) 2006-64905 dated July 10, 2006 which expired on December 31, 2012 including the October 9, 2007 permit modification. Approximately 2,662 cubic yards of concrete rubble from the Woodrow Wilson Bridge demolition was deployed on the Hog Island site between 2007 and 2008. No work was completed under the prior authorization at the Kitts Point site. All work will be completed in accordance with the enclosed plan(s). If you have any questions concerning this matter, please contact Mr. Jason R. Peters of this office at 410-962-5676 or by email [Jason.Peters@usace.army.mil](mailto:Jason.Peters@usace.army.mil).

**PURPOSE:** To provide enhanced aquatic habitat by establishing and maintaining two artificial reefs.

**MITIGATION STATEMENT:** As part of the planning process for the proposed project, steps were taken to ensure avoidance and minimization of impacts to waters of the United States to the maximum extent practicable based on the existing site conditions. The project as proposed would be constructed in accordance with the National Artificial Reef Plan (NOAA Technical Memorandum, NMFS OF-6, 1985) and would result in a net increase of approximately 100-acres of artificial reef habitat in the Lower Potomac River. Upon development and build-out of the reef sites, it is expected that the proposed undertaking would provide for enhance fisheries and fish habitat. Based on available information from the Virginia Institute of Marine Sciences (VIMS), the 2008 to 2012 five-year planning window for submerged aquatic vegetation (SAV) does not reveal SAV at the project site for St. George Island, Va.- Md, (Quad 89). The proposed work is to deposit concrete rubble at both sites for constructing two artificial reef/oyster sanctuaries in an approximate 100-acre area of tidal waters in water depths ranging from -23.0 to 33.0 feet MLW. These deeper water habitat areas do not support SAV. Compensatory mitigation is not being proposed by the applicant for permanent impacts to open tidal waters as the project is proposed to enhance the existing aquatic environment. The applicant has stated the project as currently designed seeks to avoid and minimize impacts to regulated resources onsite whereby the artificial reef habitat would maintain the natural functions of the aquatic ecosystem and add beneficial fisheries and fish habitat diversity.

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 has the potential to adversely affect EFH or the species of concern by alteration of spawning, nursery, forage and/or shelter habitat. The project may have an adverse effect on an approximate 100-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 silt sub-tidal substrate that, according to 2008 to 2012 VIMS survey results for St. George Island, Va.- Md, (Quad 89) and the Lower Potomac River, 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 within the comment period specified above.

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.

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.

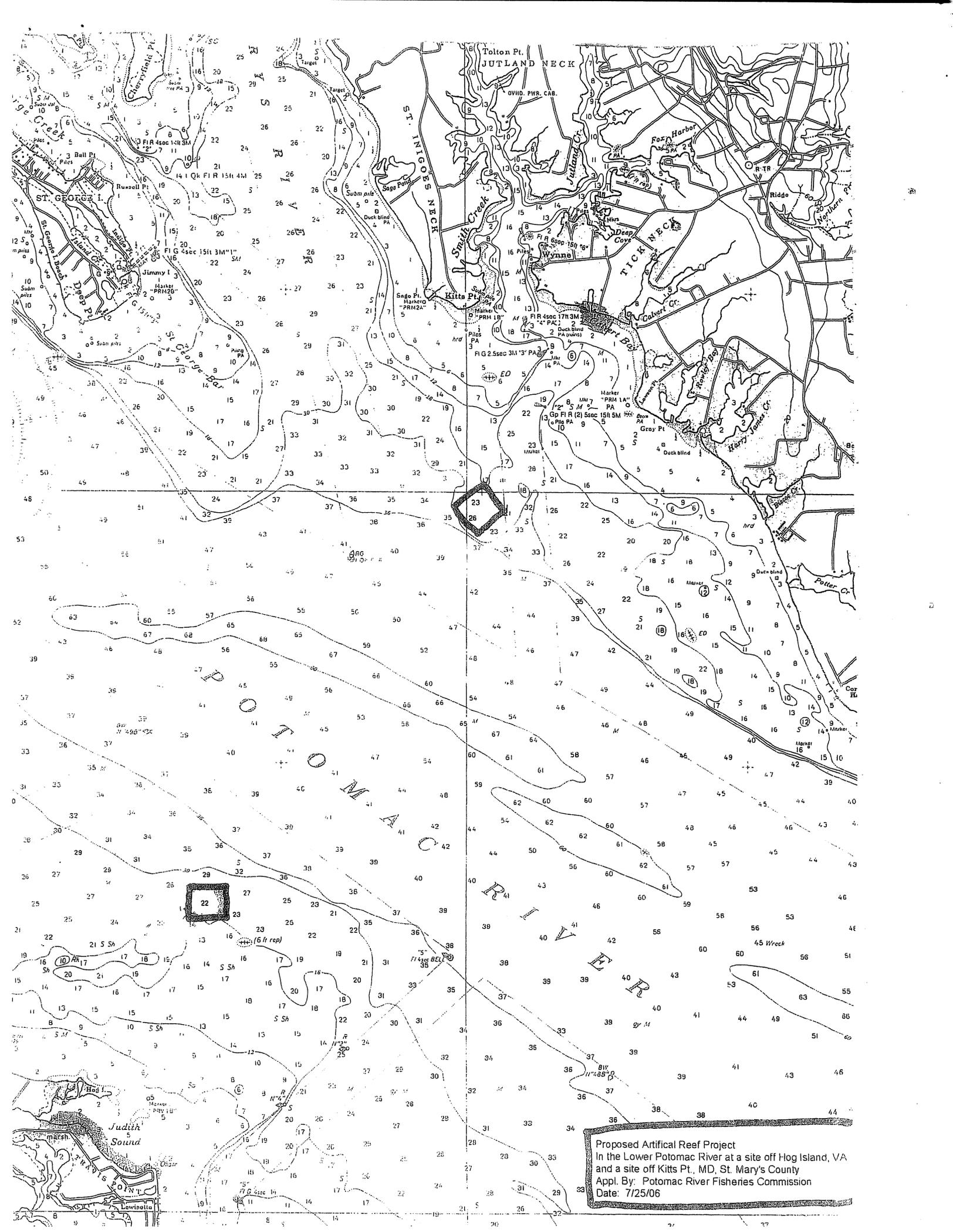
Review of the latest published version of the National Register of Historic Places indicates that no registered properties listed as eligible for inclusion, therein, are located at the site of the proposed work. Currently unknown archeological, scientific, prehistoric, or historical data may be lost 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.

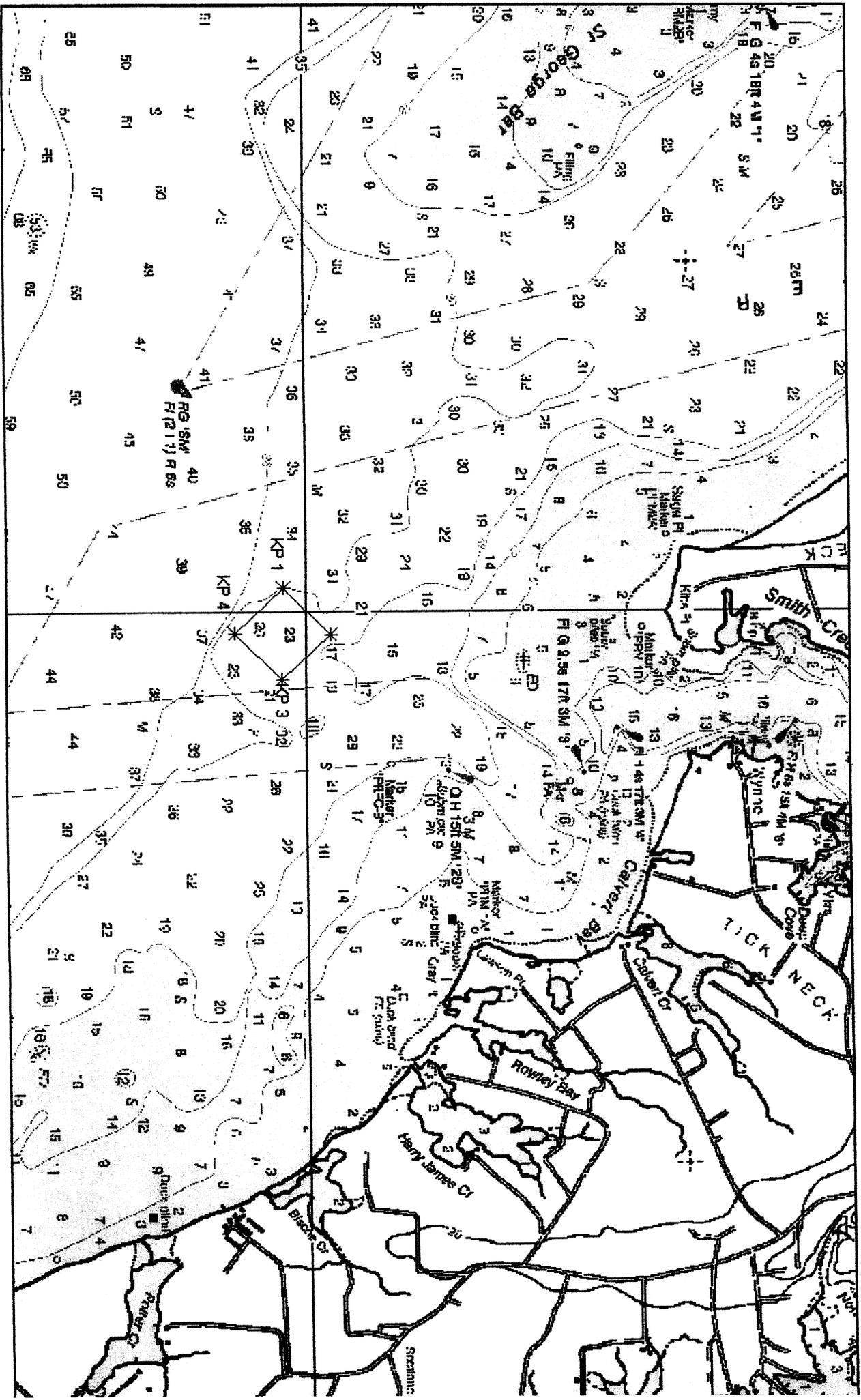
It is requested that you communicate this information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.

FOR THE DISTRICT ENGINEER:

KATHY B. ANDERSON  
Chief, Maryland Section Southern



Proposed Artificial Reef Project  
In the Lower Potomac River at a site off Hog Island, VA  
and a site off Kitts Pt., MD, St. Mary's County  
Appl. By: Potomac River Fisheries Commission  
Date: 7/25/06

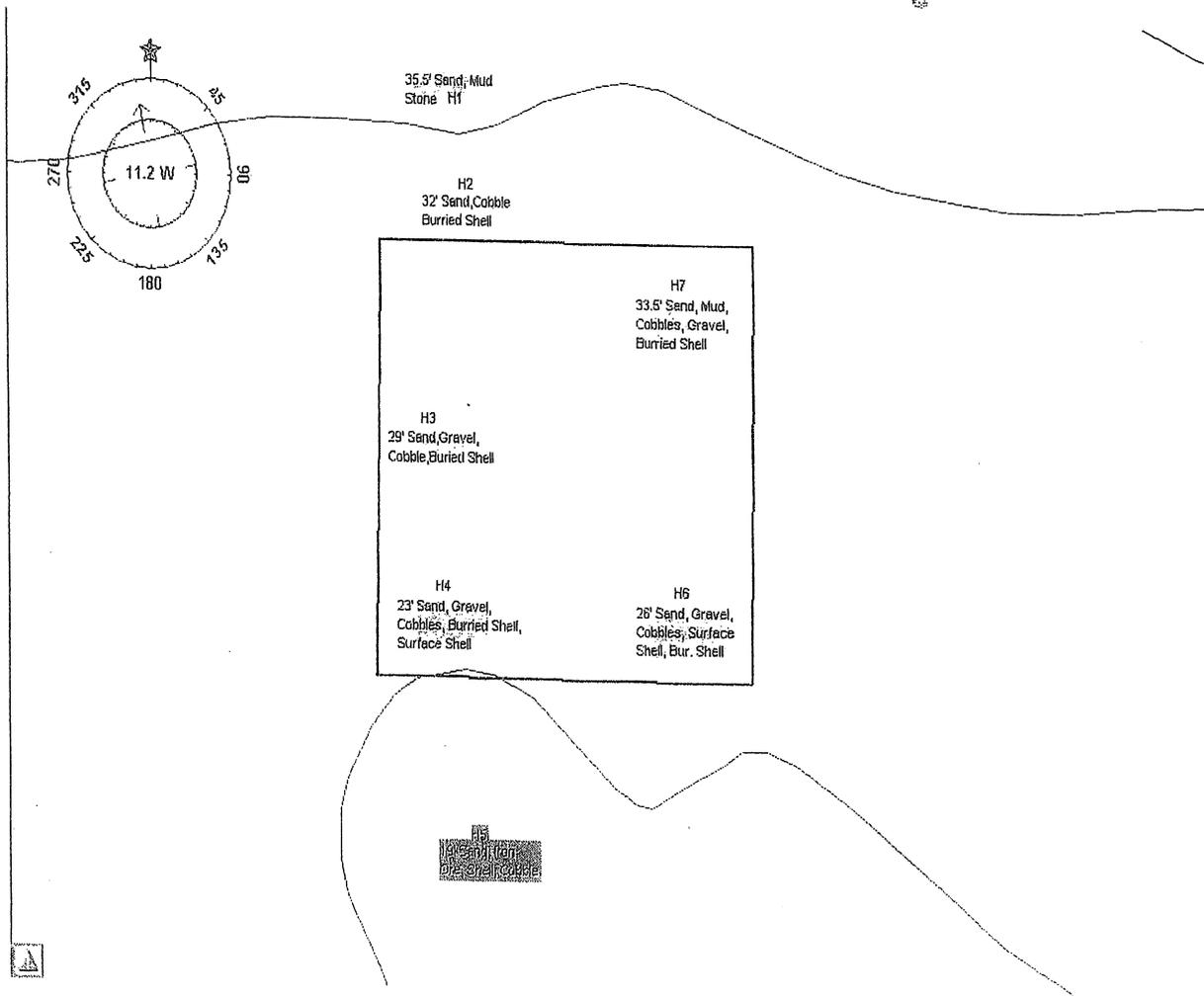


POTOMAC RIVER - KITTS POINT REEF SITE



**Potomac River – Hog Island**  
Acoustic/Patent Tong Survey

DNR 12/18/02



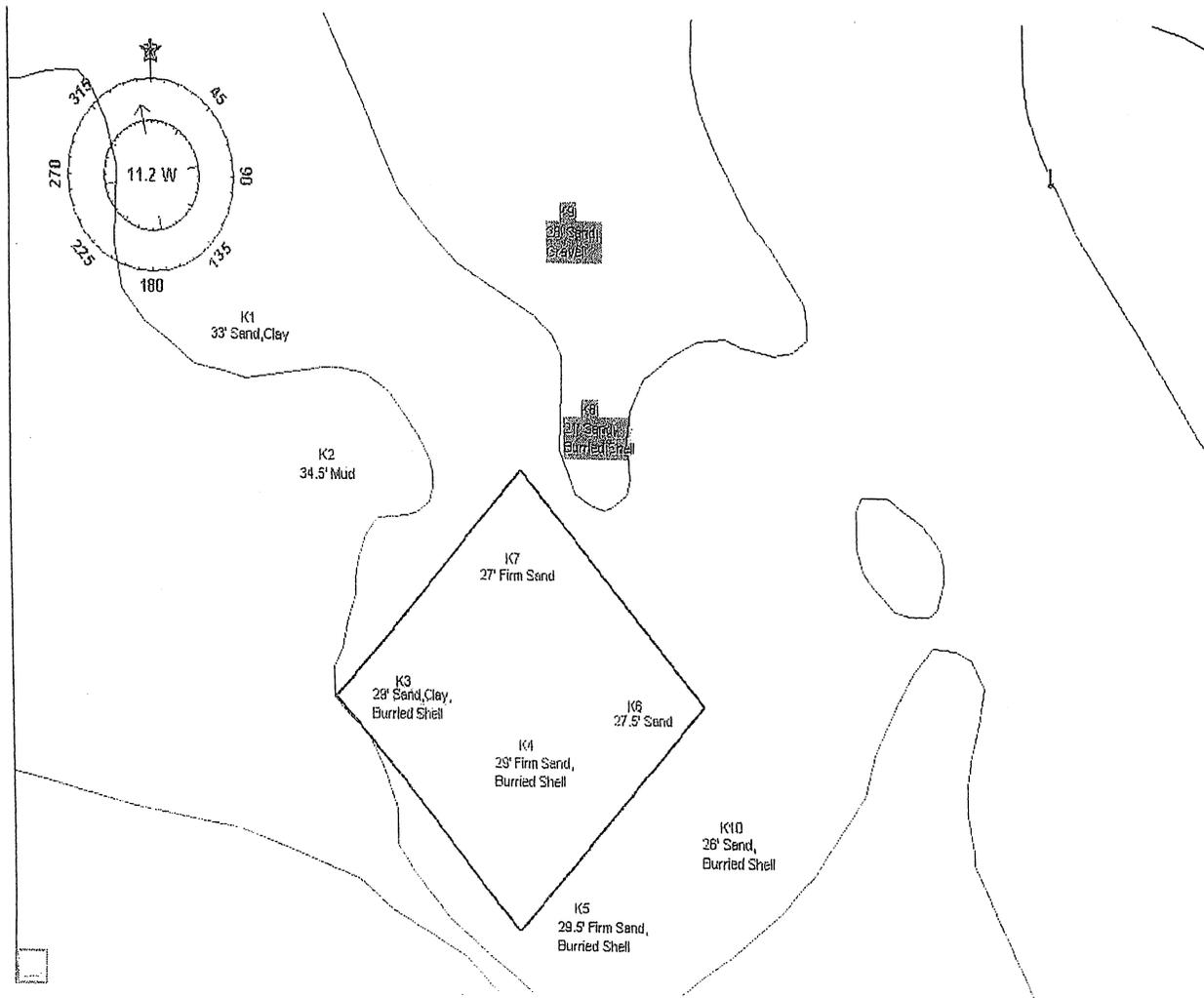
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Proposed Artificial Reef  
IN: Lower Potomac River  
AT: Site off Hog Island or Kitts Point  
St. Mary's County  
Appl. By: Potomac River Fisheries  
Commission  
Date: 6/29/06

| <u>Hog Island</u>                       |             |             |             |
|---|-------------|-------------|-------------|
| <u>Coordinates for 50 Acre Boundary</u> |             |             |             |
| 38 02.276 N                             | 38 02.274 N | 38 02.030 N | 38 02.033 N |
| 76 27.503 W                             | 76 27.194 W | 76 27.199 W | 76 27.508 W |

**Potomac River – Kitts Point**  
Acoustic/Patent Tong Survey

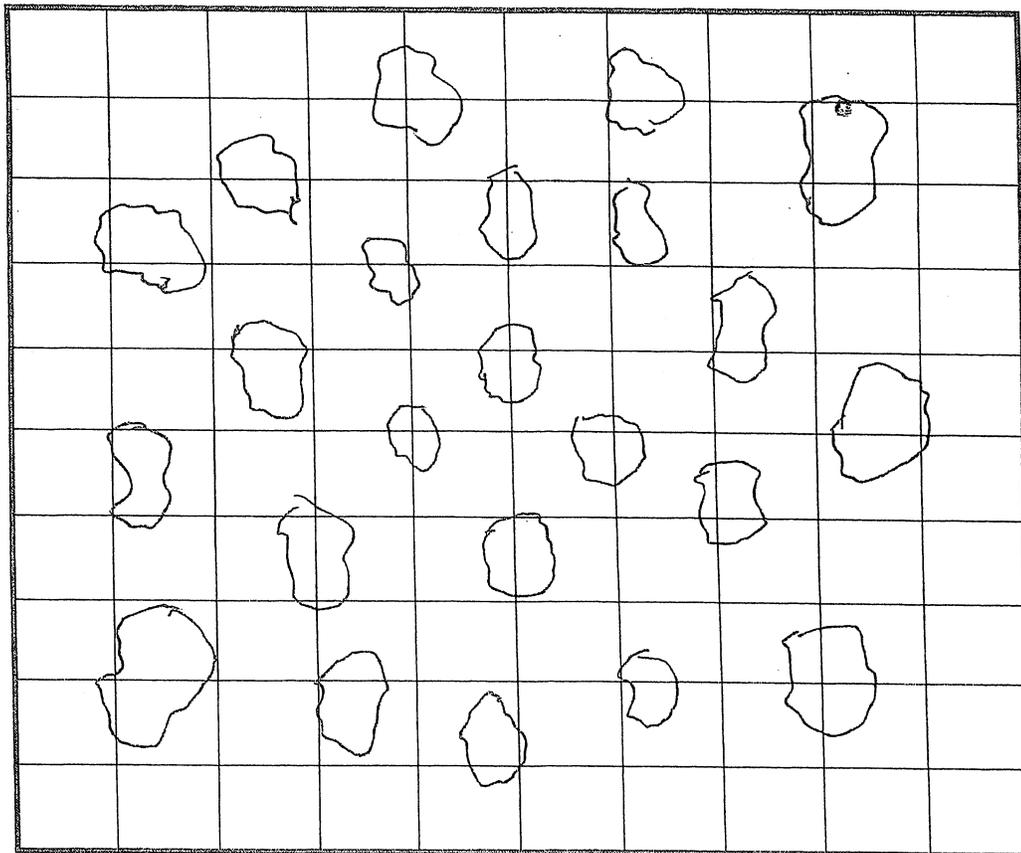
DNR 12/18/02



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Proposed Artificial Reef  
IN: Lower Potomac River  
AT: Site off Hog Island or Kitts Point  
St. Mary's County  
Appl. By: Potomac River Fisheries  
Commission  
Date: 6/29/06

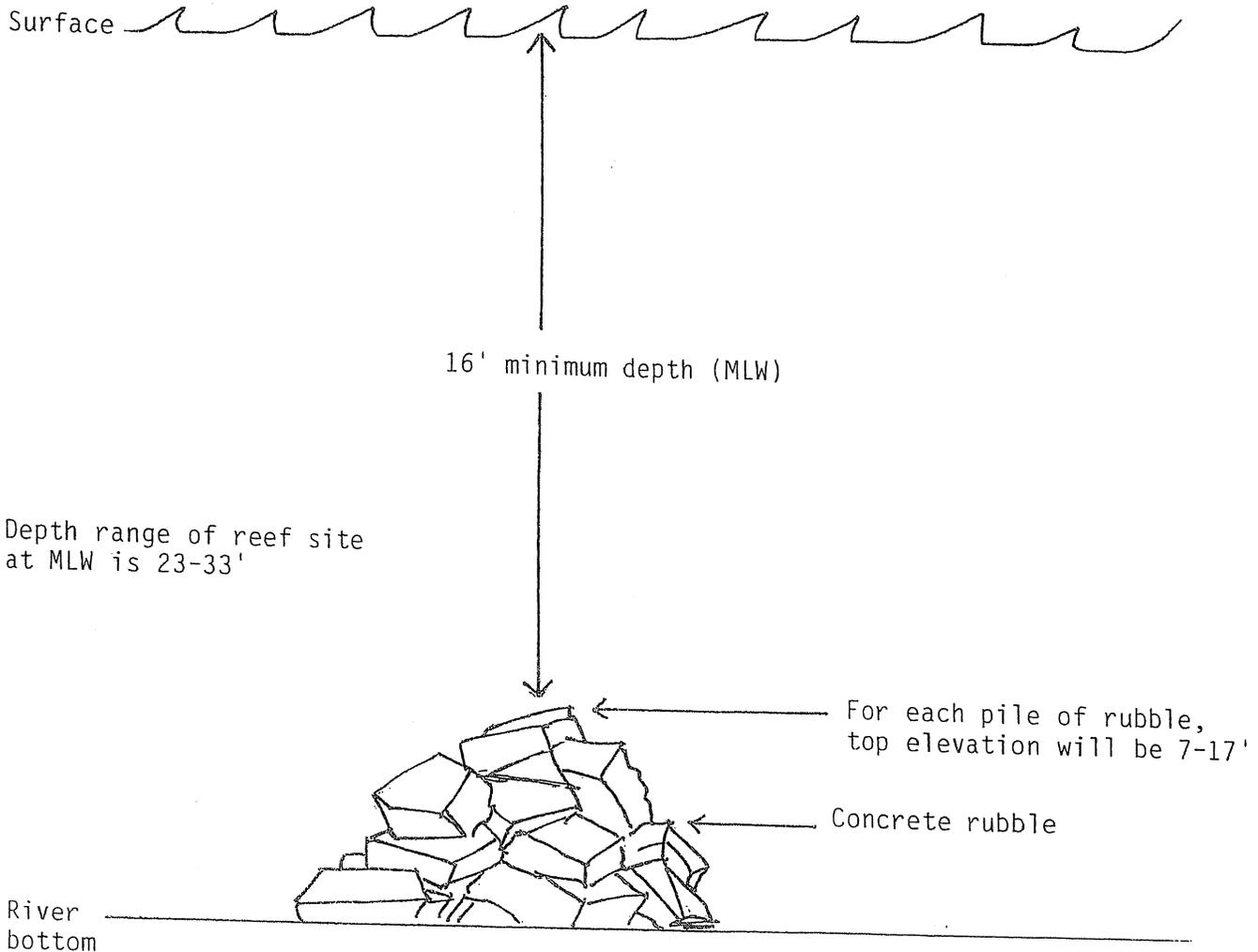
| <u>Kitts Point</u>                      |             |             |             |
|---|-------------|-------------|-------------|
| <u>Coordinates for 50 Acre Boundary</u> |             |             |             |
| 38 04.908 N                             | 38 05.084 N | 38 04.903 N | 38 04.730 N |
| 76 25.113 W                             | 76 24.898 W | 76 24.689 W | 76 24.903 W |



\*Not drawn to scale

A top view plan showing where piles of material could be dumped on the proposed artificial reef sites from 220' x 60' barges. Piles of rubble would be deployed, starting at the center of the reef site. Piles would range from 10,000 to 25,000 square feet in area coverage.

Proposed Artificial Reef Project  
In the Lower Potomac River  
At a site off Hog Island, VA and a  
site off Kitts Point, MD  
St. Mary's County  
Appl. By: Potomac River Fisheries  
Commission  
Date: 7/25/06



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IN: Lower Potomac River  
AT: Site off Hog Island or  
off Kitts Point  
St. Mary's County  
Appl. by: Potomac River Fisheries  
Commission  
DATE: 6/29/06