AGENDA

MARINE RESOURCES COMMISSION

JUNE 24, 2025

****** APPROVAL OF AGENDA.

1. MINUTES of previous meeting.

2. PERMITS (Projects over $500,000.00 with no objections and with staff recommendation for approval).

3. CONSENT AGENDA ITEMS.

4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL.

5. PETITION
Petition to protect Diamondback Terrapins from mortality in blue crab pots by requiring bycatch reduction devices in near-shore waters.

6. DISCUSSION
CVOW-C Fisheries Compensatory Mitigation Program update.

7. BRETT NOONE, #25-0817
requests authorization to construct an 11-foot by 11-foot open-sided gazebo on a statutorily authorized private pier along Mill Creek at 477 Rains Lane in Mathews County. This project is protested by an adjacent property owner.

8. RONALD COLLINS, #25-0732
requests authorization to construct a 14-foot by 18-foot open-sided gazebo on a statutorily authorized private pier along Winder Creek at 135 Starlight Lane in Mathews County. This project is protested by an adjacent property owner.

9. HARRELL FAMILY LIVING TRUST, #25-0019
requests authorization to construct an 18-foot by 16-foot gazebo and a 37-foot by 15-foot open-sided boathouse onto a statutorily authorized private pier, situated along the York River at 5232 Ivey Lane in James City County. The project is protested by two adjacent property owners.

10. COCKRELL FARMS LLC, 25-0358
requests authorization to construct and backfill a 387-foot vinyl replacement bulkhead, mechanically dredge 280 cubic yards of state-owned submerged lands with adjacent upland disposal and construct a 3,420 square-foot concrete commercial wharf, adjacent to the applicant's commercial marina situated

along the Little Wicomico River at 309 Railway Drive in Northumberland County. The project is protested by two adjacent property owners.

11. PUBLIC COMMENTS

12. SHELLFISH

Mark Johnson, Oyster Planting Ground application #2021-016, requests authorization to lease approximately 250 acres of oyster planting ground in the Chesapeake Bay in the City of Norfolk.

13. PUBLIC HEARING

Proposal to amend Chapter 4 VAC 20-270-10 et seq., "Pertaining to Blue Crab Fishery", to establish management measures, including season and bushel limits, for the 2025-2026 commercial blue crab fisheries and to close the 2025-2026 winter commercial crab dredge fishing season.

AGENDA

PAGE 2 ITEMS

A. PAYNES ISLAND, LLC, #25-0803

requests authorization to remove the existing bridge and to construct a 20-foot wide open-pile timber replacement bridge across a 76-foot section of Bridge Creek, and to install and backfill 80 linear feet of bulkhead immediately channelward of the existing bridge abutments, serving for ingress and egress of private and farm vehicles adjacent to Paynes Island Road in Essex County. Staff recommends approval with a royalty of $150.00 for 50 square feet of subaqueous fill loss at $3.00/sf and a time of year restriction from February 15 to June 30 for anadromous fish. The project requires a VMRC Wetlands and Subaqueous permit.

B. TODD THOMPSON, #25-0339

requests authorization to construct a 50-foot long vinyl bulkhead, with two (2) 10-foot long returns, along the Rappahannock River shoreline at 153 Green Field Road in Essex County. The project requires a VMRC Wetlands Permit.

C. SAMUEL MCGOWAN, #25-0666

requests authorization to construct a 79-foot rock sill including returns, with clean sand fill and plantings of native wetland vegetation along the Mattaponi River shoreline at 756 Ryefield Road in King and Queen County. The project requires a VMRC Wetlands and Subaqueous Permit.

D. TED SWEARINGTON, JR., #25-0404

requests authorization to install and backfill a replacement 178 linear foot timber bulkhead a maximum of two (2) feet channelward of the existing structure serving 3314 Rokeby Avenue along the Eastern Branch of the Elizabeth River in Chesapeake. Wetlands credits will be purchased from an approved tidal wetlands mitigation bank to compensate for vegetated wetlands filled. This project requires a VMRC Wetlands and Subaqueous permit.

E. BRYAN'S COVE DEVELOPMENT LLC, #25-0740

requests authorization to regrade and replant an existing living shoreline to create 7,317 square feet of vegetated wetlands, close an existing riprap sill window, and install two riprap sill saddles within windows at 1860 Barkadeer Cove along Deep Creek in Chesapeake. This project requires a VMRC Wetlands permit.

MINUTES

COMMISSION MEETING **May 27, 2025**

The meeting of the Marine Resources Commission was held at the Marine Resources Commission main office at 380 Fenwick Road, Bldg. 96, Fort Monroe, Virginia with the following present:

Jamie L. Green	Commissioner
Lynn Kellum A.J. Erskine William Bransom Jeremy Headley Jeanette Edwards Thomas Preston Preston White	Associate Members
Kelci Block	Assistant Attorney General
Randy Owen	Chief, Habitat Management
Adam Kenyon	Chief, Shellfish Management
Pat Geer	Chief, Fisheries Management

Virginia Institute of Marine Science (VIMS):

Lyle Varnell	Emily Hein	Mark Luckenbach
Alex Sabo		

Others present:

John Bryant	Tim Jones	Heather Kennedy
Phillip Gibson	Valene Malzare	Lauren Chartland
Leslie Clenke	JoAnn Clenke	Juliana Cerny
Eldon Sully	George Mapp	Rich Calvert
Dustin Pringle	Jordan Krevonick	Rebecca Frances
David O'Brien	Kim Husky	Hazel Von Hollen
Amelia Clements	and others.	

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APPROVAL OF AGENDA. – Commissioner Jamie Green asked if there were any changes from the Board members or staff.

Associate Member Erskine moved to approve the agenda as presented. Associate Member Bransom seconded the motion. The motion carried, 7-0.

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MINUTES: Commissioner Green asked if there were any changes or corrections to be made to the April 22, 2025, Commission Meeting minutes.

Associate Member Erskine moved to approve the minutes as presented. Associate Member Headley seconded the motion. The motion carried, 7-0.

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Commissioner Green swore in the VMRC staff and VIMS staff that would be speaking or presenting testimony during the meeting.

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Commissioner Green recognized Beth Howell and Stephanie Iverson-Cason on their retirement. Their comments are a part of the verbatim record.

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2. PERMITS (Projects over $500,000.00 with no objections and with staff recommendation for approval).

Randy Owen, Chief, Habitat Management, reviewed the Page 2 items 2A through 2F for the Associate Members. Mr. Owen's comments are a part of the verbatim record.

2A. PERDUE AGRIBUSINESS LLC, #25-0254 requests authorization to mechanically dredge 14,000 cubic yards of state-owned submerged lands to a maximum depth of -38 feet mean low water adjacent to the existing unloading dock, and -42 mean low water adjacent to the existing loading dock at the Perdue

Agribusiness facility located along the confluence of the Southern Branch Elizabeth River and Jones Creek in the City of Chesapeake. Dredged material will be barged and offloaded at either Craney Island Dredged Material Management Area, Shirley Plantation in Charles City, or Precon Marine facility in the City of Chesapeake. Staff recommends approval with our standard dredge conditions. This project requires a VMRC Subaqueous permit.

2B. CITY OF VIRGINIA BEACH, #25-0277 requests authorization to maintenance dredge approximately 500,000 cubic yards (per cycle) of state-owned submerged bottom within the Rudee Inlet federal navigational channel, sand trap, and outer deposition basin, to a maximum depth of -22 feet mean lower low water, situated along the Atlantic Ocean in Virginia Beach. Dredging will occur either by hydraulic or hopper-dredge methods on an as-necessary basis, with sidecast dredging utilized as an emergency measure. Dredged sand will be hydraulically pumped to the resort beach area, released/placed in the near-shore beach area north of Rudee Inlet, or placed on Croatan Beach south of Rudee Inlet. Staff recommends approval with our standard dredge conditions and the previous sidecast dredging special conditions. This project requires a Subaqueous permit.

2C. ELIAS SCOTT, #24-2196 requests authorization to construct a 40-foot low profile groin extending channelward of an existing bulkhead along the Rappahannock River shoreline at 113 Wildwood Place in Essex County. The project requires a VMRC Wetlands and a VGP-2 Groin General Permit.

2D. VIRGINIA PORT AUTHORITY and ROCKET LAB USA, #25-0521 request authorization to dredge approximately 59,042 cubic yards of state-owned submerged lands to achieve a maximum depth of minus seven (-7) feet mean low water, on an as-needed basis, within Sloop Gut Channel adjacent to Wallops Island in Accomack County. Dredged material will be barged to Shirley Plantation and offloaded for upland disposal. Staff recommends approval with our standard dredge conditions and the use of a turbidity curtain and environmental dredge bucket to minimize impacts on adjacent leased shellfish beds. This project requires a Subaqueous permit.

2E. NAVAL STATION NORFOLK #2023-1875 requests authorization to construct a 200-foot-long by 16-inch-wide concrete sheet pile breakwater structure spanning the northside of an exempt concrete open-pile pier adjacent to Building V-47 serving Norfolk Naval Station situated along Willoughby Bay in the City of Norfolk. The project requires a Subaqueous permit.

2F. VIRGINIA ELECTRIC & POWER D/B/A DOMINION ENERGY, #25-0278 requests authorization to install a monopile support structure that will result in 20 square feet of tidal vegetated wetland impacts situated along Proctors Creek in Chesterfield County, serving Dominion Chesterfield Power Station. The applicant has purchased tidal wetlands credits from the Virginia Aquatic Resources Trust Fund. This project requires a VMRC Wetlands permit.

No one spoke in support or opposition of the projects.

The matter was before the Commission for discussion and action.

Associate Member Bransom moved to approve Page 2 items 2A through 2F as presented. Associate Member Edwards seconded the motion. The motion carried, 7-0.

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3. CONSENT AGENDA ITEMS: There were no Consent Agenda Items presented.

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4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL. – No meeting needed

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5. PHILLIP GIBSON, #24-1759 requests authorization to construct a 17-foot by 48-foot open-sided boathouse adjacent to an existing private pier serving 119 Dandy Haven Lane, situated along Back Creek in York County. This project is protested by the adjacent property owner.

Randy Owen, Chief, Habitat Management, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. for the Associate Members. Mr. Owen's comments are a part of the verbatim record.

Phillip Gibson, applicant, was sworn in and spoke. His comments are a part of the verbatim record.

Annette Gibson, applicant's wife, was sworn in and spoke. Her comments are a part of the verbatim record.

John Bryant was sworn in and spoke in support of the application. His comments are a part of the verbatim record.

Carl Eason, representing Mr. Regan spoke in opposition to the application. His comments are a part of the verbatim record.

Dewy Regan, protestant, spoke in opposition of the application. His comments are a part of the verbatim record.

Associate Member Preston moved to approve the project as presented. Associate Member Edwards seconded the motion. The motion carried, 6-0. Associate Member White abstained.

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6. **WYATT LANDING DEVELOPMENT LLC, #24-2634** Commission review, on appeal by the applicant of the April 2, 2025, decision of the Portsmouth Wetlands Board to deny their request to construct two (2) stormwater outfalls with an associated riprap aprons in tidal wetlands serving the proposed residential subdivision adjacent to 3552 Cardinal Lane along Lily Creek in Portsmouth.

Randy Owen, Chief, Habitat Management, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides. for the Associate Members. Mr. Owen's comments are a part of the verbatim record.

Dustin Pringle, Natural Resource Manager with Bay Environmental was sworn in and spoke. His comments are a part of the verbatim record.

Leslie Clark was sworn in and spoke. His comments are a part of the verbatim record.

Dr. Janice Bray was sworn in and spoke. Her comments are a part of the verbatim record.

Tim Jones was sworn in and spoke. His comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member Erskine moved to accept staff recommendation to remand the case back the City of Portsmouth Local Wetlands Board for further consideration. Associate Member Kellum seconded the motion. The motion carried, 7-0.

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7. PUBLIC COMMENT:

James M. Glasco requested his oyster resource user fee be reinstated after not purchasing it since 2017.

Associate Member Headley moved to reinstate his Oyster Resource User Fee so long as he pays the back fees for the years he did not renew. Associate Member Bransom seconded the motion. The motion carried, 6-0-1. Associate Member Kellum abstained.

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8. PUBLIC HEARING Proposal to amend Chapter 4 VAC 20-950-10 et seq., "Pertaining to Black Sea Bass," to establish the 2025 recreational management measures for this species.

Pat Geer, Chief, Fisheries Management, gave the briefing of the information provided in the staff's evaluation, with PowerPoint slides for the Associate Members. Mr. Geer's comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member Bransom moved to approve to approve staff recommendation to establish the 2025 recreational management measures for this species. The 2025

recreational black sea bass section will be May 15 through July 15 and August 5 through December 31. Associate Member Headley seconded the motion. The motion carried, 7-0.

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There being no further business, the meeting was adjourned. The next Commission meeting will be held on **Tuesday**, June 24, 2025.

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Jamie L. Green, Commissioner

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Jamie Hogge, Recording Secretary

COMMONWEALTH of VIRGINIA

Marine Resources Commission
380 Fenwick Road
Building 96
Fort Monroe, VA 23651

Stefanie K. Taillon
Secretary of Natural
and Historic Resources

Jamie L. Green
Commissioner

June 13, 2025

TO: VMRC Commissioners

FROM: Patrick Geer, Chief of Fisheries Management Division

SUBJ: Petition for Rulemaking #427 Petition to protect Diamondback Terrapins from mortality in blue crab pots by requiring bycatch reduction devices in near-shore waters

Given the length and detail of this petition for rulemaking, staff wanted to give the commissioners some extra time to review the materials ahead of your normal monthly packets. Attached are documents and information relevant to the petition that may help with your deliberations at the July 24, 2025, VMRC Commission meeting. These materials will also be included in your complete packet for the meeting you will receive on June 20th.

1) Petition #427*: Petition to protect Diamondback Terrapins from mortality in blue crab pots by requiring bycatch reduction devices in near-shore waters*. Submitted by the Center for Biological Diversity, Virginia Herpetological Society, Wild Virginia, and Dr. Willem M. Roosenburg. Submitted February 12, 2025.

2) Letter from Dr. Mark Luckenbach (VIMS) (dated 5/6/25) regarding petition #427.

3) A link to the individual comments received on Virginia's Regulatory Town Hall during the public comment period of March 10 through March 31, 2025. https://townhall.virginia.gov/L/comments.cfm?petitionid=427

    a. There were 35 comments in support of the petition, 19 of those comments representing 18,541 signatories
    b. There were 424 comments in opposition of the petition, 20 of those comments representing 20,288 signatories.

May 6, 2025

Pat Geer
Chief, Fisheries Management
Virginia Marine Resources Commission
380 Fenwick Rd. Bldg. 96
Fort Monroe, VA 23651

Dear Mr. Geer,

In response to your request for comments on the February 12, 2025, Petition for Rulemaking by the Center for Biological Diversity, the Virginia Herpetological Society, and Wild Virginia we provide brief comments on each of the specific regulatory changes raised in the petition. Personnel from the Office of Research & Advisory Services, Dr. Randy Chambers (wetlands ecologist with expertise on diamondback terrapin conservation from William & Mary's Biology Department,), Dr. Rom Lipcius (marine ecologist with expertise on blue crab fisheries and conservation from VIMS, Natural Resources section,), Drs. Donna Bilkovic and Robert Isdell (marine ecologists with expertise in marine debris and spatial ecology, respectively, from VIMS, Ecosystem Health section) and Dr. Andrew Scheld (resource economist from VIMS, Natural Resources section) contributed to this review.

We commend the petitioners for their thorough review of the issue and their well-constructed petition. The studies they cite have clearly demonstrated that the diamondback terrapin populations in Virginia waters are well below historical levels and that additional efforts are required to conserve this species. Further, it is well established by research that both actively fished and derelict pots cause terrapin mortality, predominately in shallow waters bounded by marshes. Bycatch Reduction Devices (BRDs) have been shown to reduce terrapin mortality in crab pots, especially among males and juveniles. Further, the existing data clearly show that the presence of BRDs have little or no effect on crab capture rates, except for one study that showed higher capture rates in pots with BRDs than those without[1].

The specific regulatory changes to Virginia Code [§28.2-226; 4VAC20-670-20; 4VAC20-270-25] recommended in the petition are listed below along with our comments.

1. **Definition**: "*Bycatch reduction device" or "BRD" means a rigid rectangular device constructed of wire or plastic that has an opening no larger than 4.5 cm by 12 cm, which is attached to the end of each entrance funnel of a crab trap to minimize bycatch of diamondback terrapins. This definition also includes any device or gear modification that results in a ≥70% reduction in terrapin captures compared with unmodified traps, as demonstrated by at least one peer-reviewed study.*

We concur with this definition but note the inconsistency in this section which specifies BRD a *rectangular* structure and in item #2 below where it is described as an oval design. This type of BRD installed in crab pots has been shown by several scientific studies to reduce mortality of diamondback terrapins, specifically males and juveniles, compared to pots without similar BDRs. Furthermore,

[1] Lipcius, R. and D. McCulloch (2023) Blue crab disaster relief project Final Report. Submitted to VMRC. 33 pp.

several studies have shown that the use of these BRDs does not reduce the blue crab catch in these pots and one study has shown an increase in blue crab catch.

2. *Beginning [three years from date of amendment], all traps, whether commercial or recreational, in state waters less than 150 yards from shore (at mean low water mark) and manmade lagoons, creeks, coves, rivers, tributaries, shallow bays, inlets, and near-shore harbors must have a 4.5x12cm (1.75-in) oval design bycatch reduction device (BRD) meeting the specifications defined attached to each entrance or funne*l.

The proposed requirement for installing a BRDs in all crab pots within 150 yards of the shoreline and other shallow-water habitats is intended to provide this protection in habitats where diamondback terrapins are commonly found. It is clear from available studies that terrapins utilize nearshore, shallow-water habitats, especially those with adjacent marshes, and such a requirement would reduce terrapin mortality in crab pots. We strongly recommend that the Commission approve this petition and initiate the rulemaking process.

We are not clear whether the designation of *rivers, tributaries,* and *inlets* in the petition as areas where BRDs would be required is a significant expansion beyond shallow-water habitats or a lack of clarity in the sentence. If rulemaking proceeds, we recommend some discussion around refining the definition of terrapin habitat more thoroughly (e.g., seagrass bed, bathymetry, and proximity to specific upland habitats[2]). An alternative to the requirement for BRDs in all pots, both recreational and commercial, would be to require them only in recreational pots that are almost always deployed in nearshore, shallow-water habitats. Focusing on the recreational fishery could provide the most "bang for the buck" in protection of diamondback terrapins. If the rulemaking request is approved, we recommend that this alternative be considered. Additionally, we would recommend that any educational material distributed related to a modified regulation explicitly discuss alternatives to plastic BRDs.

Please feel free to contact me (luck@vims.edu) or Lyle Varnell (varnell@vims.edu) if you need any additional information.

Sincerely,

Mark W. Luckenbach

Mark W. Luckenbach
Associate Dean of Research & Advisory Service
Professor of Marine Science

[2] Isdell, R. E., R. M. Chambers, D. M. Bilkovic and M. Leu (2015) Effects of terrestrial–aquatic connectivity on an estuarine turtle. Diversity Distr. 21. 643-653.

BEFORE THE VIRGINIA MARINE RESOURCES COMMISSION

PETITION TO PROTECT DIAMONDBACK TERRAPINS (*MALACLEMYS TERRAPIN*) FROM MORTALITY IN BLUE CRAB POTS BY REQUIRING BYCATCH REDUCTION DEVICES IN NEAR-SHORE WATERS

Credit: Diane Tulipani, Virginia Institute of Marine Science

CENTER FOR BIOLOGICAL DIVERSITY

VIRGINIA HERPETOLOGICAL SOCIETY

WILD VIRGINIA

Dr. Willem M. Roosenburg

February 12, 2025

Notice of Petition

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Submitted this February 12, 2025

Pursuant to Section 2.2-4000 et seq., Virginia statutes/Administrative Process Act, the Center for Biological Diversity, Virginia Herpetological Society, Wild Virginia, Dr. Willem M. Roosenburg hereby petition the Virginia Marine Resources Commission to formally adopt a rule requiring bycatch reduction devices in all licensed blue crab pots deployed in near-shore waters to protect the diamondback terrapin. Crab pots indiscriminately drown diamondback terrapins, contributing to terrapin declines and intensifying negative effects from additional pressures, such as habitat loss, poaching, road mortality, and sea level rise, which already threaten populations range-wide.

The Center for Biological Diversity (Center) authored this petition. The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center is supported by more than 1.7 million members and online activists throughout the United States, including almost 30,000 members and supporters in Virginia. The Center and its members are deeply concerned about the conservation of imperiled wildlife—including diamondback terrapins—and their essential habitats.

Additional petitioners and supporters include:

Virginia Herpetological Society (VHS): Organized in 1958, the Virginia Herpetological Society brings together people interested in advancing their knowledge of Virginia's reptiles and amphibians. The VHS encourages scientific study of Virginia herpetofauna and its conservation. Education continues to be an important society function.

Wild Virginia holds the state's government and regulators accountable for improving habitat connectivity and protecting water quality to counter climate change, prevent species extinction, and defend the health of our communities and ecosystems. Through advocating for environmental protections, convening stakeholder groups to amplify impact, and empowering

diverse communities to become active in the decision-making process, we connect people with a safer, more inclusive outdoors.

Dr. Willem M. Roosenburg is Professor & Vice Chair of Biological Sciences at the Ohio Center for Ecology and Evolutionary Studies at Ohio University. In his research, he investigates the evolution of life history traits (e.g. survivorship, reproductive rates, age of first reproduction etc.) and the conservation biology (extinction and loss of biodiversity due to anthropomorphic causes) of long-lived organisms. He combines demographic and experimental techniques to observe variation within populations and to predict the outcome of environmental perturbations on survivorship and reproductive rates.

I. EXECUTIVE SUMMARY

The diamondback terrapin (Malaclemys terrapin) is the only turtle species in the world that lives exclusively in brackish coastal habitats (Wood 1995). It occurs in the United States along the coasts of the Atlantic Ocean and Gulf of Mexico, and in Bermuda. The species is currently in decline (Roosenburg et al., 2019).

Wild turtle populations are characterized by a suite of life history characteristics that predispose them to rapid declines when subjected to unnatural levels of adult mortality (Colteaux and Johnson, 2017 at 17; Heppell, 1998; Galbraith et al., 1997; Congdon et al., 1993, 1994). Among these characteristics are delayed maturity, low fecundity, high annual survivorship of adults, and high natural levels of nest mortality (Reed and Gibbons, 2003). Similarly, terrapins' life history traits prevent them from withstanding chronic sub-adult and adult mortality (Hoyle and Gibbons, 2000 at 736). Removing even a few diamondback terrapins from a population can have detrimental effects on the population as a whole (Hoyle and Gibbons, 2000). For this reason, experts rank crab pot mortality as the greatest threat to the diamondback terrapin (Butler et. al., 2006 at 332) and have emphasized that modifying pots to reduce terrapin mortality is of utmost importance (Baker et al., 2013 at 676).

A fleet of active blue crab pots is capable of steadily removing individual terrapins from a population until it can no longer sustain itself (Roosenburg et al., 1997; Butler and Heinrich, 2007), while just one or two inactive or "ghost" pots are capable of killing large numbers of individuals in a population over a single crabbing season (<1 year) (Grosse et al., 2009). Because the terrapin's life history traits prevent it from absorbing chronic increases in adult mortality, crab pots can rapidly cause reduction in population size (Roosenburg, 1991 at 231–232; Hoyle and Gibbons 2000 at 736). Roosenburg et al. (1997) estimated that mortality rates caused by the recreational use of crab pots in Maryland alone could increase annual terrapin mortality rates between 15-78%, which can cause decline and rapid extirpation of local populations. Similarly, Hart (1999) modeled the impacts of terrapin bycatch and mortality in crab pots in Massachusetts, finding that even a low harvest rate (15%) could reduce a population by 49% after 15 years. Moderate (30%) and intense (75%) harvest rates produced 77% and 92% population reductions, respectively, over the same time period (Hart 1999 at 46).

Bycatch reduction devices (also known as BRDs or terrapin excluder devices) can prevent most terrapins from drowning in crab pots, while having little to no effect on the number or size of crabs captured (reviewed in Chambers and Maerz 2018; Roosenburg 2004; Butler and Heinrich 2007). Recognizing the significant threat crab pot mortality poses to terrapins, several states require blue crab pots to have BRDs, and even more states are now considering similar measures. However, the Virginia Marine Resources Commission has failed to adopt or even consider similar conservation action, despite clear evidence that crab pot mortality is a threat (Butler and Heinrich 2007; Chambers and Maerz 2018).

Virginia law provides the Virginia Marine Resources Commission with jurisdiction over commercial fishing and all marine shellfish, marine organisms and habitat that extends to the fall line of all tidal rivers and streams of the Commonwealth. The Commission also exercises proprietary responsibility for the Commonwealth's submerged lands statewide. It has the power to promulgate regulations and guidelines necessary to carry out the provisions of Title 28.2: Fisheries and Habitat of the Tidal Waters. Law-Enforcement of the Commission is the Virginia Marine Police. 4VAC20.

To that end, the Virginia Marine Resources Commission has implemented many regulations in the interest of conserving and protecting imperiled wildlife, such as reviewing and updating guidelines for wetland protection and promoting living shoreline approaches for shoreline stabilization, which serve as critical habitats for many species of wildlife, fish, and aquatic organisms in Virginia. The Commission also promulgates regulations surrounding the seafood industry, including Chesapeake Bay blue crab fisheries, and monitors endangered and threatened species in Virginia waterways as part of the Protected Species Observer Program.

Virginia's Administrative Procedure Act provides that any person may petition an agency to request the agency to develop a new regulation or amend an existing regulation. Va. Stat. § 2.2-4007. The petition shall state (i) the substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections, and (ii) reference to the legal authority of the agency to take the action requested. Within 14 days of receiving a petition, the agency shall send a notice identifying the petitioner, the nature of the petitioner's request, and the agency's plan for disposition of the petition to the Registrar for publication in the Virginia Register of Regulations, in accordance with the provisions of subsection B of § 2.2-4031. Under this authority and for the reasons explained below, Petitioners respectfully request that the Virginia Marine Resources Commission grant this petition and initiate rulemaking proceedings to amend its current regulations to require BRDs on licensed commercial and recreational blue crab pots in waters less than 150 yards from shore (at mean low water mark/tide) and manmade lagoons, creeks, coves, rivers, tributaries, shallow bays, inlets, and near-shore harbors to protect diamondback terrapins. Petitioners acknowledge that Virginia State Code, §28.2-226 Exemptions from licensing requirements does exempt taking by dip net, hand line, or two crab pots, as much as one bushel of hard crabs and two dozen peeler crabs in any one day for personal use only. However, this does not preempt the Virginia Marine Resources Commission from requiring BRDs on licensed commercial and recreational crab pots.

II. BACKGROUND

a. The Diamondback Terrapin

Named for the concentric, diamond-shaped rings on their shells, diamondback terrapins are among the most beautiful and charismatic turtles in the United States. Though their colors may vary between light gray, dark gray, brown, and nearly black, diamondback terrapins are easily identifiable by their diamond-patterned shells and flecked or spotted heads and legs.

Diamondback terrapins are the only turtles that live exclusively in coastal brackish water ecosystems, where freshwater meets the sea. There are seven traditionally recognized subspecies of diamondback terrapin: the Carolina diamondback terrapin (*M. t. centrata*), eastern Florida diamondback terrapin (*M. t. tequesta*), mangrove diamondback terrapin (*M. t. rhizophorarum*), ornate diamondback terrapin (*M. t. macrospilota*), and Mississippi diamondback terrapin (*M. t. pileata*). Experts now recommend recognizing four discrete populations or management units: Northeast Atlantic, Coastal mid-Atlantic, Florida, and Texas/Louisiana (Hart et al. 2014; Lovich and Hart 2018). The Northern diamondback terrapin is North America's only species of brackish water turtle and the only subspecies that occurs in Virginia (VA DWR, 2024). They are found in the tidal portions of the Chesapeake Bay and its rivers, including brackish marshes, beaches, mud flats, and islands (Chesapeake Bay Program, 2024).

Diamondback terrapins are keystone species in the salt marshes they inhabit, which means they help maintain the ecological health of their associated ecosystems. Among the prey of diamondback terrapins are salt marsh snails (*Littorina spp.*) (Tucker et al., 1985), which in high numbers contribute to loss and erosion of salt marshes by grazing on the epiphytes that live on stems of grasses and thereby killing the grasses (Silliman and Bertness, 2002). Because terrapins feed on the snails, they likely reduce salt marsh erosion and loss. (See Brennessel, 2007). Terrapins also move substantial quantities of nutrients and calories from the water to land in the form of eggs, which are then eaten by a variety of terrestrial and avian predators (Seigel, 1980a; Clark, 1982; Cecala et al., 2008).

i. Life Cycle and Natural History

Diamondback terrapins spend most of their lives in nearshore habitat (Roosenburg et al. 1999). Their diets include snails, claims, mussels, small crabs, fish, and annelid worms (Tucker et al. 1985; Butler et al. 2012). Male terrapins mature around 2 to 7 years of age, while female terrapins become reproductively mature between 4 and 8 years of age (Seigel 1984; Lovich et al. 2018 at 65–66). In Florida, one study found female terrapins mature at 4 to 5 years, while male terrapins mature at 2 to 3 years (Seigel 1984; Lovich et al. 2018 at 66).

In the spring, terrapins form courtship and mating aggregations for several days to weeks; and beginning in late spring and continuing into the summer, female terrapins come to land to dig nests and lay their eggs (Butler et al., 2018). Wild female terrapins produce one or two clutches of eggs per year, though triple clutches have been reported in Florida (Lovich et al., 2018 at 66–

67; Heinrich, pers. comm., 2019). Clutch sizes range from 1 to 23 eggs, though clutch sizes tend to be smaller in Florida based on studies of the Florida east coast diamondback terrapin (6.7 eggs) and the Carolina diamondback terrapin (6.7 eggs) (Seigel 1980b; Butler 2000; Lovich et al. 2018 at 66–67).

ii. Status and Threats

The International Union for the Conservation of Nature (IUCN) Red List ranks the diamondback terrapin's global status as Vulnerable and describes its population trend as decreasing (Roosenburg et al. 2019). Of 54 researchers surveyed across the terrapin's range in 2006, 29.6% said the diamondback terrapin was declining in their state, 14.8% said populations were stable, and 55.6% said the status was unknown (Butler et al. 2006). No one considered populations to be increasing (Butler et al. 2006). The Northern diamond-backed terrapin is considered to be a Species of Greatest Conservation Need-Tier 2 on the Virginia Wildlife Action Plan (Virginia DWR, 2025).

Anthropogenic threats to terrapins remain, making the species' future survival tenuous in some locales (Butler and Roosenburg, 2018). Threats to the diamondback terrapin include habitat destruction and degradation (Butler et al., 2006; Hart and Lee, 2007 at 211); road mortality (Wood and Herlands, 1997; Butler et al. 2006; Szerlag and McRobert, 2006; Maerz et al., 2018); sea-level rise caused by global climate change (Hunter et al., 2015; Woodland et al., 2017); pollution (Butler et al., 2006; Blanvillain et al., 2007; Drabeck et al., 2014 at 132–133; Roosenburg et al. 2019); boat strikes (Lester et al., 2013); predation (Butler et al., 2004; Draud et al., 2004; Butler et al., 2006); collection for personal and commercial purposes, including the effects of large-scale historic commercial harvesting and current poaching (Hart and Lee, 2007 at 207), and inadequate regulatory measures to address these threats (Roosenburg et al., 2019). Terrapin mortality in crab pots has been and continues to be one of the major threats to terrapins, and it has been studied in nearly every state in the species' range (Butler and Roosenburg, 2018), as reviewed in the following section. When surveyed, experts ranked crab pot mortality as the greatest threat to terrapins (DTWG, 2024).

b. Crab Pot Mortality

Commercial and recreational crab pots pose a serious threat to diamondback terrapins at the individual, population, and species level (Roosenburg et al., 1997; Crowder et al., 2000 at 1; Roosenburg, 2004; Chamber and Maerz, 2018). Terrapins enter submerged crab pots and die when they cannot escape to breathe at the water's surface. This can occur in a short period of time—less than five hours (Crowder et al., 2000 at 1). The problem is often compounded when these gregarious turtles follow one another into pots (Bishop, 1983 at 428; Butler and Heinrich, 2007). Experts posit that terrapins have an innate curiosity to investigate things and that the presence of a terrapin in a crab pot may attract additional turtles, thus increasing the likelihood of large kills in crab pots (Roosenburg, 1991 at 231). They also find that crab pots attract terrapins whether or not they are baited (Chambers and Maerz, 2018).

Blue crab pots are present throughout the terrapin's range, as commercial and recreational crab fisheries are active to varying degrees in nearly every coastal state along the Atlantic and Gulf coasts (Chambers and Maerz, 2018). Even when crabbing potential may be small in a state, it can have a severe effect on a local scale (Roosenburg et al., 1997; Tucker et al., 2001; Grosse et al., 2009; Chambers and Maerz, 2018). While commercial crabbing is generally distributed broadly across open water, in many states, including Virginia, it also is allowed in tidal creeks associated with large river systems that intersect with coastal salt marsh habitat (with the exception of December 1 through March 16, when it is prohibited) (Chambers and Maerz, 2018; VMRC, 2023). Commercial harvest of peeler crabs occurs seasonally in small tidal creeks when crabs are molting, which places crab pots in critical terrapin habitat (Chambers and Maerz, 2018). Furthermore, a large percentage of recreational crabbing occurs in shallow creeks and other areas that intersect with terrapin habitat (*Id.*). Both commercial and recreational crab pots can end up as derelict or "ghost" pots in terrapin habitat (*Id.*). Crab pots fished in deeper waters may be lost and carried into terrapin habitat by tides or storms, thereby affecting terrapins in shallow water (*Id.*).

Crab pot mortality affects terrapin populations by removing mature males and subadult and adult females and hindering the population's reproductive capabilities. While in some places female terrapins may grow too large to enter pots, male terrapins never grow larger than the opening of a crab pot entrance and are susceptible to crab pot mortality throughout their lives (Roosenburg et al., 1997; Chambers and Maerz, 2018). In the southeast, female terrapins do not grow as large as more northern populations and therefore do not grow large enough to avoid crab pot mortality (Chambers and Maerz, 2018). For example, in one Alabama population, 85% of female terrapins sampled were susceptible to crab pot mortality (Coleman et al., 2014; Chambers and Maerz, 2018).

These 4 diamondback terrapins drowned after being trapped in a crab pot.
(Source: Virginia Institute of Marine Science/Diane Tulipani)

Crab pot mortality is a long-documented threat to diamondback terrapins across their range, with dozens of studies published over the last 75^{+} years (Davis, 1942; Bishop, 1983; Marion, 1986; Burger, 1989; Mazzarella, 1994; Mann, 1995; Wood and Herlands, 1996; Roosenburg et al.,

1997; Wood, 1997; Guillory and Prejean, 1998; Hoyle and Gibbons, 2000; Roosenburg and Green, 2000; Cole and Helser, 2001; Butler, 2002, 2000; Roosenburg, 2004; Butler and Heinrich, 2007; Grosse et al., 2009).

Experts agree that the capture and drowning of terrapins in crab pots is a major threat to terrapin populations throughout their range (Burger, 1989; Siegel and Gibbons, 1995; Wood, 1997; Roosenburg, 2004; Butler et al., 2006; Butler and Heinrich, 2007). This is because crab pots can eliminate local terrapin populations (Roosenburg et al., 1997 at 1171). Population-level impacts also include rapid, large-scale declines (Roosenburg et al., 1997 at 1170; Cole and Helser, 2001; Roosenburg, 2004 at 24; Grosse et al., 2009 at 99); skewed sex ratios (Bishop, 1983 at 427; Roosenburg, 1991 at 231; Roosenburg et al., 1997 at 1170; Hoyle and Gibbons, 2000 at 735; Dorcas et al., 2007 at 336–337; Butler and Heinrich, 2007 at 183; Grosse et al., 2009 at 99; Grosse et al., 2011 at 765); skewed age distribution (Dorcas et al., 2007 at 338–339); and skewed size distribution (Dorcas et al., 2007 at 3336–337; Grosse et al., 2011 at 763, 766; Lovich et al., 2018 at 71). Because terrapins' life history traits prevent them from absorbing chronic adult mortality, crab pots can cause localized extirpation of populations (Roosenburg, 1991 at 231–232; Hoyle and Gibbons, 2000 at 736).

Crab pots essentially cause two "levels" of terrapin mortality: (1) a "constant background mortality" from many crab pots that are regularly fished over a long period of time; and (2) acute mortality events from individual crab pots that have been lost or abandoned ("ghost" or "derelict" pots) (Roosenburg et al., 1997 at 1167; Roosenburg, 2004). In other words, regularly fished crab pots have the potential to consistently capture smaller numbers of terrapins over time, while ghost pots can capture more terrapins in one pot over a relatively shorter time (Roosenburg, et al., 1997 at 1167).

i. Active Pots

As early as the 1940s, scientists observed the harmful effects of crab fishing gear on terrapins. Through studies in Virginia, scientists have found that the same risk exists in Virginia's waters (VIMS, 2024). The following is a survey of published studies documenting terrapin mortality in active crab pots.

Davis (1942) studied crab pot bycatch in Maryland waters and "definitely established that pots will capture terrapin" (Davis, 1942 at 16). Although the results were limited, Davis found that three large diamondback terrapins were taken, and two drowned (Davis, 1942 at 16–17). The third would have drowned, had the pot not been partially protruding from the water so the turtle could obtain air (Davis, 1942 at 17).

Bishop (1983) studied crab pot mortality from two South Carolina estuaries over three years and recorded 281 diamondback terrapins (195 male and 86 female) captured in baited and unbaited crab pots.[1] Based on 1982 records that there were 458 licensed crabbers fishing from 50–100

[1] Because the traps were checked daily during the study, less than 10% of captured terrapins died (Bishop, 1983 at 427-428).

crab pots, and assuming an average number of 60 pots per crabber, with 40% of those pots being fished in near-shore shallow waters where terrapins live, Bishop estimated that 2,853 terrapins were captured daily during April and May, with mortality estimated at 285 terrapins (Bishop, 1983 at 428). This estimate fails to account for mortalities resulting from ghost pots.

Wood (1997) investigated the effect of crabbing on terrapins in New Jersey, including the extent of terrapin bycatch in commercial crab pots and the mortality levels of terrapins caught in those pots. He found that 19 terrapins (8 male, 11 female) were caught at a capture rate of 15 terrapins per 100 trap-days (Wood, 1997 at 23). Although Wood checked pots twice daily to minimize drowning of terrapins, four were drowned, causing a slightly greater than 20% mortality rate (Wood, 1997 at 23). Wood observed that commercial crabbers check pots no more than once per day, and that the terrapin mortality may have approached 100% (Wood, 1997 at 23).

Roosenburg et al. (1997) studied the rate of capture, size, sex, and age of terrapins captured in crab pots and determined the potential effect of crab pot mortality on local populations in the shallow water areas of Chesapeake Bay, Maryland. They estimated terrapin capture rates of 0.17 terrapins per pot per day (Roosenburg et al., 1997 at 1168). Based on these numbers, the scientists estimated that 15–78% of a local population may be captured in a single year (Roosenburg et al., 1997 at 1169). Based on these results, they estimated that local terrapin populations could be extirpated in 3 to 4 years (Roosenburg et al., 1997 at 1170).

Hoyle and Gibbons (2000) studied twenty recreational crab pots in South Carolina (Hoyle and Gibbons, 2000 at 735). During the 760 days the crab pots were deployed, 21 captures were made of 19 individual terrapins (Hoyle and Gibbons, 2000 at 735). Based on an estimated population size of 168 to 299 terrapins, and an estimated annual recruitment of 12 to 17 terrapins, the scientists estimated that 6–11% of the population would potentially be removed from the local population[2] (Hoyle and Gibbons, 2000 at 735–736). Because terrapins' life history traits prevent them from absorbing chronic adult mortality, the scientists concluded that crab pots could cause "significant localized consequences" for local populations (Hoyle and Gibbons, 2000 at 736). Hoyle and Gibbons also found that recreational pots could be a greater threat to terrapins than commercial pots because local crabbers are able to access smaller creeks than commercial crabbers, where terrapins are more populated (Hoyle and Gibbons, 2000 at 736). Recreational crabbers are also more likely to leave their pots in the water for a longer period of time without checking them, and even unintentionally abandon them (Hoyle and Gibbons, 2000 at 736).

Dorcas et al. (2007) studied 21 years of mark-recapture data (more than 2,800 captures of 1,399 individuals) from a declining diamondback terrapin population in Kiawah Island, South Carolina, to determine whether a population decline there was the result of mortality in crab pots. They found that, since the 1980s, the modal size of both male and female terrapins had increased substantially and that the proportion of females was higher than earlier samples (Dorcas et al., 2007 at 336–337). They also noted that the studied population contained more old and fewer young terrapins than before (Dorcas et al., 2007 at 336). This change in the age of the population is also reflected in the size of individual terrapins (*Id.*). Based on their observations of changes in

[2] The two recaptures were excluded from the study (Hoyle and Gibbons, 2000 at 735).

demography and sex ratio, the scientists suggested that the terrapin population declined as a result of selective mortality of smaller terrapins in crab pots (*Id.* at 338–339). Another later study in South Carolina showed that in a creek where bycatch mortality was high, terrapins rarely survived to reproduce (Tucker et al., 2001).

Grosse et al. (2011) contemporaneously studied two of the primary conservation concerns for diamondback terrapins: road mortality from coastal traffic and bycatch mortality in crab pots. They captured 1,547 individual terrapins among 29 tidal creeks in Georgia and used mark-recapture estimates of terrapin density and sex ratio to identify crab pot effects (Grosse et al., 2011 at 764–765). They observed that 153 terrapins—approximately 10% of all live terrapins they observed in the study creeks—drowned in 5 crab pots within study creeks, 83% of which were males (Grosse et al., 2011 at 765). Among all sites, terrapin density declined with increasing crabbing activity within the creek, whereas population density was not related to proximity of roads (Grosse et al., 2001 at 765–766). The scientists also found that there was a significantly larger proportion of smaller-sized terrapins in creeks with no crabbing activity (Grosse et al., 2011 at 763, 766). Thus, they concluded that crabbing activities are linked to terrapin population declines in Georgia and recommended that states focus on reducing bycatch risk by regulating fishing times, requiring the use of BRDs, and removing lost or abandoned crab pots from coastal habitats (Grosse et al., 2011 at 766–769).

Hart and Crowder (2011) estimated that if each of the approximately 7,500 crab fishers in North Carolina catches a number of terrapins similar to those observed in their study, and roughly 50% of that catch is removed from terrapin populations due to mortality (consistent with their study), then tens of thousands of terrapins could be removed from populations each year (Hart and Crowder, 2011 at 269). Thus, terrapin capture and mortality in actively fished commercial crab pots may represent an extremely large collective effect on local terrapin populations (*Id.*).

Coleman et al. (2014) found that although it is generally accepted that male and juvenile female terrapins are more vulnerable to crab pot mortality than adult females, fully mature females in some parts of the terrapin's range may be smaller and equally capable of entering crab pots (Coleman et al., 2014 at 142). Because loss of female terrapins means the loss of greater long-term reproductive potential, crab pot mortality could be more devastating to terrapin populations in some areas than previously considered (Coleman et al., 2014 at 143–144).

Two important conclusions can be drawn from these many studies that document terrapin capture and mortality rates in crab pots. First, the high rates of removal of terrapins by crabs will rapidly result in the local terrapin decline and, within 15-20 years, complete extirpation of the population. Second, given that crab pots have been used since the 1940s, many terrapin populations are now extirpated, leading to the false interpretation that the current lack of terrapin captures in crab pots in a particular area suggests that they do not occur there. They may well have occurred there in the past, but their population has already been wiped out, suggesting to the modern day crabber that terrapins do not occur there.

ii. Ghost and Derelict Pots

For the purposes of this petition, the term "ghost pot" includes crab pots that are accidentally lost or intentionally abandoned, as well as derelict crab pots that are irresponsibly left in the water for long periods of time without regular supervision. Ghost pots may result from permanent abandonment of fishable pots by crabbers who leave the fishery seasonally or permanently when it is logistically difficult to transport the pots for either temporary storage or permanent disposal, temporary storage sites are not available, or it is difficult or expensive to dispose of them (Guillory et al., 2001 at 2). Crab pots may also be inadvertently lost due to uncontrollable weather or hydrological factors, such as tides, currents, and storm surges; deterioration of buoys, lines, or knots; negligent assembly or maintenance of buoys and lines; unintentional clipping of lines by boat propellers; or intentional cutting of buoy lines by vandals (Guillory et al., 2001 at 2). Because commercial crabbers use large numbers of durable pots, ghost pots can persist for long periods of time (Guillory et al., 2001 at 1).

Ghost pots are considered to be even more detrimental to terrapin populations than actively fished pots[3] (Bishop, 1983 at 428; Guillory et al., 2001 at 4; Rook et al., 2010 at 172). This is because ghost pots are ongoing threats and have the capacity to capture great numbers of terrapins if they remain abandoned or lost (Rook et al., 2010 at 172). For example, Bishop (1983) found one ghost pot with 28 dead, decomposing terrapins in South Carolina (Bishop, 1983 at 429), and Roosenburg (1991) found a ghost pot with 49 terrapin shells, and remains of even more terrapins in Maryland (Roosenburg, 1991 at 231). The number of dead terrapins in that single crab pot represented an estimated 1.6–2.8% of the local population (Roosenburg, 1991 at 231).

Grosse et al. (2009) reported finding 133 diamondback terrapin carcasses among two abandoned crab pots in one tidal marsh in Georgia, consisting of more than double the remaining estimated population. One abandoned pot contained 94 dead terrapins, and another pot located approximately 100 meters from the first contained 23 dead and one live terrapin (Grosse et al., 2009 at 98). Because the scientists were prohibited by law from removing the pots, they continued to observe it during their 2-month sampling period and observed additional dead terrapins in the derelict crab pots (Grosse et al., 2009 at 98). They estimated that 91% of the total terrapin biomass in the tidal creek was lost as a result of neglected crab pots (Grosse et al., 2009 at 99).

[3] Ghost pots are also known to capture other vertebrates such as river otters (*Lontra canadensis*) and raccoons (*Procyon lotor*) (Guillory et al. 2001 at 4).

Terrapin carcasses found in abandoned crab pot in Georgia
(Source: Grosse et al. 2009)

During Hoyle and Gibbons' (2000) study in South Carolina, the scientists inadvertently created a ghost pot scenario when two of their test pots became entangled during a high spring tide when they were not being monitored (Hoyle and Gibbons, 2000 at 735). Four terrapins entered those pots and died (*Id.*). The scientists estimated that those two lost pots could account for more terrapin captures than all 20 pots set during the study year (*Id.* at 736).

The number of terrapins lost to ghost pots is exponentially amplified by the number of ghost pots present in terrapin habitat. The commercial fishery generates many ghost pots each year (Chambers and Maerz, 2018). These abandoned pots are abundant, and every year more become marine debris in shallow estuaries, sometimes directly in terrapin habitat (Chambers and Maerz, 2018; Bishop, 1983 at 429). Though the numbers and location of ghost pots are unknown, scientists believe they are frequently abandoned or lost (Roosenburg, 1991 at 231). Guillory et al. (2001) estimated that approximately 250,000 derelict crab pots are added to the Gulf of Mexico annually (Guillory et al., 2001 at 2–3).

iii. Crab pot mortality in Virginia

Scientists agree that the greatest threat to diamondback terrapins, throughout their range, is drowning in crab pots. Male and young female terrapins can enter and then drown in them.

Randy Chambers, director of the Keck Environmental Field Laboratory at the College of William & Mary, and his team collected information about crab pot mortality as a longstanding and ongoing threat to terrapins in Virginia (Chambers & Bilkovic, 2012). Three regions in the pilot survey area were considered areas of special concern due to high crab fishing pressure within

essential terrapin habitat: Lower York River (Perrin Creek, Cuba Island, Guinea Marshes), Severn River, and Gwynn Island (*Id.*). Further, terrapin occupancy was verified during field surveys. Key takeaways from this study include the following:

- Within the pilot study area during a two year retrieval program, 2,872 derelict pots were removed. Of these, 22% were within shallow waters (< 2 m) where terrapins typically reside.

- The amount of derelict pots generally corresponded to the number of active pots in a given area and represents an inherent mortality risk as derelict pots can continue to capture and kill terrapin.

- Approximately 15% of the study area was considered to be potential resource conflict areas for terrapin and crabbing.

- Of the suitable terrapin habitat (70km^2), 21% (15 km^2) was considered vulnerable to crab fishing pressures (10% highly and 11% moderately vulnerable).

Other studies have found similar results, i.e. that, in Virginia waters of Chesapeake Bay, the most abundant form of derelict gear recovered was blue crab pots, with almost 32,000 recovered in the course of one study (Bilkovic, Havens, Stanhope, & Angstadt, 2014 at 1). The most abundant form of derelict gear recovered was blue crab pots, with almost 32,000 recovered. Derelict pots were widely distributed, but with notable hotspot areas, capturing 40 species and over 31,000 marine organisms (*Id.*). Derelict pots were also responsible for blue crab mortality; in fact, blue crabs experienced the highest mortality from lost pots, with an estimated 900,000 animals killed each year and a potential annual economic loss to the fishery of $300,000 (*Id.*). Individual derelict pots contained between 0 and 7 terrapin. Terrapin were predominantly captured in pots on the seaside of Virginia (60%), with the highest captures in 2008 and 2009. The vast majority of terrapins (83%, n=39) were captured in pots in shallow waters (62m depth).There was no association with water temperatures; terrapin were reported in derelict pots retrieved when waters were 2.5–12.4 °C. All terrapin were dead in the pots except for one captured on January 7, 2009, on the seaside in 6.8 °C water (*Id.* at 4-5).

In Virginia waters, the blue crab fishery has exerted sufficient selection pressure on the terrapin bycatch to affect the growth rate and average size of female terrapins (Wolak et al., 2010). The outcome of both chronic and acute mortality events from crab pots on terrapin populations has been dramatic, with observed declines in population size to outright local extinction of terrapins (Roosenburg, 2004).

c. Bycatch Reduction Devices

Bycatch Reduction Devices (also called “BRDs” or “terrapin excluder devices”) prevent terrapins of a certain size from entering the pot (Roosenburg, 2004 at 23). They are designed specifically to prevent terrapin bycatch. Designed in the early 1990s (Wood, 1997 at 23), experts now recognize the BRD as the “best and most feasible solution to reducing terrapin mortality in crab pots” (Roosenburg, 2004 at 27).

An example of a plastic terrapin excluder device
(Source: South Carolina Department of Natural Resources)

The effectiveness of BRDs at preventing terrapin death with little to no impact on blue crab capture has been well-studied (Roosenburg, 2004 at 26). There is a general consensus that 4.5 x 12-centimeter (cm) BRDs are effective at reducing terrapin entrapment (Roosenburg, 2004 at 26). Likewise, studies have found that both the 4.5 x 12 cm and the 5 x 10 cm BRD have a minimal effect on crab catch (Roosenburg, 2004 at 26). These findings have been tested in Virginia, with similar results (VMRC, 2023).

i. Effect on Terrapin Mortality

Experts have studied BRDs of various sizes in several geographic regions within the terrapin's range. All studies found that crab pots with BRDs successfully limited terrapin bycatch to some degree, ranging from 12-100% effectiveness, with smaller BRDs generally being more effective than larger BRDs. The studies widely found that BRDs measuring 4.5 x 12 cm are sufficiently effective at reducing crab pot mortality without significantly affecting the size or number of crabs caught.[4] Table 1 summarizes the findings from studies that evaluated the ability of BRDs to reduce terrapin bycatch in blue crab pots. More detailed summaries of the studies are provided in Appendix A.

Table 1: Survey of Publications Evaluating the Ability of BRDs to Reduce Diamondback Terrapin Mortality in Blue Crab Pots

Article	State	BRD size (cm)	% terrapins excluded
Butler and Heinrich (2007)	FL	4.5 x 12	73.2%
Cole and Helser (2001)	DE	3.8 x 12	100%
		4.5 x 12	*67%
		5 x 10	59%
		5 x 12	12%

[4] *See* Sectio(ii), *Effect on Crab Haul*.

Crowder et al. (2000)	NC	4 x 16	100%
		4.5 x 16	100%
		5 x 16	100%
Hart and Crowder (2011)	NC	4.5 x 16	77%
		5 x 16	28%
Mazzarella (1994)	NJ	5 x 10	**90.5%
Morris et al. (2011)	VA	4.5 x 12	100%
Rook et al. (2010)	VA	4.5 x 12	95.7%
Roosenburg and Green (2000)	MD	4 x 10	100%
		4.5 x 12	82%
		5 x 10	47%
Wnek (2019)	NJ	4.5 x 12	100%
		5 x 15	100%
		5.1–6.4 × 7.3 (curved)	100%
*averaged percentages for male terrapins and female terrapins **averaged numbers from two separate seasons			

Notably, BRDs have successfully reduced terrapin mortality in crab pots in Virginia waters. Reinsel, Gibson, Klesch, and Chambers tested four replicates of each of the five trap treatments (1.75-inch oval BRD, 2-inch oval BRD, 1.75-inch rectangular BRD, 2-inch rectangular BRD, and a control trap without a BRD) in each tidal creek, for a total of 20 traps per creek and 40 traps total. They fitted traps with wire chimneys that extended above the high low water line to allow trapped terrapins to surface for air. For eight weeks during summer 2021, they baited traps with Atlantic Menhaden *Brevoortia tyrannus* each day, beginning on Monday. Tuesday–Friday, they emptied traps of any animals inside, and recorded terrapin sex, terrapin carapace length, terrapin carapace width, and terrapin shell height, as well as blue crab carapace length. They found that found that all four BRD designs were highly effective at excluding terrapins and maintaining crab catch, when compared to control traps. They also found a significant difference ($p = 0.003$) in catch per unit effort (CPUE) of diamondback terrapins among treatments, with the control group (those without BRDs) having the highest CPUE (0.97 ± 0.18). All traps fitted with BRDs decreased terrapin capture significantly compared to the control group. Oval BRDs excluded more terrapins than their rectangular counterparts, with the same height dimension, although these differences were not significant. They also found no significant difference in CPUE of blue crabs among treatments ($p = 0.392$), or in the size of legal crabs caught in each treatment ($p = 0.216$). Accordingly, they pointed out that the study provides evidence of the effectiveness of both rectangular and oval-shaped BRDs to exclude terrapins and maintain crab catch in Virginia waters, where BRDs are not currently required.

ii. Effect on Crab Haul

Many studies also assess the effect of BRDs on the size and number of crabs captured, with the goal of identifying a BRD design that successfully minimizes terrapin captures, while having

minimal effect on crab haul. Nearly every study found at least one BRD size that had little to no effect on crab haul, and they generally agree that a 4.5 x 12 cm BRD can successfully prevent terrapin deaths while having insignificant impacts on crab haul (See Table 2, Appendix B).

Table 2: Survey of Publications Evaluating the Effect of BRDs on Crab Haul

Article	State	BRD size (cm)	Finding
Butler and Heinrich (2007)	FL	4.5 x 12	no significant effect on sex, size, or number of crabs captured
Cole and Helser (2001)	DE	3.8 x 12	substantial loss of legal-size blue crabs (26% decrease with BRDs)
		4.5 x 12	nominal loss of legal-size blue crabs (12% total decrease, with 6% of most desirable crabs with BRDs)
		5 x 10	no statistical difference in blue crab catches (2.4% increase with BRDs)
		5 x 12	no substantial change in total blue crab catch rates (0.2% increase with BRDs)
Cuevas et al. (2000)	MS	5 x 10	similar daily catch rates (mean 19.5 for traps with BRDs and without) and crab size frequency
Guillory and Prejean (1998)	LA	5 x 10	overall catch per trap day of sublegal, legal, and total crabs was 14.5%, 37.9%, and 25.7% greater, respectively, than in standard pots
Hart and Crowder (2011)	NC	4.5 x 16	BRD did not have a significant effect on catch of either large male blue crabs or peelers
		5 x 16	
Lukacovic et al. (2005)	MD	4.5 x 12	all categories of crab catch were significantly lower in crab pots fitted with BRDs; in traps without BRDs, overall crab catch was 35% greater and catch of legal crabs was 28.5% greater
Mazzarella (1994)	NJ	5 x 10	no significant difference in number of crabs or size of crabs captured
Morris et al. (2011)	VA	4.5 x 12	no statistical difference between either the number or size of legal-size crabs in crab pots with and without BRDs on the first day after baiting; significant difference in total catch per unit effort and size across all other days after; more legal-size crabs were caught in pots without terrapin bycatch, but the difference was not significant

Rook et al. (2010)	VA	4.5 x 12	crab catch equivalent between crab pots with and without BRDs; slight increase (marginal) in number, size, and biomass of both legal-size and sublegal-size crabs in pots with BRDs
Roosenburg and Green (2000)	MD	4 x 10	reduced the size and number of large and mature female crabs
		4.5 x 12	no effect on size or number of crabs caught
		5 x 10	no effect on size or number of crabs caught
Wnek (2019)	NJ	4.5 x 12	no significant difference in number of crabs caught; similar mean length, width, height
		5 x 15	no significant difference in number of crabs caught; similar mean length; smaller mean width and height
		5.1–6.4 × 7.3 (curved)	no significant difference in number of crabs caught; similar mean length, width, height

Butler and Heinrich (2007) tested whether bycatch mortality of diamondback terrapins in commercial crab pots is reduced by using 4.5 x 12 cm galvanized steel BRDs and whether those devices limit blue crab catch. They captured 2,753 legal-sized crabs and found no significant difference between the sex, measurements, or number of crabs captured in standard crab pots versus crab pots with BRDs (Butler and Heinrich, 2007 at 182).

Although BRDs have not been studied in large-scale commercial operations that fish more than 100 pots, anecdotal reports from crabbers who use BRDs in large-scale operations claim that they see no effect—or maybe an improvement—in their crab catch (Roosenburg, 2004 at 27).

BRDs may offer additional benefits to crabbers as well. For instance, BRDs reduce the rate of entry of many large vertebrate bycatch including fish, turtles, and otters (Guillory and Prejean, 1998 at 39). This frees up additional space in pots, which would otherwise be occupied by nontarget species, to capture more crabs. The presence of terrapins in crab pots may cause crabs to avoid crab pots. Morris et al. (2011) found that crab pots with terrapin bycatch in them had, on average, fewer crabs per unit effort (Morris et al., 2011 at 388). Likewise, more legal-size crabs were caught in pots without terrapin bycatch (*Id.*). Thus, keeping terrapins out of crab pots may lead to the capture of more and larger crabs. Guillory and Prejean (1998) have also suggested that increased crab catch in traps with BRDs could be due to increased ingress and/or decreased egress through the entrance funnels (Guillory and Prejean, 1998 at 39).

Finally, keeping terrapins out of crab pots may help keep crabs in marketable condition. Davenport et al. (1992) studied terrapin feeding behavior on crabs by providing hungry male terrapins crabs of different size classes and observing the terrapins' behavior (Davenport et al., 1992 at 837–846). The size classes for crabs were small (10–25 mm carapace width), medium (30-50 mm), and large (52–75 mm) (*Id.* at 837). They observed that although terrapins are not specialized anatomically for a diet of hard-shelled animals, they will still exploit such food

sources if they are hungry and do not have other options. Specifically, they will eat crabs (*Id.* at 846). Small crabs were eaten whole, while medium and large crabs were "cropped"—that is, their walking legs were eaten without killing the crab (*Id.* at 847). Applying their findings to diamondback terrapins in the field, the scientists predicted that terrapins might eat blue crabs through a "cropping" technique (*Id.*). Generally, terrapins will attack smaller crabs before medium crabs, and medium crabs before larger crabs (*Id.*). Because terrapins captured in crab pots are in closed conditions without access to their preferred prey, it is possible that they will shear crabs, thus making them less marketable.

III. JUSTIFICATION FOR THE REQUESTED RULEMAKING

a. The Diamondback Terrapin is Imperiled and Cannot Sustain Effects from Crab Pot Mortality

Wild turtle populations are characterized by a suite of life history characteristics that predispose them to rapid declines when subjected to unnatural levels of adult mortality (Colteaux and Johnson, 2017 at 17; Heppell, 1998; Galbraith et al., 1997; Congdon et al., 1993, 1994). Among these characteristics are delayed maturity, low fecundity, high annual survivorship of adults, and high natural levels of nest mortality (Reed and Gibbons, 2003). Similarly, terrapins' life history traits prevent them from absorbing chronic adult mortality (Hoyle and Gibbons, 2000 at 736). Removing even a few diamondback terrapins from a population can have detrimental effects on the population as a whole (Hoyle and Gibbons, 2000). For this reason, experts rank crab pot mortality as the greatest threat to the diamondback terrapin (Butler et. al., 2006 at 332) and have emphasized that modifying pots to reduce terrapin mortality is of utmost importance (Baker et al., 2013 at 676).

Studies and anecdotal evidence demonstrate that blue crab pots can have devastating population-level impacts on diamondback terrapins (Davis, 1942; Bishop, 1983; Marion, 1986; Burger, 1989; Mazzarella, 1994; Mann, 1995; Wood and Herlands, 1996; Roosenburg et al., 1997; Wood, 1997; Guillory and Prejean, 1998; Crowder et al., 2000; Hoyle and Gibbons, 2000; Roosenburg and Green, 2000; Cole and Helser, 2001; Butler, 2002, 2000; Roosenburg, 2004; Butler and Heinrich, 2007; Dorcas et al., 2007; Coleman et al., 2014; Chambers and Maerz, 2018). A fleet of active crab pots can significantly reduce a terrapin population over time by periodically removing a few terrapins at a time (Hart and Crowder 2011 at 269). A single ghost pot—which can capture dozens of terrapins at once—can wipe out an entire population in a relatively shorter period of time (Grosse et al., 2009 at 99).

Reports of terrapin deaths in crab pots are so common that they have been documented in numerous recent news stories and social media posts from across the species' range, including

hundreds of terrapins in Virginia,[5] 20 terrapins in Maryland,[6] 91 terrapins in New Jersey,[7] 95 terrapins in Louisiana (Butcher et al., 2018 at 30), and 42 terrapins in New York.[8] Most recently in 2019, a Facebook post from Georgia reported more than 20 dead terrapins in a single pot,[9] and a Virginia report documented 30 dead terrapins in a pot.[10]

Although the Virginia Marine Resources Commission does not require crabbers to report terrapin mortality in their pots, evidence indicates that it is occurring. The problem is most pressing among the pots set by recreational crabbers, which typically sit in shallow waters along creeks, seagrass beds, and marshes. This is prime territory for males and juvenile female terrapins VIMS, 2010). Because of their smaller size, these terrapins are particularly vulnerable to capture and drowning. Adult males are only half as large as adult females, growing to about 6 inches long. Adult females are typically too large to enter a pot's funnel-like openings. Although recreational crabbers arguably pose the greatest threat because they can access more shallow waters and are more likely to leave pots unchecked, commercial crabbers set hundreds of pots, they could cause "significant detrimental effects on local populations" (Butler and Heinrich, 2007 at 183). Because Virginia contains a significant percentage of the terrapin's range, the effect of crab pot mortality in the state has great significant to the conservation of the entire species.

Because the Chesapeake Bay is one of the top areas for recreational crabbing, and is located (in part) in Virgina, the potential for crab pot mortality for terrapins is high. Derelict crab pots from commercial and recreational pot fisheries are also a problem in Virginia waters, with almost 32,000 recovered in the course of one study (Bilkovic, Havens, Stanhope, & Angstadt, 2014 at 1).

When added to the suite of additional stressors across the species' range, including habitat destruction and degradation, road mortality, nest predation, boat strikes, poaching, climate change, sea-level rise, and subsidized predation (Maerz et al. 2018), diamondback terrapins cannot sustain the harmful impacts of crab pot mortality.

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[5] Karl Blankenship, *Derelict pots killing 3.3 million crabs annually in the Bay*, BAY JOURNAL (Dec. 27, 2016), https://www.bayjournal.com/article/derelict_pots_killing_3.3_million_crabs_annually_in_the_bay; Carol Vaughn, *Virginia bill aimed at protecting turtles passes Senate*, DELMARVA NOW (Feb 10, 2016, 10:48 AM), https://www.delmarvanow.com/story/news/local/virginia/2016/02/09/turtle-bill-passes-senate-house-subcommittee-agenda/80070128/.

[6] *Save the terrapins,* BALTIMORE SUN *(Aug. 17, 2016, 12:15 PM), https://www.baltimoresun.com/opinion/editorial/bs-ed-terrapin-20160817-story.html.*

[7] Dan Radel, *Ghost pots: Abandoned crab traps are sea killers*, ASHBURY PARK PRESS (May 6, 2017, 8:39 AM), https://www.app.com/story/news/local/land-environment/enviroguy/2017/05/05/1379-ghost-crab-pots-marine-killer-water/101246090/; Maxwell Reil, *About 80 turtles found dead on Sea Isle City beach,* PRESS OF ATLANTIC CITY (Jun. 4, 2018), https://www.pressofatlanticcity.com/news/about-turtles-found-dead-on-sea-isle-city-beach/article_fbe05c8e-0c9e-508d-94ec-765c21d6cc5e.html.

[8] Matthew Miller, *Saving Terrapins from Drowning in Crab Traps*, COOL GREEN SCIENCE (Mar. 27, 2018), https://blog.nature.org/science/2018/03/27/saving-terrapins-from-drowning-in-crab-traps/.

[9] Edwin Longwater, FACEBOOK (Apr. 18, 2019), https://www.facebook.com/photo.php?fbid=601987793616969&set=pb.100014172614332.-2207520000.1561385354.&type=3&theater.

[10] SaraRose Martin, *Along marshy edge of York River, you'll find dead turtles, drowned in the lost traps of crabbers*, THE VIRGINIA GAZETTE (Jun. 7, 2019, 7:45 AM), https://www.vagazette.com/news/va-vg-commercial-crabbing-traps-0513-story.html.

b. BRDs Protect Diamondback Terrapins While Boosting Marketability of Crabs from Virginia's Waters

BRDs provide a simple and inexpensive method to reduce terrapin deaths in crab pots and increase marketability of crabs caught in Virginia's waters. A rule requiring BRDs is justified because BRDs protect most mature diamondback terrapins from drowning in pots, BRDs have little to no effect on crab haul, BRDs are inexpensive, and using BRDs increases the marketability of crabs fished from Virginia's waters.

Neither the commercial nor recreational blue crab fisheries have adopted these important measures, and research shows that rules simply requiring crabbers to check pots once per day—even if stringently followed—are not enough to combat terrapin mortality (Wood, 1997).

i. BRDs Protect Terrapins from Needless Drowning Deaths

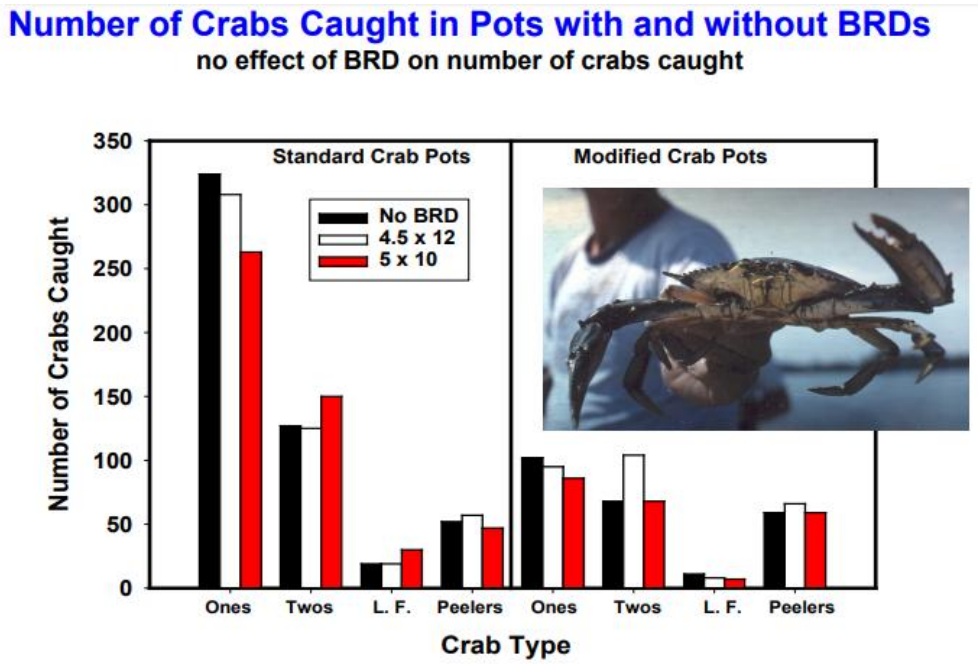
Extensive studies show that BRDs effectively prevent most large, mature terrapins from entering crab pots by restricting the pot entrances to a size that precludes a terrapin's carapace from fitting through (Reviewed in Roosenburg, 2004; Chambers and Maerz, 2018). Studies demonstrate that on average, 70% of terrapins are unable to enter pots equipped with BRDs while blue crabs can still enter easily (Mazzarella, 1994; Crowder, 2000; Roosenburg and Green, 2000; Cole and Helser, 2001; Rook et al., 2010; Hart and Crowder, 2011; Morris et al., 2011).

Studies in Virginia have shown that while BRDs are effective at preventing terrapins and other animals from entering pots, they have little impact on the size and number of blue crabs found in crab pots. Specifically, a 2021 study tested the effectiveness of oval BRDs, and preliminary results show a large reduction in terrapin mortality while maintaining crab catch (Reinsel, Gibson, Klesch, and Chambers, 2021). Most BRDs used in Virginia studies have been either 5x15cm or 4.5x12cm, and all have been plastic. Some BRD sizes showed small or no change in crab catch. Studies using 4.5x12cm BRDs often showed large decreases in crab catch, but some of these studies did not use bait. This significant reduction in terrapin mortality achieved by BRDs will slow terrapin declines attributed to crab pot mortality and provide Virginia's terrapins with a level of resiliency against myriad other threats it currently faces and will face as climate change and sea-level rise continue and accelerate.

ii. BRDs Have Little to No Effect on Crab Haul

Extensive scientific study also demonstrates that BRDs have little to no effect on the number and size of marketable crabs harvested (Mazzarella, 1994; Guillory and Prejean, 1998; Cuevas et al., 2000; Roosenburg and Green, 2000; Cole and Helser, 2001; Butler and Heinrich, 2007; Rook et al., 2010; Hart and Crowder, 2011; Morris et al., 2011). Some studies have even suggested that BRD use can result in an increase in catch of marketable crabs (Rook et al., 2010; Roosenburg and Green, 2000; Guillory and Prejean, 1998).

The following chart reflecting a survey of all BRD studies demonstrates that crab haul is relatively the same in crab pots with no BRDs and crab pots with 4.5 x 12 cm BRDs (Roosenburg, 2017).



(Source: modified from Roosenburg and Green 2000)

iii. BRDs Are Inexpensive

BRDs are small and inexpensive. Some companies in states like Maine sell BRDs for as little as $0.45 each,[11] while some programs in Virginia will distribute BRDs for free or demonstrate how crabbers can make them themselves. There are also free resources that teach fishermen how to build and install their own BRDs.[12]

BRDs will likely become even less expensive over time as they are integrated into the crab pot fishery. As more states adopt rules and regulations requiring the use of BRDs, manufacturers will embrace the opportunity to design pots that already include BRDs. For instance, in Virginia, crab pots with built-in BRDs are already available for sale.[13] As these pot designs become more common, the cost of making them will also decrease.

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[11] *Purchase Pre-Made BRDs*, VIRGINIA INSTITUTE OF MARINE SCIENCE, https://www.vims.edu/research/units/projects/terrapin_brds/pre-made.php (last visited Jul. 11, 2019).
[12] Five Crab Pot license with terrapin excluder; *see also* VIMS asks volunteers to help keep terrapins from crab pots | Virginia Institute of Marine Science & Make Your Own BRDs | Virginia Institute of Marine Science.
[13] Many bait and tackle shops, or other stores that carry crab pots, carry terrapin excluder devices or sell crab pots with TEDs included or already installed, Five Crab Pot license with terrapin excluder.

iv. BRDs Make Virginia's Crabs More Marketable in an Increasingly Environmentally Conscious Market

Sustainability is a driving force across markets, and seafood markets are no exception. BRDs would make crabs from Virginia's waters more marketable in an increasingly eco-conscious economy. A 2018 global survey by Nielson found that 81% of participants felt strongly that companies should help improve the environment. This sentiment was shared across generations, with Millennials, Generation Z, and Generation X being most supportive, and older generations not far behind.[14] Americans in particular are concerned about environmental issues and recognize that their finances can be used to influence change.[15] They are becoming better informed about of the environmental impact of products they purchase.[16]

These environmental values are driving consumer purchases. A 2017 survey of demographically representative Americans found a steady increase in consumers purchasing products with social benefit, with participants indicating they purposefully use their wallets to drive change by buying products with environmental benefit (Cone Comms., 2017). A majority (79%) indicated they seek out environmentally responsible products (*Id.*). Eighty-seven percent of participants said that given the opportunity, they would buy a product with social or environmental benefit (Cone Comms., 2017). These attitudes and actions reflect a growing trend, rising from 83% in 2015.

In a 2015 Global Corporate Sustainability Report by Nielson, 66% of consumers indicated they are willing to spend more on a product if it comes from a sustainable brand.[17] Millennials indicated a similar preference, with 73% willing to pay extra for sustainable products.[18]

This trend toward more sustainable markets is clear in the seafood industry, with several independent organizations recommending consumers purchase only sustainably sourced seafood. For instance, the Monterey Bay Aquarium's Seafood Watch program helps consumers and businesses choose seafood that supports a healthy ocean by recommending which seafood items are "Best Choices" and "Good Alternatives," and which ones to avoid. Currently the Seafood Watch program recommends that consumers only purchase blue crabs from states that have effective regulations to protect diamondback terrapins from drowning in crab pots. Because of

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[14] Nielsen, Global Consumers Seek Companies that Care about Environmental Issues (Sept. 11, 2018), https://www.nielsen.com/eu/en/insights/article/2018/global-consumers-seek-companies-that-care-about-environmental-issues/.

[15] Adam Butler, Do Customers Really Care About Your Environmental Impact? Forbes.com (Nov. 21, 2018), https://www.forbes.com/sites/forbesnycouncil/2018/11/21/do-customers-really-care-about-your-environmental-impact/#3d6974ee240d.

[16] Adam Butler, Do Customers Really Care About Your Environmental Impact? Forbes.com (Nov. 21, 2018), https://www.forbes.com/sites/forbesnycouncil/2018/11/21/do-customers-really-care-about-your-environmental-impact/#3d6974ee240d.

[17] New Release, Consumer-Goods' Brands That Demonstrate Commitment to Sustainability Outperform Those That Don't (Dec. 10, 2015), https://www.nielsen.com/eu/en/press-releases/2015/consumer-goods-brands-that-demonstrate-commitment-to-sustainability-outperform/.

[18] New Release, Consumer-Goods' Brands That Demonstrate Commitment to Sustainability Outperform Those That Don't (Dec. 10, 2015), https://www.nielsen.com/eu/en/press-releases/2015/consumer-goods-brands-that-demonstrate-commitment-to-sustainability-outperform/.

Virginia's lax regulations to protect terrapins, Seafood Watch instead recommends that conscientious consumers purchase crabs from states like New Jersey precisely because it requires the commercial fishery to use terrapin bycatch reduction devices.[19]

As more states adopt laws requiring commercial crabbers to use BRDs, Virginia will fall behind in the blue crab markets as consumers seek out more sustainable alternatives. For Virginia to keep up, it needs to adopt BRD regulations to prevent harming terrapin populations. By being an early adopter of BRD rules, Virginia can establish itself as a conservation leader and gain an advantage over crab fisheries in surrounding states that have yet to take this important step.

c. Other States in the Diamondback Terrapin's Range Require Bycatch Reduction Devices

Several states already require or incentivize crabbers to use BRDs on their pots. New Jersey requires crabbers to use BRDs in waters of less than 150 feet across at mean low water mark,[20] and New York recently implemented regulations requiring crabbers to use BRDs on pots set in creeks, coves, rivers, tributaries, and near-shore harbors of the Marine and Coastal District.[21] In Maryland and Delaware, all recreational crab pots must have BRDs.[22] Currently, Virginia only encourages crabbers to use BRDs on crab pots by offering a lower cost licensing rate for modified pots.[23]

Table 3: Survey of State Laws Governing Bycatch

State	Terrapin Conservation Status	BRD required on crab pots?
MA	Threatened	no
RI	Endangered	no
CT	Species of Special Concern	no
NY	None	yes
NJ	Nongame Indigenous Species	yes
DE	Species of Conservation Concern	yes (recreational only)
MD	None	yes (recreational only)
VA	Species of Greatest Conservation Need	no
NC	Special Concern Species	yes, in designated Diamondback Terrapin Management Areas
SC	High Priority species for conservation	no
GA	Protected species ("unusual")	no
FL	Species of Greatest Conservation Need	yes (recreational only)
AL	Highest Conservation Concern/ Nongame species	no

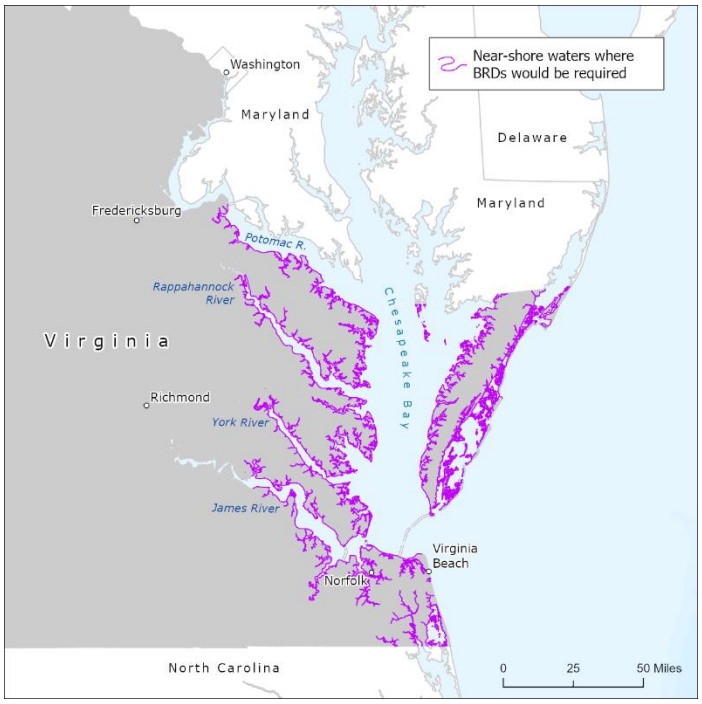
[19] *Crab Recommendations*, MONTEREY BAY AQUARIUM SEAFOOD WATCH, https://www.seafoodwatch.org/seafood-recommendations/groups/crab?q=blue%20crab&type=blue&o=371 (last visited July 11, 2019).
[20] N.J. Admin. Code § 7:25-14.6(c) (Lexis Advance through the New Jersey Register, Vol. 51 No. 13, July 1, 2019)
[21] N.Y. Comp. Codes R. & Regs. tit. 6, § 44.2(d) (Lexis Advance through June 28, 2019).
[22] Md. Code Regs. 08.02.03.07(B)(5); 7-3000-3700 Del. Code Regs. § 1.0.
[23] Va. Code Ann. § 28.2-226.2(B)(1)–(2) (Lexis Advance through the 2019 Regular Session of the General Assembly).

MS	Species of Greatest Conservation Need	no
LA	Species of Special Concern	no
TX	Nongame/ Species of Greatest Conservation Need	no

While Virginia has a program that offers information about BRDs and a lower cost licensing rate for recreational crabbers with modified pots, this program has not generated widespread participation. Without full participation by the crabbing community, the voluntary BRD program has little to no conservation effect for the diamondback terrapin. For this reason, it is imperative that Virginia adopt mandatory BRD rules. Virginia is poised to take the lead in the Chesapeake Bay and adopt regulations requiring the use of BRDs on crab pots.

IV. PROPOSED RULE AMENDMENT

Virginia's fishing regulations currently do not require the use of BRDs in licensed blue crab pots. To protect diamondback terrapins from incidental mortality in active and inactive blue crab pots, Petitioners request that the Virginia Marine Resources Commission adopt or amend regulations require BRDs on licensed commercial and recreational blue crab pots in waters less than 150 yards from shore (at mean low water mark), including manmade lagoons, creeks, coves, rivers, tributaries, shallow bays, inlets, and near-shore harbors. To provide the fishery reasonable time to retrofit crab pots, Petitioners suggest a three-year grace period from the date of adoption or amendment of the regulation. The proposal also includes a provision to allow the use of other gear modifications that demonstrate through peer-reviewed study similar efficacy to 4.5 cm by 12 cm BRDs, as set forth in Butler and Heinrich, 2007 and Roosenburg and Green, 2000.



While Petitioners generally request that the Virginia Marine Resources Commission adopt a rule or amendment to require BRDs in licensed blue crab pots, in the interest of specificity and completeness, we suggest the following specific amendments to Chapter 270 of the Virginia Administrative Code, Pertaining to Blue Crab Fishery and Code 28.2, 4VAC20, Recreational Crabbing Rules. Petitioners also request the opportunity to participate as stakeholders in any rulemaking process.

Specifically, for both the recreational and commercial regulations pertaining to definitions and regulation and prohibition of certain harvesting gear [Virginia Code 28.2-226; 4VAC20-670-20; 4VAC20-270-25], the following should be added:

"Bycatch reduction device" or "BRD" means a rigid rectangular device constructed of wire or plastic that has an opening no larger than 4.5 cm by 12 cm, which is attached to the end of each entrance funnel of a crab trap to minimize bycatch of diamondback terrapins. This definition also includes any device or gear modification that results in a ≥70% reduction in terrapin captures compared with unmodified traps, as demonstrated by at least one peer-reviewed study.

Beginning [three years from date of amendment], all traps, whether commercial or recreational, in state waters less than 150 yards from shore (at mean low water mark) and manmade lagoons, creeks, coves, rivers, tributaries, shallow bays, inlets, and near-shore harbors must have a 4.5x12cm (1.75-in) oval design bycatch reduction device (BRD) meeting the specifications defined attached to each entrance or funnel.

V. CONCLUSION

Petitioners have summarized the harm crab pots inflict on diamondback terrapin populations and the greater estuarine ecosystems in Virginia and across their range. Specifically, Petitioners have demonstrated that terrapins cannot withstand continued mortality in crab pots. Petitioners have also demonstrated that BRDs can significantly reduce terrapin mortality in crab pots, while having negligible effects on crab haul. For these reasons, several states across the terrapin's range have adopted or are considering rules to require terrapin excluder devices on crab pots. Virginia is poised to take the same imperative conservation action for its terrapins, making it a conservation leader in the Chesapeake Bay.

Diamondback terrapins are an essential part of Virginia's unique natural heritage, and citizens and visitors alike depend on the Commission to protect them for generations to come. Moreover, they are an important part of healthy estuarine ecosystems. Petitioners therefore request that the Virginia Marine Resources Commission adopt the proposed rule amendment and require BRDs on licensed commercial and recreational crab pots in Virginia's in state waters less than 150 yards from shore (at mean low water mark) and manmade lagoons, creeks, coves, rivers, tributaries, shallow bays, inlets, and near-shore harbors.

If the Commission or staff has any questions, please contact Tara Zuardo at tzuardo@biologicaldiversity.org or 415-419-4210. The Center can provide copies of the literature cited in this petition upon request.

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Appendix A

Survey of Scientific Literature Evaluating the Effect of BRDs on Terrapin Mortality

Butler and Heinrich (2007) tested whether bycatch mortality of diamondback terrapins in Florida in commercial crab pots is reduced by using 4.5 x 12 cm galvanized steel BRDs. They fished 15 pots without BRDs and 15 outfitted with BRDs at eight sites along the Atlantic and Gulf coasts (including the Florida panhandle) during the summers of 2002-2005. Thirty-seven terrapins were caught in standard pots and four in those with BRDs. They found that 73.2% of trapped terrapins would have been excluded from pots with BRDs (Butler and Heinrich 2007 at 183–184). These researchers recommended that the Florida Fish and Wildlife Conservation Commission devise and adopt regulations that require the use of 4.5 x 12 cm BRDs on all commercial and recreational crab pots used in Florida waters.

Cole and Helser (2001) conducted a 4-year study between 1997 and 2000 in the Delaware Bay estuary to investigate four sizes of wire, rectangular BRDs measuring 5 x 10 cm, 5 x 12 cm, 4.5 x 12 cm, and 3.8 x 12 cm to determine their impacts on terrapin bycatch mortality. During the study, 372 diamondback terrapins were captured (Cole and Helser 2001 at 828–831). Crab pots fitted with 5 x 10 cm BRDs demonstrated statistically significant reduction in terrapin captures (59%) (Cole and Helser 2001 at 828), as did crab pots fitted with 4.5 cm x 12 cm BRDs (38% male and 96% female) (Cole and Helser 2001 at 831). Crab pots fitted with the smallest BRD, 3.8 x 12 cm, prevented all diamondback terrapins from entering the pot (Cole and Helser 2001 at 831). They found that the 5 x 12 cm BRD was the only treatment for which the reduction in overall diamondback terrapin catches was not statistically significant (12%) (Cole and Helser 2001 at 832). Based on the study, Cole and Helser recommended using 4.5 x 12 cm BRDs (Cole and Helser 2001 at 831).

Crowder et al. (2000) studied the extent of terrapin mortality in actively fished crab pots in Jarrett Bay, North Carolina, to evaluate the effect of several different BRDs on both terrapin and crab catch rates (Crowder et al. 2000 at 1). They studied BRD-equipped crab pots for three seasons, testing a 5 x 16 cm BRD the first season (Spring 2000), a 4 x 16 cm BRD the second season (Fall 2000), and a 4.5 x 16 cm BRD the third season (Spring 2001) (Crowder et al. 2000 at 1). All BRDs were made from galvanized fencing (Crowder et al. 2000 at 1). During the course of the three-season study, they captured 12 diamondback terrapins, none of which were captured in pots fitted with excluder devices. (Crowder et al. 2000 at 3).

Hart and Crowder (2011) tested BRDs in North Carolina's year-round blue crab fishery from 2000 to 2004 and found that BRDs successfully prevent terrapin capture and mortality (Hart and Crowder 268–269). The smaller the BRD was, the fewer terrapins were captured (Hart and Crowder 2011 at 268–269). Specifically, they found that a 4.5 cm tall BRD excluded approximately 77% of terrapins captured, while a 5 cm tall BRD excluded approximately 28% of terrapins (Hart and Crowder 2011 at 269). They also found that longer soak times and closer distances to shore increased the risk of terrapin captures (Hart and Crowder 2011 at 268–269). As a result of the study, Hart and Crowder suggested three complementary and economically feasible tools to prevent terrapin mortality in the blue crab fishery: 1) gear modifications such as

BRDs; 2) distance-to-shore restrictions; and 3) time-of-year regulations (Hart and Crowder 2011 at 270–271). They estimated that by using all three measures combined, a reduction in terrapin bycatch of up to 95% could be achieved without significant reduction in target crab catch (Hart and Crowder 2011 at 264).

Mazzarella (1994) studied crab pots with 5 x 10 cm rectangular wire BRDs and crab pots without BRDs in New Jersey's Great Bay estuary for 116 days from July 6 to August 31, 1993, and from May 1 to June 30, 1994 (Mazzarella 1994 at 1, 3-4). In 1993, crab pots with BRDs captured no terrapins, and crab pots without BRDs captured 3 terrapins; and in 1994, crab pots with BRDs captured 3 terrapins, and crab pots without BRDs captured 37 terrapins (Mazzarella 1994 at 1, 3–4).

Morris et al. (2011) studied the effectiveness of BRDs measuring 4.5 x 12 cm on commercial blue-crab pots in the York River, Virginia, by fishing 10 pots with BRDs and 10 pots without BRDs from June 4 to July 31, 2009 (Morris et al. 2011 at 387). All 51 terrapins captured during the study were captured in crab pots without BRDs; no terrapins were captured in crab pots with BRDs (Morris et al. 2011 at 388, 389). Based on local population estimates, Morris and co-workers concluded that the total number of terrapins caught in non-BRD pots during the 46-day study (51 terrapins) represented a potential reduction in population size from 27–50% (Morris et al. 2011 at 389). Given that the crab pots were in the water only 46 days, the terrapin population in the study creek would have experienced significant mortality of juvenile and adult male terrapins over a full, 8-month season of commercial crabbing, likely resulting in skewed population dynamics (Morris et al. 2011 at 389). Thus, the terrapin mortality prevented by the BRDs was significant.

Roosenburg and Green (2000) tested three sizes of wire BRDs in the Chesapeake Bay in Maryland: 4 x 10 cm, 4.5 x 12 cm, and 5 x 10 cm (Roosenburg and Green 2000 at 883-884). They caught no terrapins in crab pots with 4 x 10 cm BRDs, 19 terrapins in crab pots with 4.5 x 12 cm BRD, and 56 terrapins in crab pots with 5 x 10 cm BRDs (Roosenburg and Green 2000 at 884). They caught 126 terrapins in the crab pots without BRDs (Roosenburg and Green 2000 at 884). Thus, the 5 x 10 cm BRDs reduced terrapin bycatch by 47%, the 4.5 x 12 cm BRDs reduced bycatch by 82%, and the 4 x 10 cm BRDs reduced bycatch by 100% (Roosenburg and Green 2000 at 884). This study resulted in the requirement of a 4.5 x 12 cm BRD in the Maryland recreational crab pot fishery.[24]

Rook et al. (2010) tested a 4.5 x 12 cm plastic BRD in the lower Chesapeake Bay during summer 2008. They tested 10 sets of unbaited crab pots, one pot in each set with BRDs and one without (Rook et al. 2010 at 173–174). In a separate experiment they did the same with baited crab pots (Rook et al. 2010 at 173–174). Of 48 terrapin captures in crab pots, only 2 were from pots with BRDs (Rook et al. 2010 at 175). The BRDs diminished terrapin bycatch in crab pots by 95.7% (Rook et al. 2010 at 177). Thus, Rook et al. "recommend[ed] the use of BRDs on all crab traps

[24] *See* Md. Code Regs. 08.02.03.07(B)(5); Maryland Department of Natural Resources, Attention Maryland Crabbers: you can help save our state reptile! Publication #03-1282009-430, available at https://dnr.maryland.gov/wildlife/Documents/TerrapinBrochure.pdf.

placed in diamondback terrapin habitat of the North American coastline, particularly for crab traps in the shallow waters fringing coastal marshes, estuaries, and lagoons" (Rook et al. 2010 at 178).

Wnek (2019) studied the effectiveness of various BRD designs in reducing terrapin bycatch and compared the amounts and sizes of blue crabs captured in crab pots fitted with BRDs in Barnegat Bay, New Jersey. He studied four sizes of BRD (5 x 15 cm, 4.5 x 12 cm, South Carolina prototype in red, South Carolina prototype in white) against control pots without BRDs (Wnek 2019 at 2). No terrapins were trapped in crab pots with BRDs, and two terrapins were captured in control pots without BRDs (Wnek 2019 at 10).

Appendix B

Survey of Scientific Literature Evaluating the Effect of BRDs on Crab Haul

Butler and Heinrich (2007) tested whether bycatch mortality of diamondback terrapins in commercial crab pots is reduced by using 4.5 x 12 cm galvanized steel BRDs and whether those devices limit blue crab catch. They captured 2,753 legal-sized crabs and found no significant difference between the sex, measurements, or number of crabs captured in standard crab pots versus crab pots with BRDs (Butler and Heinrich 2007 at 182).

Cole and Helser (2001) found that crab pots fitted with 5 x 10 cm BRDs demonstrated statistically significant reduction in terrapin captures (59%) with no statistical difference in blue crab catches (Cole and Helser 2001 at 828). Crab pots fitted with 4.5 x 12 cm BRDs demonstrated statistically significant reduction in terrapin captures (38% male and 96% female) with only a nominal loss of legal-size blue crabs (12% total, 6% of most desirable crabs) (Cole and Helser 2001 at 831). Crab pots fitted with the smallest BRD, 3.8 x 12 cm, prevented all diamondback terrapins from entering the trap, but incurred substantial loss of legal-size blue crabs (-26%) (Cole and Helser 2001 at 831). Based on the study, Cole and Helser recommended using 4.5 x 12 cm BRDs, which effectively protect subadult and reproductively mature female terrapins with minimal loss of legal blue crabs (Cole and Helser 2001 at 831).

Cuevas et al. (2000) studied and compared the catch rate and sizes of blue crab and terrapin bycatch taken in Mississippi Sound with crab pots equipped with and without BRDs. The BRDs were made of welding rods shaped into a 5 x 10 cm rectangle and fitted into the funnel entrances of crab pots (Cuevas et al. 2000 at 223). A total of 740 blue crabs were captured, 370 in pots without BRDs and 370 in pots with BRDs (Cuevas et al. 2000 at 224). Pots with BRDs captured 160 female crabs and 210 male crabs, while control pots caught 125 females and 245 males (Cuevas et al. 2000 at 224). Daily catch rates and crab size frequency were similar for crab pots with and without BRDs (Cuevas et al. 2000 at 224, 225). However, the scientists noted that there was a detectable difference in size distribution, resulting in a slight decrease in numbers of larger crabs observed in pots with BRDs (Cuevas et al. 2000 at 225). This difference could have been attributable to the small sample size in the study (Cuevas et al. 2000 at 225).

Guillory and Prejean (1998) studied the effects of BRDs on blue crab catches in estuarine Louisiana waters. To do this, they fished five standard crab pots and five crab pots with BRDs constructed of stainless-steel wire and measuring 5 x 10 cm (Guillory and Prejean 1998 at 38). They found that overall catch per trap day of sublegal, legal, and total crabs was 14.5%, 37.9%, and 25.7% greater, respectively, than in standard pots (Guillory and Prejean 1998 at 39). The scientists attributed the increased crab catch in pots with BRDs to increased ingress or decreased egress through the entrance funnels (Guillory and Prejean 1998 at 39).

Hart and Crowder (2011) studied various sizes of galvanized steel BRDs in North Carolina. Although they found a positive correlation between the size of the BRD and effect on crab haul (compared with non-BRD crab pots), they concluded that a 5 cm tall BRD did not have a significant effect on catch of either large male blue crabs or peelers (Hart and Crowder 2011 at 269).

Lukacovic et al. (2005) investigated the effect of BRDs on crab catch and terrapin bycatch in crab pots in Maryland's Assawoman Bay. They studied 16 crab pots, 8 with BRDs and 8 without BRDs, which were fished for 24 and 48 hours twice each month from mid-May through October 2004. The BRDs were rectangular and met Maryland's regulatory requirement that they not exceed 1.75 x 4.75 inches (approximately 4.5 x 12 cm) in length (Lukacovic et al. 2005 at *3). The crab pots were set for a total of 1029 pot-days in water depths ranging from 0.6–2.8 meters (2–8 feet), and 3,412 blue crabs and 1 diamondback terrapin were captured (Lukacovic et al. 2005 at *4). The terrapin was captured in a pot without a BRD, making the rate of terrapin bycatch in non-BRD crab pots 0.002 crabs/pot per day (Lukacovic et al. 2005 at *4). They also found that crab catch for unmodified pots was greater than pots modified with BRDs (Lukacovic et al. 2005 at 4). The overall crab catch was 35% greater, the catch of legal crabs was 28.5% greater, the catch of legal male crabs was 25.6% greater, the catch of mature females was 23.7% greater, and the catch of peelers was 104.2% greater (Lukacovic et al. 2005 at *4). Following inferential analyses, Lukacovic et al. concluded that all categories of crab catch were significantly lower in crab pots fitted with BRDs (Lukacovic et al. 2005 at *5).

Mazzarella (1994) observed no significant difference between crabs caught in crab pots with 5 x 10 cm rectangular BRDs and crab pots without BRDs. In the first study year, crab pots with BRDs caught 6,139 crabs (mean size 13.2), while crab pots without BRDs caught 5,288 crabs (mean size 13.3) (Mazzarella 1994 at 1, 3–4). In the second study year, crab pots with BRDs caught 5,703 crabs (mean size 12.3), and crab pots without BRDs caught 5,851 (mean size 12.2) (Mazzarella 1994 at 1, 3–4).

Morris et al. (2011) studied the effectiveness of BRDs on commercial blue-crab pots in the York River, Virginia, by fishing 10 pots with BRDs and 10 pots without BRDs (Morris et al. 2011 at 387). More than 25% of total crabs were caught on the first day after baiting, and on the first day after baiting they found no statistical difference between either the number or size of legal-size crabs in crab pots with and without BRDs (Morris et al. 2011 at 388). Across all other days after baiting, there was a significant difference in total catch per unit effort of legal-size crabs; however, there was no significant difference in size of legal-sized crabs in BRD pots and non-BRD pots (Morris et al. 2011 at 388). These results indicate that in the absence of fresh bait, crabs do not enter crab pots with BRDs as frequently as non-BRD pots (Morris et al. 2011 at 389). Morris et al. also found that crab pots with terrapin bycatch in them had, on average, fewer crabs per unit effort (Morris et al. 2011 at 388). Likewise, more legal-size crabs were caught in pots without terrapin bycatch, but the difference was not significant (Morris et al. 2011 at 388).

Rook et al. (2010) tested a 4.5 x 12 cm BRD in the lower Chesapeake Bay and found that the BRDs had little effect on crab catch (Rook et al. 2010 at 173–178). Crab catch was equivalent between crab pots with and without BRDs (Rook et al. 2010 at 178). In fact, crab pots with BRDs had slight increases in number, size, and biomass of both legal-size and sublegal-size crabs, though the difference was considered marginal (Rook et al. 2010 at 178).

Roosenburg and Green (2000) tested three sizes of wire BRDs in a tributary to the Chesapeake Bay in Maryland: 4 x 10 cm, 4.5 x 12 cm, and 5 x 10 cm (Roosenburg and Green 2000 at 883–

884). Neither the 5 x 10 cm BRD nor the 4.5 x 12 cm BRD affected crab size or the number of crabs caught in the crab pots (Roosenburg and Green 2000 at 885). In fact, crab pots with 4.5 x 12 cm BRDs had the highest catch per unit effort (2.69 crabs per pot per day), followed by crab pots without BRDs (2.55 crabs per pot per day), and then crab pots with 5 x 10 cm BRDs (2.39 crabs per pot per day) (Roosenburg and Green 2000 at 885). In the second year of study, the largest crab was caught in a crab pot with a 4.5 x 12 cm BRD (Roosenburg and Green 2000 at 885, 886). The 4 x 10 cm BRD reduced the size and number of large and mature female crabs (Roosenburg and Green 2000 at 884–885). Catch rate for standard crab pots with 4 x 10 cm BRDs was 2 crabs per pot per day lower than standard crab pots fished without BRDs (Roosenburg and Green 2000 at 885). The 4 x 10 cm BRD also had a significant effect on the width and height of crabs caught, excluding larger Number Ones and large females (Roosenburg and Green 2000 at 885). The scientists found that height of the BRD was the limiting factor rather than width (Roosenburg and Green 2000 at 885). Based on their study, Roosenburg and Green stressed the importance of using 4.5 x 12 cm BRDs on commercial and recreational crab pots because they do not affect crab haul but significantly reduce terrapin capture (82% reduction) (Roosenburg and Green 2000 at 886).[25]

Wnek (2019) studied the effectiveness of various BRD designs in reducing terrapin bycatch and compared the amounts and sizes of blue crabs captured in crab pots fitted with BRDs in Barnegat Bay, New Jersey. He studied three sizes of BRD (5 x 15 cm, 4.5 x 12 cm, South Carolina prototype (half white, half red) against control pots without BRDs (Wnek 2019 at 2). There was no significant difference in the number of blue crabs captured in traps with BRDs and traps without BRDs (Wnek 2019 at 4). In terms of measurement, there was no difference in the total mean length of blue crab captures (Wnek 2019 at 4). The control pots had significantly wider blue crabs than the pots with 5 x 15 cm and South Carolina style BRDs; however, the control pots were similar to those fitted with 4.5 x 12 cm BRDs (Wnek 2019 at 4). While mean blue crab height was significantly lower in pots with 5 x 15 cm BRDs, there was no difference in mean blue crab height between control pots and those with 4.5 x 12 cm and South Carolina style BRDs (Wnek 2019 at 4).

[25] Roosenburg and Green (2000) found that the 4 x 10 cm BRDs were not a suitable solution for commercial fisheries because they reduced the number of crabs caught by nearly half (Roosenburg and Green 2000 at 887). However, they could be considered for recreational crabbers, who often place their traps in areas with more terrapins, because the 4 x 10 cm BRDs excluded 100% of terrapins (Roosenburg and Green 2000 at 887).

HARRELL FAMILY LIVING TRUST,
#25-0019

1. Habitat Management Evaluation dated June 24, 2025.
   (Page 1 - 2)

2. Project drawings dated received on May 13, 2025.
   (Pages 3 - 6)

3. Online protest submission in Habitat Public Comments from Jack Mrazik and Elise Woodward, dated received on May 22, 2025. (Page 7)

4. Previous permit #2019-0182, Letter of Finding, dated July 30, 2020.
   (Page 8 - 9)

5. Previous permit #2019-0182 and drawings (inactivated).
   (Page 10 through 15)

All project drawings, plans and application information are available at https://webapps.mrc.virginia.gov/public/habitat/

June 24, 2025

HABITAT MANAGEMENT DIVISION EVALUATION

HARRELL FAMILY LIVING TRUST, #25-0019, requests authorization to construct an 18-foot by 16-foot open-sided gazebo and a 37-foot by 15-foot open-sided boathouse onto a statutorily authorized private pier, situated along the York River at 5232 Ivey Lane in James City County. The project is protested by two adjacent property owners.

Narrative

The project is located along the York River, just north of York River State Park. The site consists of a steep cliff that leads to a sandy shoreline along the river. The pier portion of the request is statutorily authorized in accordance with §28.2-1203(A)5 of the Code of Virginia. Given the proposed gazebo and boathouse roof structures, the adjacent property owners were notified of the proposal. Both adjacent property owners protested, therefore the proposed gazebo and boathouse roof structures are not statutorily authorized and require a Commission subaqueous permit.

A public notice was also advertised in the Tidewater Review. No protests were received in response to the newspaper advertisement. The pier proposal also extends into an oyster ground lease, but the leaseholder was notified of the project and is not protesting.

Mr. Oscar Harrell of the Harrell Family Living Trust was previously granted a VMRC permit (#2019-0182) at the July 28, 2020, Commission hearing for a 36-foot by 18-foot open-sided boathouse and a 20-foot by 20-foot open-sided gazebo to serve a similar private pier proposal on the same private property. Mr. Harrell verified in an email on June 6, 2023, that the previous permit was abandoned (the permit expired on July 31, 2023).

Issues

The project is protested by both the downstream and upstream adjacent property owners. The downstream property owner, Ms. Elsie Woodward, stated that she would have no objections to the project if the applicant lived on the property. The upstream property owners, Mr. and Mrs. Mrazik, have similar concerns to Ms. Woodward's. They noted that if this project was proposed in nearby York County, it wouldn't be allowed because constructing a pier and boathouse to serve a vacant lot is restricted under York County's zoning ordinance.

Summary/Recommendations

Section 28.2-1203(A)5 of the Code of Virginia provides statutory authorization for private piers meeting certain design criteria. This section also authorizes the construction of open-sided boathouses measuring 700 square feet or less and gazebos measuring 400 square feet or less at private piers, provided that they are not objected to by the adjoining property owners and are allowed by local ordinances. In this instance, since both adjacent property owners are protesting the boathouse and gazebo, a VMRC subaqueous permit is required.

Staff understands the protestants' concerns, however their concerns regarding whether the applicant has a residential structure or lives at the property are upland local issues for the County. Furthermore, there are several private piers with boathouses and gazebos directly upriver from the applicant's property. Ultimately staff feels that the request to include the boathouse and gazebo as part of the private pier construction is a reasonable and consistent use of state-owned submerged lands.

Accordingly, after evaluating the merits of the project against the concerns expressed by those in opposition to the project, and after considering all of the factors contained in §28.2-1205 of the Code of Virginia, staff recommends approval of the boathouse and gazebo roof as proposed.

SITE PLAN

NOT TO SCALE

REVISION	DATE
1	5/7/2025

WATERFRONT DOCK

5232 IVEY LANE

WILLIAMSBURG, VA 23188

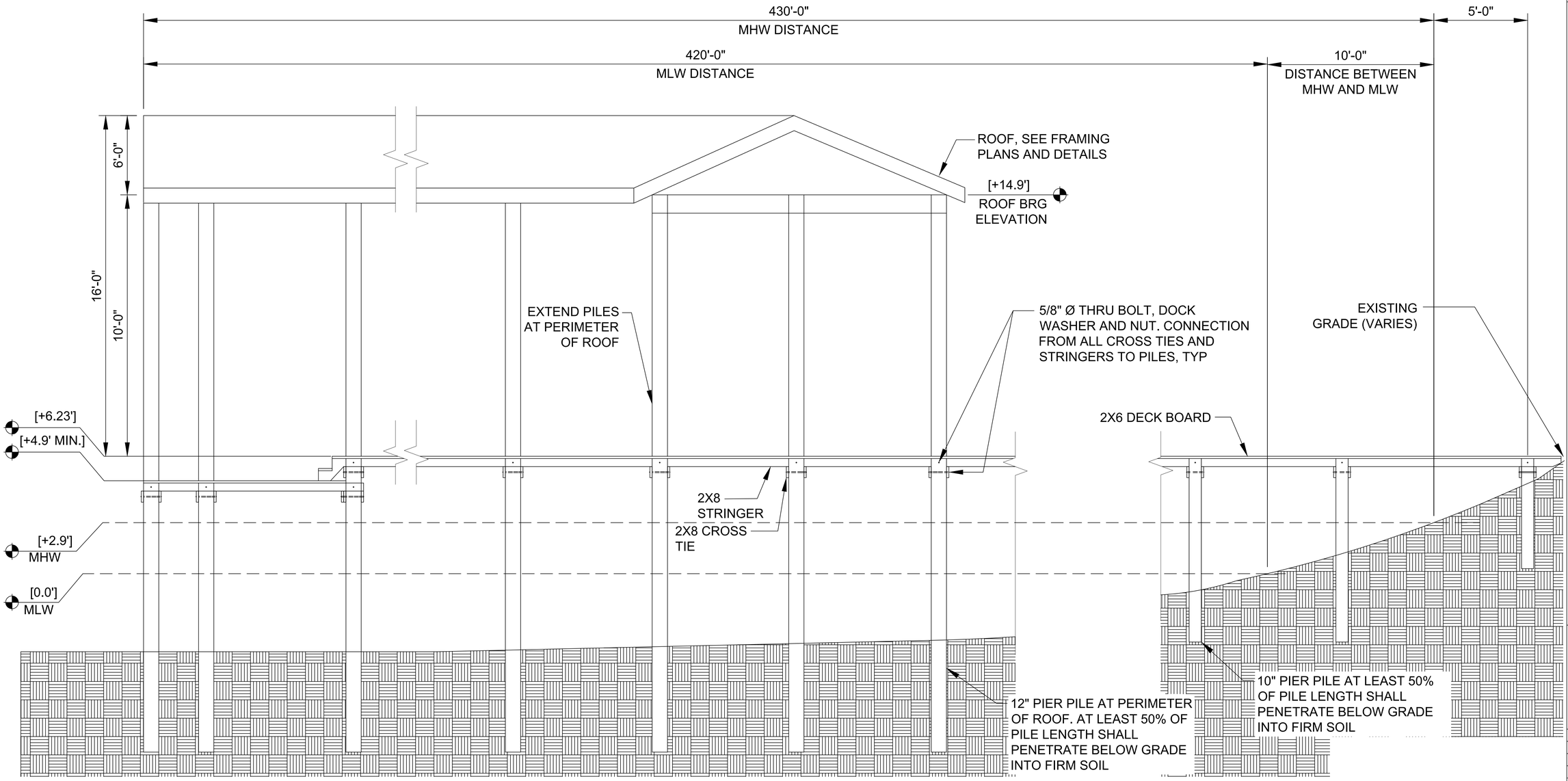
SITE PLAN

PROJ NO.	2
DATE:	1/2/2025
SCALE:	AS SHOWN
CHECKED:	
DRAWN BY:	JHBV

SF104

SHEET 5 OF 5

Additional Information/Revisions Recieved by VMRC May 13, 2025 map



FRAMING ELEVATION AND REVENTMENT SECTION

NOT TO SCALE

REVISION	DATE
1	5/7/2025

WATERFRONT DOCK

5232 IVEY LANE WILLIAMSBURG, VA 23188

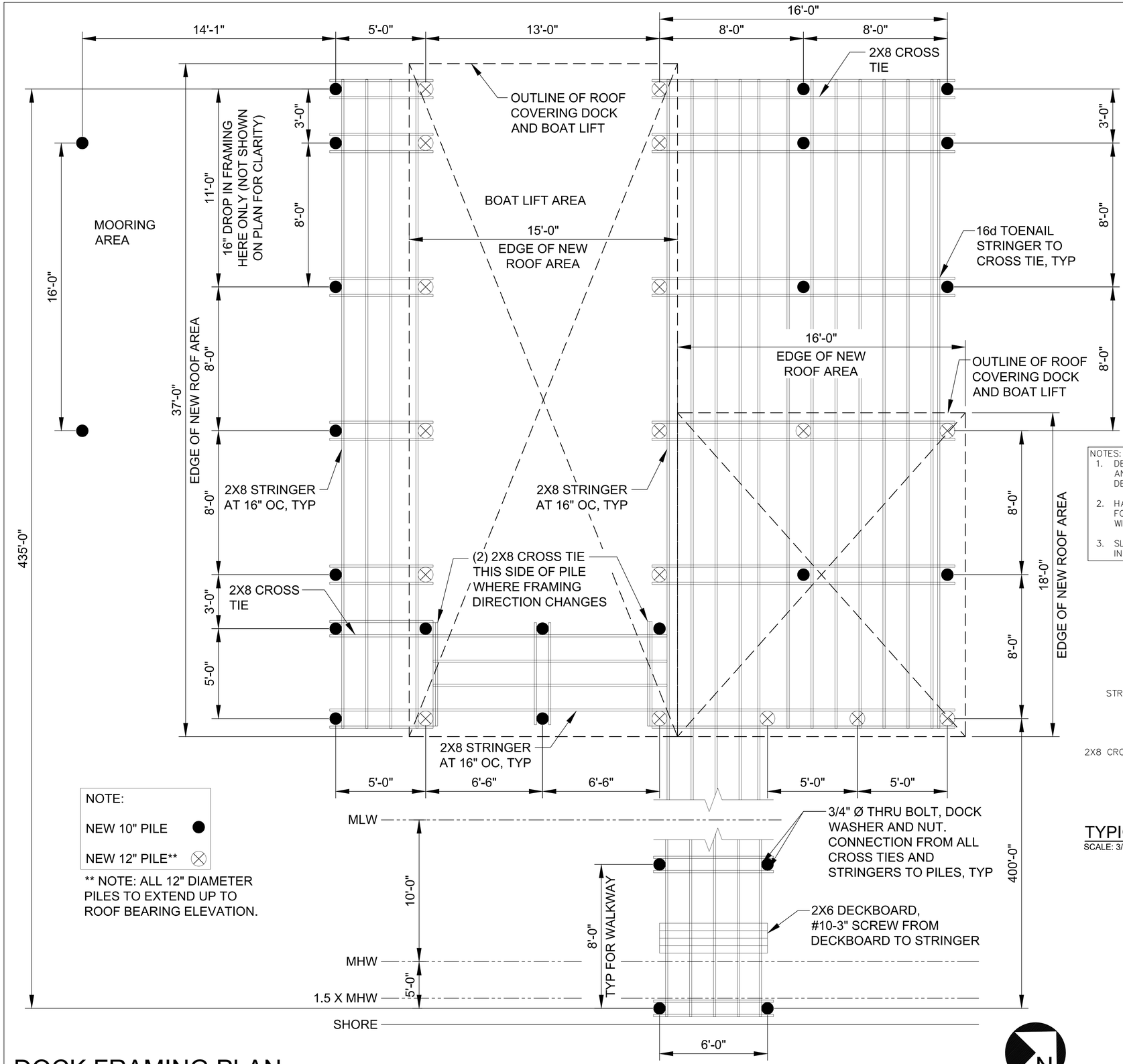
FRAMING ELEVATION AND REVENTMENT SECTION

PROJ NO.	2
DATE:	1/2/2025
SCALE:	AS SHOWN
CHECKED:	
DRAWN BY:	JHBV

SF103

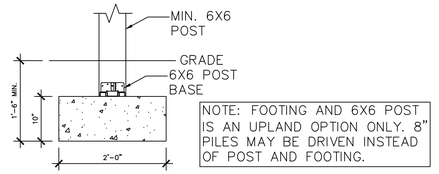
SHEET 4 OF 5

Additional Information/Revisions Recieved by VMRC May 13, 2025 map



DOCK FRAMING PLAN

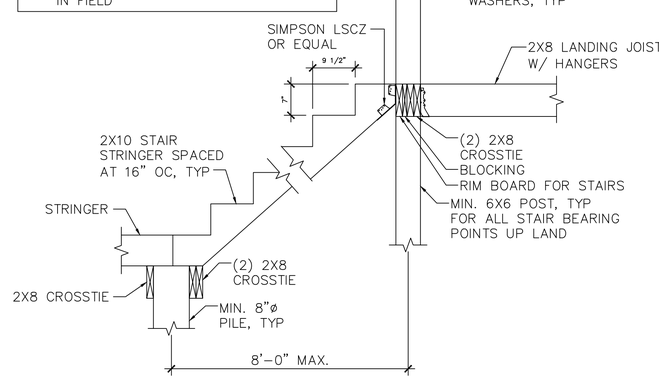
SCALE: 3/8" = 1'-0"



TYPICAL WALKWAY STAIR FOOTING DETAIL

SCALE: 3/4" = 1'-0"

NOTES:
1. DEPTH AND WIDTH OF STAIR RISER AND TREAD DOES NOT INCLUDE DECKING MATERIAL
2. HANDRAIL FOR STAIRS NOT SHOWN FOR CLARITY. HANDRAIL MUST COMPLY WITH THE 2018 VRC SECTION R311.7.8
3. SLOPE OF STAIRS TO BE DETERMINED IN FIELD



TYPICAL WALKWAY STAIR DETAIL

SCALE: 3/4" = 1'-0"

REVISION	DATE
1	5/7/2025

WATERFRONT DOCK

5232 IVEY LANE WILLIAMSBURG, VA 23188

DOCK FRAMING PLAN

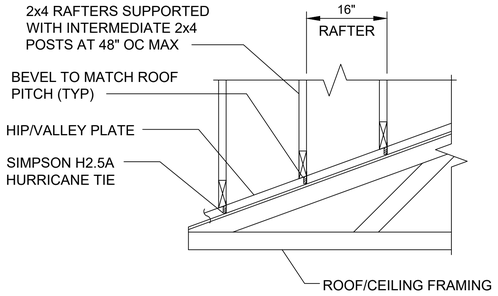
PROJ NO.	2
DATE:	1/2/2025
SCALE:	AS SHOWN
CHECKED:	
DRAWN BY:	JHBV

SF101

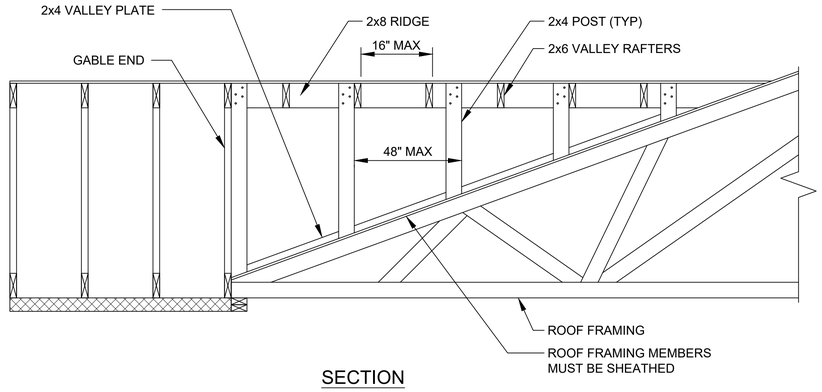
SHEET 2 OF 5

Additional Information/Revisions Recieved by VMRC May 13, 2025 map

= ROOF OVER FRAMING AREA, REFER TO "TYPICAL ROOF OVER FRAMING DETAIL"

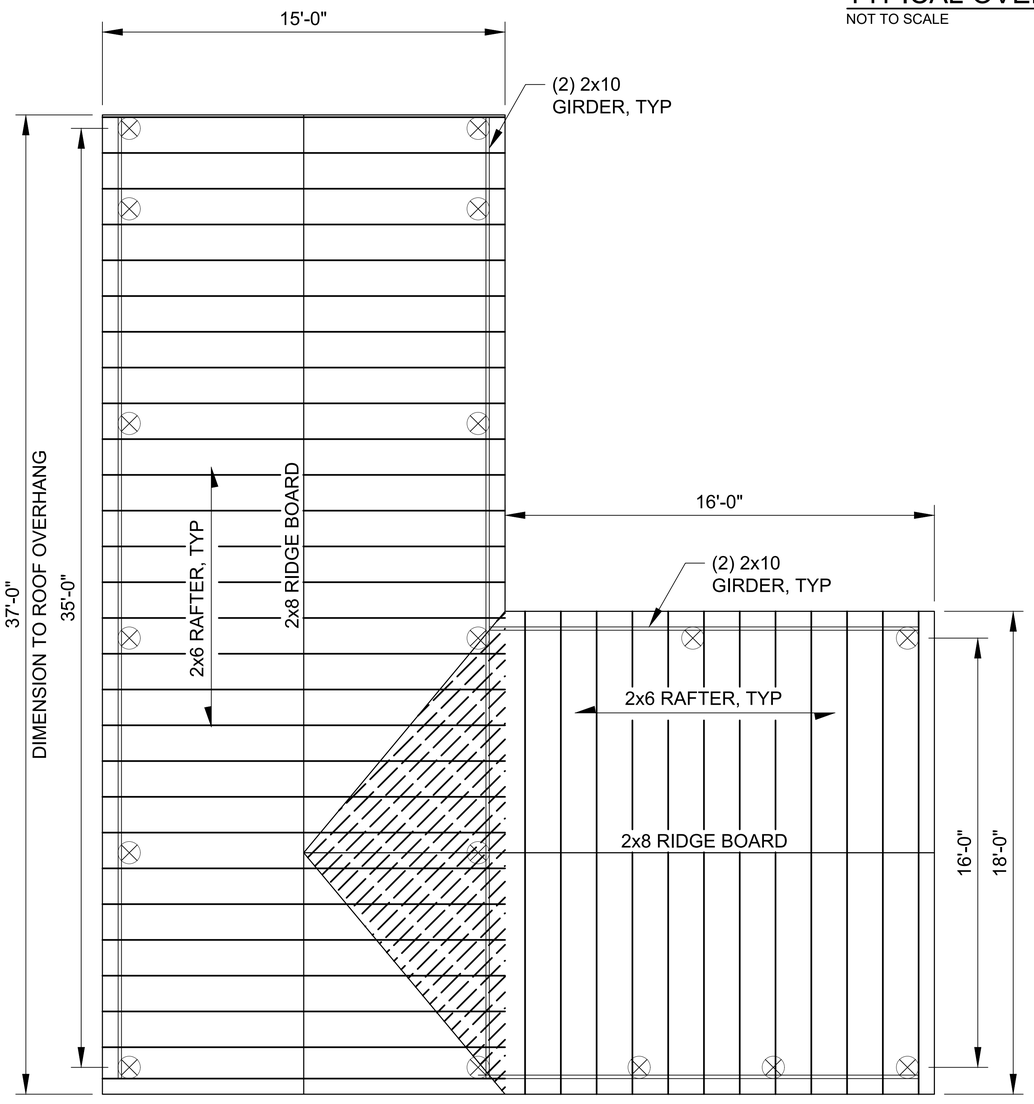


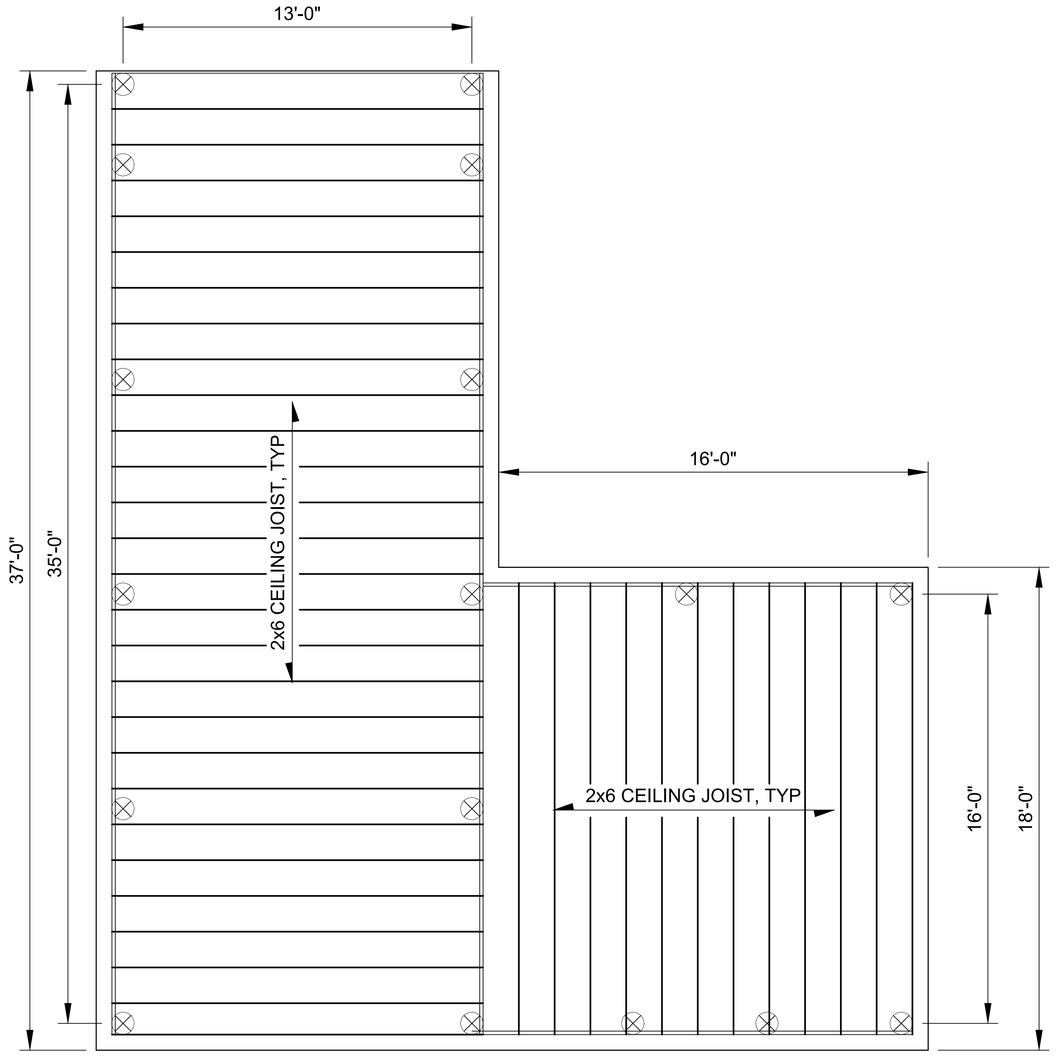
TYPICAL OVER FRAMING DETAIL
NOT TO SCALE



SECTION

TYPICAL VALLEY FRAMING DETAIL
NOT TO SCALE





ROOF AND CEILING FRAMING PLAN
SCALE: 3/8" = 1'-0"

N

REVISION	DATE
1	5/7/2025

WATERFRONT DOCK
5232 IVEY LANE
WILLIAMSBURG, VA 23188
ROOF AND CEILING FRAMING PLAN AND DETAILS

PROJ NO.	2
DATE:	1/2/2025
SCALE:	AS SHOWN
CHECKED:	
DRAWN BY:	JHBV

SF102

SHEET 3 OF 5

Additional Information/Revisions Recieved by VMRC May 13, 2025 map

ELSIE C WOODWARD Edit	elsie@edenrott.com	05/22/2025 11:53:21 AM	OPPOSE	MY OBJECTIONS TO THIS PROJECT ARE ON RECORD. I WOULD HAVE NO OBJECTIONS IF THE HARRELS LIVED ON THIS PROPERTY. AT THIS POINT, THEY HAVE NO PLANS TO BUILD, THEREFORE, THE PROPOSAL FOR THEIR PROJECT IS JUST PROVIDING AN UNSUPERVISED "ATTRACTIVE" NUISANCE. THE ONLY ACCESS TO THE PROJECT OTHER THAN BY WATER IS BY A PRIVATE DRIVE THAT WE, AS NEIGHBORS, SHARE (THE HARRELS HAVE NEVER HELPED MAINTAIN THIS DRIVE AFTER STORM CLEANUP AND THE LIKE). IN THE NEARLY 20 YEARS I HAVE LIVED HERE, I HAVE ONLY SEEN THE HARRELL'S PERHAPS 3 OR 4 TIMES. I HAVE PREVIOUSLY DOCUMENTED THEIR ALLOWING FOR HUNTING BY A NON-FAMILY MEMBER AS WELL AS ALLOWING A DUCK BLIND TO BE CONSTRUCTED OFF THEIR PROPERTY, WHICH WAS USED FOR A COMMERCIAL CONCERN, AGAIN, NOT A FAMILY MEMBER. PLEASE LET ME KNOW IF YOU ARE UNABLE TO FIND MY PREVIOUS CORRESPONDENCE CONCERNING THIS PROJECT.
JACK A MRAZIK Edit	jamgp922@gmail.com	05/22/2025 12:55:01 PM	OPPOSE	OUR OPPOSITION TO THIS PROJECT IS WELL DOCUMENTED. AS PREVIOUSLY STATED, THE HARRELL FAMILY HAVE NO PLANS TO BUILD A HOUSE AND/OR LIVE ON THIS PROPERTY. THE CONSTRUCTION BASED UPON THE PLANS SUBMITTED WOULD CLEARLY BE IN MY LINE OF SIGHT, AND ITS SCOPE AND EXTENT IS TROUBLESOME. IT'S ANALOGOUS TO LIVING IN A SMALL SUBDIVISION AND HAVING AN RV PARKED ON THE STREET IN FRONT OF YOUR HOUSE, PERMANENTLY AND UNLOCKED. THE POINT IS IT COMPROMISES THE PRIVACY AND SECURITY OF THE NEIGHBORS WHO DO LIVE THERE. WITH NO OVERSIGHT AND NO PLANS FOR MAINTAINING THE PROJECT, IT INVITES INDIVIDUALS TO ACCESS IT FOR ANY NUMBER OF NEFARIOUS REASONS. SPEAKING OF MAINTAINANCE, THE ACCESS ROAD TO THE PROPERTY IS ACTUALLY MINE AND NOT THE HARRELL'S, UNLIKE THE DRAWING IN THE SUBMITTED DOCUMENTS SUGGESTS. THE DRAWING IS INACCURATE, AND MAKES ME QUESTION THE NORTHERN AND WESTERN BOUNDARY AS WELL. I WOULD REQUEST THE PROPOSED SITE BE REVIEWED FOR ACCURACY. THAT SAID, THERE NEEDS TO BE WRITTEN PROVISIONS FOR ACCESS ROAD REPAIR AT THE HARRELL'S EXPENSE, AS TRAFFIC WOULD DRAMATICALLY INCREASE ON MY ROAD DURING THE CONSTRUCTION PHASE IF THIS GOES FORWARD. AGAIN, IF THIS WAS PROPOSED IN YORK COUNTY, IT WOULD BE ILLEGAL, AS A DOCK AND BOAT HOUSE CANNOT BE CONSTRUCTED UNLESS A HOUSE IS PRESENT ON THE PROPOSED SITE. THANK YOU FOR YOUR ASSISTANCE. THE MRAZIK'S

COMMONWEALTH of VIRGINIA

Marine Resources Commission
380 Fenwick Road
Bldg 96
Fort Monroe, Virginia 23651-1064

Matthew J. Strickler
Secretary of Natural Resources

Steven G. Bowman
Commissioner

July 30, 2020

Jack & Aviva Mrazik
5217 Ivey Lane
Williamsburg, VA 23188
Jamgp922@gmail.com, afmrazik@gmail.com

Re: VMRC #19-0182

Dear Dr. & Mrs. Mrazik:

This is to inform you that the Marine Resources Commission, at its regularly scheduled meeting on July 28, 2020, considered a request to construct a private open-pile pier with a 36-foot by 18-foot open-sided boathouse and a 20-foot by 20-foot open-sided gazebo roof, at property (5232 Ivey Lane) situated along the York River in James City County.

The Commission reviewed slides of the proposal, all documents in the official record, testimony in support of the proposal by the applicant, and your testimony in objection to the project. After careful deliberation and after considering all of the factors contained in §28.2-1205 of the Code of Virginia, the Commission unanimously voted to approve the project.

Please be advised that any person aggrieved by a decision of the Marine Resources Commission has the right of judicial review. Part 2A of the Rules of the Supreme Court of Virginia applies to judicial appeal of Commission decisions reviewable in accordance with the Administrative Process Act. As provided by Rule 2A:2, you have 30 days from the date of service of this decision within which to initiate an appeal of this decision by filing a Notice of Appeal with:

Ms. Ellen Bolen, Agency Secretary
Virginia Marine Resources Commission
380 Fenwick Road, Building 96
Fort Monroe, VA 23651

In the event that this decision is served on you by mail, three days are added to the 30 day period.

Should you have any questions regarding this matter, please feel free to contact Allison Lay of my staff at (757) 247-2254.

Sincerely,

Tony Watkinson
Chief, Habitat Management Division

TW/AEL:tsb
HM
cc: Mr. Steven G. Bowman, Commissioner
Ms. Kelsi Block, Assistant Attorney General

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION
PERMIT

The Commonwealth of Virginia, Marine Resources Commission, hereinafter referred to as the Commission, on this 28th day of July 2020 hereby grants unto:

Oscar Harrell
105 John Paine
Williamsburg, VA 23185

hereinafter referred to as the Permittee, permission to:

X Encroach in, on, or over State-owned subaqueous bottoms pursuant to Chapter 12, Subtitle III, of Title 28.2 of the Code of Virginia.

___ Use or develop tidal wetlands pursuant to Chapter 13, Subtitle III, of Title 28.2 of the Code of Virginia.

Permittee is hereby authorized to construct a 36-foot by 18-foot open-sided boathouse and a 20-foot by 20-foot open-sided gazebo roof, at property (5232 Ivey Lane) situated along the York River in James City County. All activities authorized herein shall be accomplished in conformance with the plans and drawings dated received March 17, 2020, which are attached and made a part of this permit.

This permit is granted subject to the following conditions:

(1) The work authorized by this permit is to be completed by **July 31st, 2023**. The Permittee shall notify the Commission when the project is completed. The completion date may be extended by the Commission in its discretion. Any such application for extension of time shall be in writing prior to the above completion date and shall specify the reason for such extension and the expected date of completion of construction. All other conditions remain in effect until revoked by the Commission or the General Assembly.

(2) This permit grants no authority to the Permittee to encroach upon the property rights, including riparian rights, of others.

(3) The duly authorized agents of the Commission shall have the right to enter upon the premises at reasonable times, for the purpose of inspecting the work being done pursuant to this permit.

(4) The Permittee shall comply with the water quality standards as established by the Department of Environmental Quality, Water Division, and all other applicable laws, ordinances, rules and regulations affecting the conduct of the project. The granting of this permit shall not relieve the Permittee of the responsibility of obtaining any and all other permits or authority for the projects.

(5) This permit shall not be transferred without written consent of the Commissioner.

(6) This permit shall not affect or interfere with the right vouchsafed to the people of Virginia concerning fishing, fowling and the catching of and taking of oysters and other shellfish in and from the bottom of acres and waters not included within the terms of this permit.

(7) The Permittee shall, to the greatest extent practicable, minimize the adverse effects of the project upon adjacent properties and wetlands and upon the natural resources of the Commonwealth.

(8) This permit may be revoked at any time by the Commission upon the failure of the Permittee to comply with any of the terms and conditions hereof or at the will of the General Assembly of Virginia.

(9) There is expressly excluded from the permit any portion of the waters within the boundaries of the Baylor Survey.

(10) This permit is subject to any lease of oyster planting ground in effect on the date of this permit. Nothing in this permit shall be construed as allowing the Permittee to encroach on any lease without the consent of the leaseholder. The Permittee shall be liable for any damages to such lease.

(11) The issuance of this permit does not confer upon the Permittee any interest or title to the beds of the waters.

(12) All structures authorized by this permit, which are not maintained in good repair, shall be completely removed from State-owned bottom within three (3) months after notification by the Commission.

(13) The Permittee agrees to comply with all of the terms and conditions as set forth in this permit and that the project will be accomplished within the boundaries as outlined in the plans attached hereto. Any encroachment beyond the limits of this permit shall constitute a Class 1 misdemeanor.

(14) This permit authorizes no claim to archaeological artifacts that may be encountered during the course of construction. If, however, archaeological remains are encountered, the Permittee agrees to notify the Commission, who will, in turn notify the Department of Historic Resources. The Permittee further agrees to cooperate with agencies of the Commonwealth in the recovery of archaeological remains if deemed necessary.

(15) The Permittee agrees to indemnify and save harmless the Commonwealth of Virginia from any liability arising from the establishment, operation or maintenance of said project.

The following special conditions are imposed on this permit:

(16) The placard accompanying this permit document must be conspicuously displayed at the work site.

(17) Permittee agrees to notify the Commission upon the start of the activities authorized by this permit.

Description of Fees	Amount	Unit of Measure	Rate	Total	Frequency	After-The-Fact
Permit Fee				$100.00	One-Time	
Total Permit Fees				**$100.00**		

This permit consists of 8 Pages

PERMITTEE(S)

[X] BY CHECKING THIS BOX, I certify that I am the Permittee OR the certified agent acting on behalf of all Permittees, that I have read and understood the permit as drafted and accept all of the terms and conditions herein. I agree and understand that checking the box has the same legal authority as a written signature. The provisions of the permit authorization shall be binding on any assignee or successor in interest of the original Permittee(s). In cases where the Permittee is a corporation, agency or political jurisdiction, I certify I have proper authorization to bind the organization to the financial and performance obligations which result from activity authorized by this permit.

PERMITTEE OR CERTIFIED AGENT

Oscar Harrell

Print Your Name Here

DATE TERMS ACCEPTED

August 07, 2020

PERMITEE
Oscar Harrell
105 John Paine
Williamsburg, VA 23185

AGENT
Delta Marine Construction
Alicia Randall
Post Office Box 500
Deltaville, VA 23043

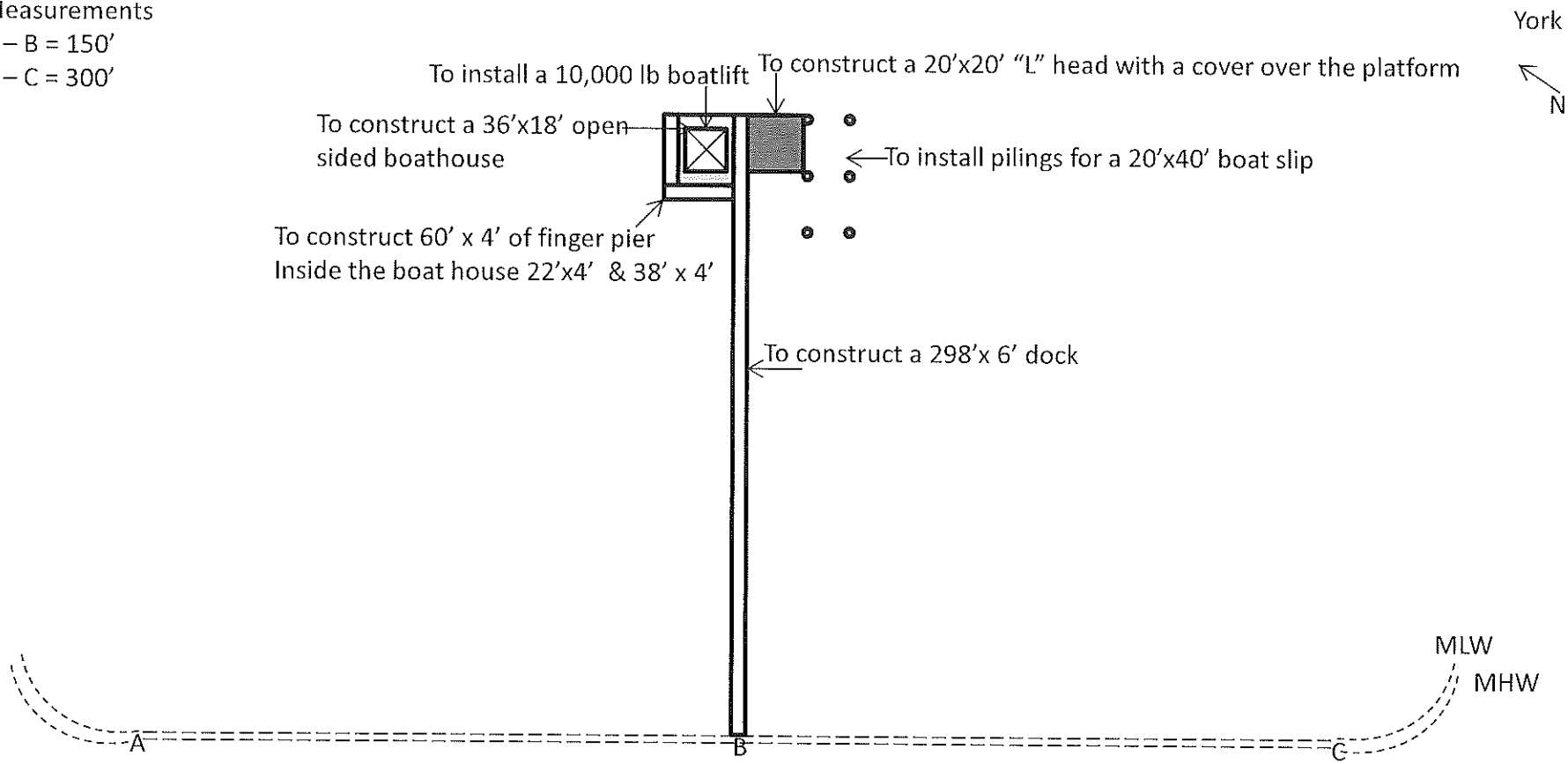
COMMISSION

This permit is executed on behalf of the Commonwealth of Virginia, Marine Resources Commission by the undersigned:

Tony Watkinson
Chief, Habitat Management Division (Retired)

DATE SIGNED
7th day of August 2020

Measurements
A – B = 150'
A – C = 300'

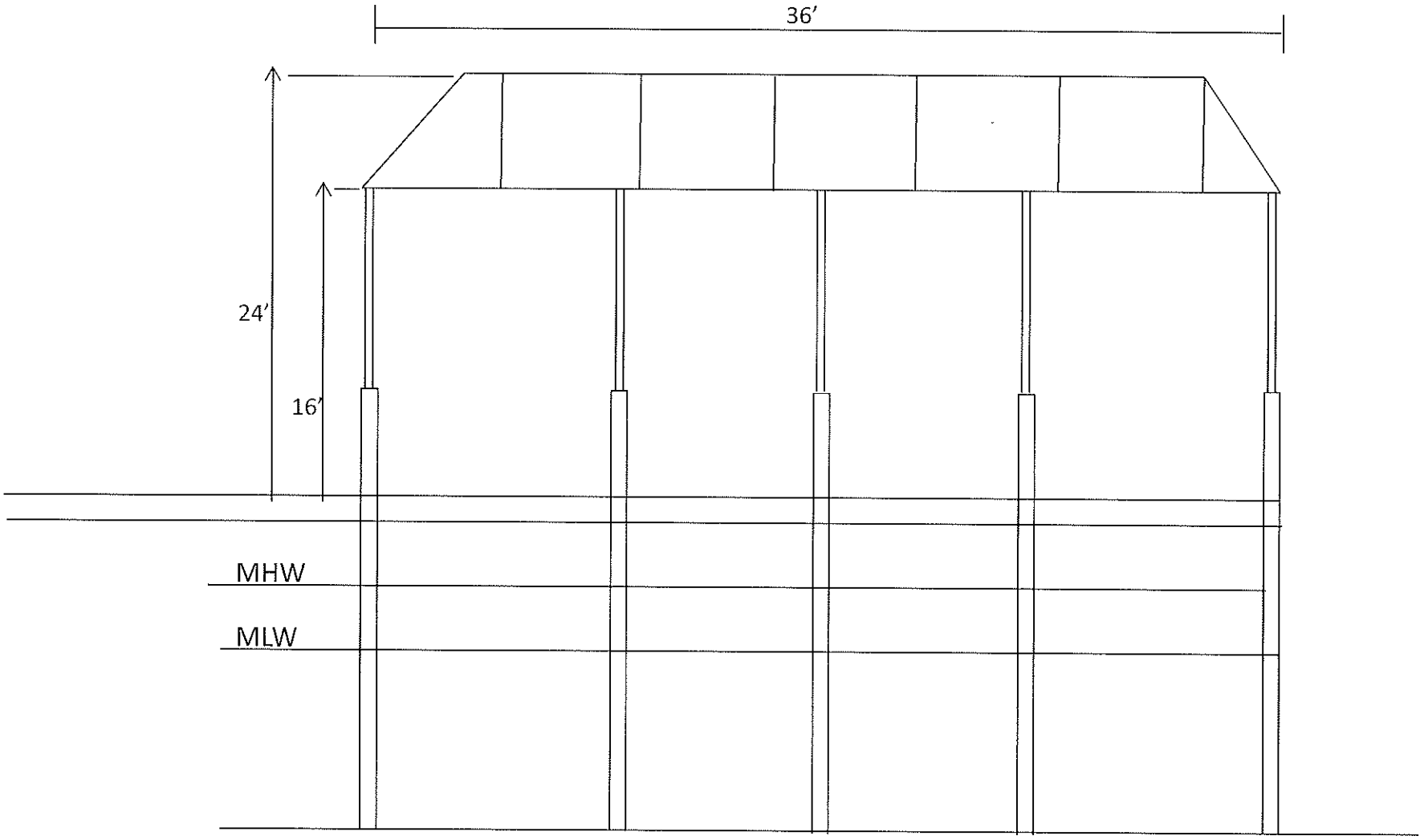


Oscar Harrell
5232 Ivey Lane
Williamsburg VA 23188

Additional Info/Revison received
by VMRC on March 17, 2020 /lra

York River
Tax Map # 0830200004

Proposed 36'x18' open sided boathouse



Oscar Harrell
5232 Ivey Lane
Williamsburg VA 23188

York River
Tax Map # 0830200004

Additional Info/Revison received
by VMRC on March 17, 2020 /lra

From: oscar harrell <ha94@cox.net>
Sent: Tuesday, June 6, 2023 8:08 PM
To: Reams, Brad (MRC) <Brad.Reams@mrc.virginia.gov>
Subject: RE: VMRC Request For Permit Status

The project has been abandoned

Oscar Harrell

From: VMRC <brad.reams@mrc.virginia.gov>
Sent: Tuesday, June 6, 2023 3:28 PM
To: ha94@cox.net; Permits@deltamarineconstruction.com
Cc: allison.lay@mrc.virginia.gov
Subject: VMRC Request For Permit Status

Request for Permit Status

Oscar Harrell
105 John Paine

COCKRELL FARMS LLC
2025-0358

1. Habitat Management Evaluation dated, Jine 24, 2025
   (Pages 1 - 2)

2. Project drawings dated received May 27, 2025, and June 10, 2025.
   (Pages 3 - 16)

3. Comments from the Virginia Department of Health Bureau of Shellfish Sanitation dated received March 14, 2025.
   (Pages 17 – 20)

4. Comments from the Virginia Department of Health Office of Environment Health Services/Marina program dated received May 7, 2025
   (Pages 21 – 24)

5. Letter of protest from E. Stanley Murphy esq. on behalf of Ms. Olivia Cockrell and Mr. John Morgenthaler dated received March 6, 2025
   (Pages 25 - 27)

All project drawings, plans and application information are available at https://webapps.mrc.virginia.gov/public/habitat/

June 24, 2025

HABITAT MANAGEMENT DIVISION EVALUATION

COCKRELL FARMS LLC, 25-0358, requests authorization to construct and backfill a 387-foot vinyl replacement bulkhead, mechanically dredge 280 cubic yards of state-owned submerged lands with upland disposal, and construct a 3,420 square foot concrete commercial wharf, adjacent to the applicant's commercial marina situated along the Little Wicomico River at 309 Railway Drive in Northumberland County. The project is protested by two adjacent property owners.

Narrative

The Cockrell Marine Railway and Marina is a commercially zoned parcel located in the Ophelia section of Northumberland County along the Little Wicomico River. The property also provides for the offloading, culling and refrigeration of live oysters in support of a large shellfish aquaculture operation.

The existing timber bulkhead is failing and will be replaced and backfilled with a 387 linear-foot vinyl structure a maximum of two (2) feet channelward. Immediately offshore of the new bulkhead, the applicant proposes maintenance dredging a total of 280 cubic yards of state-owned submerged land, on an as needed basis, to allow commercial boats to moor side-to against a new concrete wharf and the new bulkhead. The dredged spoil material will be offloaded on-site into sealed trucks and immediately conveyed to an approved upland disposal site.

To facilitate the offloading of vessels along the wharf and shellfish aquaculture operations, the applicant also proposes the construction of a 3,240 square-foot covered, open-pile concrete platform immediately channelward of the new bulkhead. The concrete wharf will support four slips and enable commercial vessels to safely offload live oysters under the protection of the roof for further processing and shipping.

The applicant's agent, Craig Palubinski with Bayshore Design LLC, added that the current wharf area (18-foot to 22-foot wide) is too small and extremely congested when unloading oyster cages from the moored vessels. The cages are temporarily stacked on pallets on the wharf, alongside existing equipment that culls and counts the shellfish, and then transported by "tow motor operators" ashore for refrigeration. The proposed larger wharf will facilitate safer operations and allow for two (2) additional culling and counting units.

Issues

The project is protested by two adjacent property owners, Ms. Olivia Cockrell and Mr. John Morgenthaler. Staff received letters of objection from their attorney, Stanley Murphy, however no rationale for their objections was provided.

Issues (cont'd)

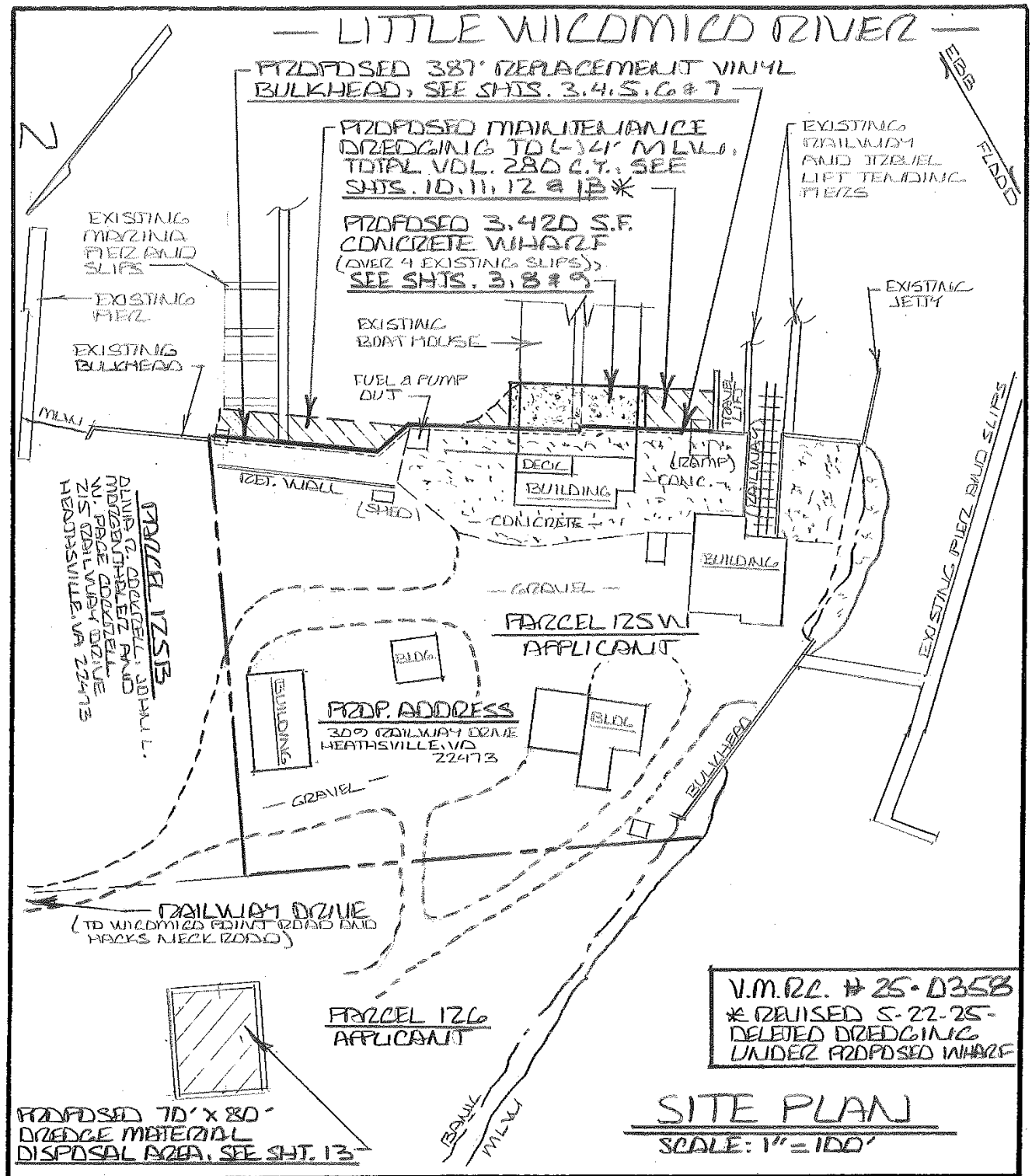
The Northumberland County Wetlands Board did not assert jurisdiction over this project as no impacts to tidal wetlands are proposed. No other County approvals were required.

The Virginia Department of Health Division of Shellfish Sanitation has no objection to the project. The project has been approved by the Virginia Department of Health Office of Environmental Health Services-Marina Program.

Summary/Recommendation

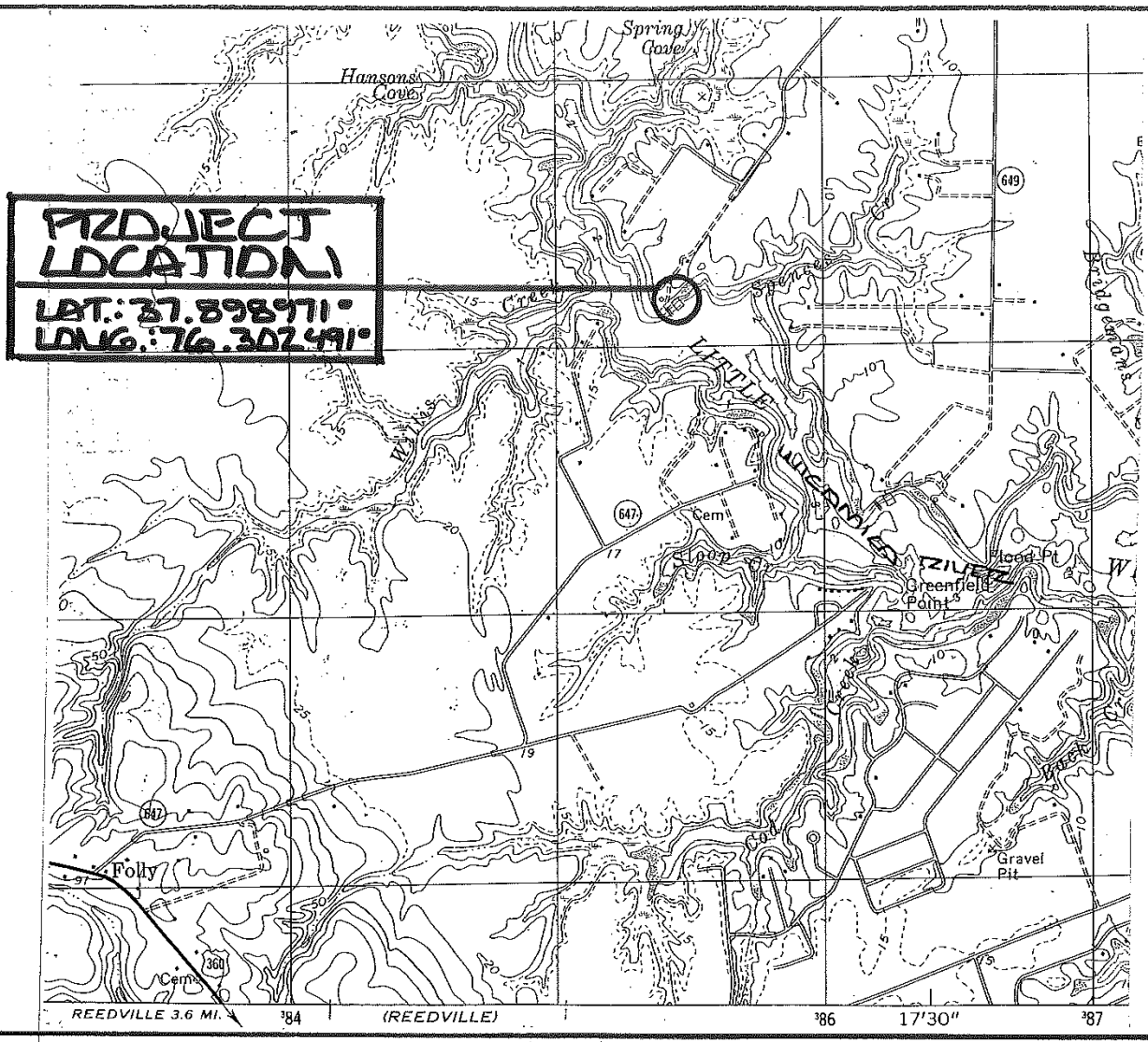
Since the protestants' issues have yet to be revealed, staff cannot specifically address their concerns.

After reviewing the application and considering the agent's rationale for the requested improvements, staff believes the proposed bulkhead repair, dredging and new concrete wharf constitute a reasonable use of state-owned submerged lands and is consistent with other commercial aquaculture landing facilities in the Commonwealth. Accordingly, after evaluating the merits of the project against the concerns expressed by those in opposition to the project, and after considering all of the factors contained in §28.2-1205(A) of the Code of Virginia, staff recommends approval of the project as proposed. If approved, this permit will be exempt from royalties as prescribed in §28.2-1206(B) since the commercial facility is also an existing boatyard and marina that repairs vessels.



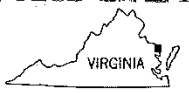
PROPOSED REPLACEMENT BULKHEAD, COMMERCIAL WHARF & MAINT. DREDGING
COCKRELL FARMS, LLC
309 RAILWAY DRIVE
HEATHSVILLE, VIRGINIA 22473

LOCATION: COCKRELLS MARINE RAILWAY- 309 RAILWAY DRIVE, PARCEL 125W - FAIRFIELD DISTRICT TAX MAP 29-1, NORTHUMBERLAND COUNTY, VIRGINIA
SHT: 1 OF 13 DATE: 2-8-25 BAYSHORE DESIGN, LLC



VICINITY MAP

BURGESS QUADRANGLE
VIRGINIA – MARYLAND
7.5 MINUTE SERIES (TOPOGRAPHIC – BATHYMETRIC)

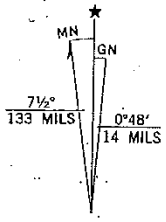


QUADRANGLE LOCATION

SCALE 1:24 000

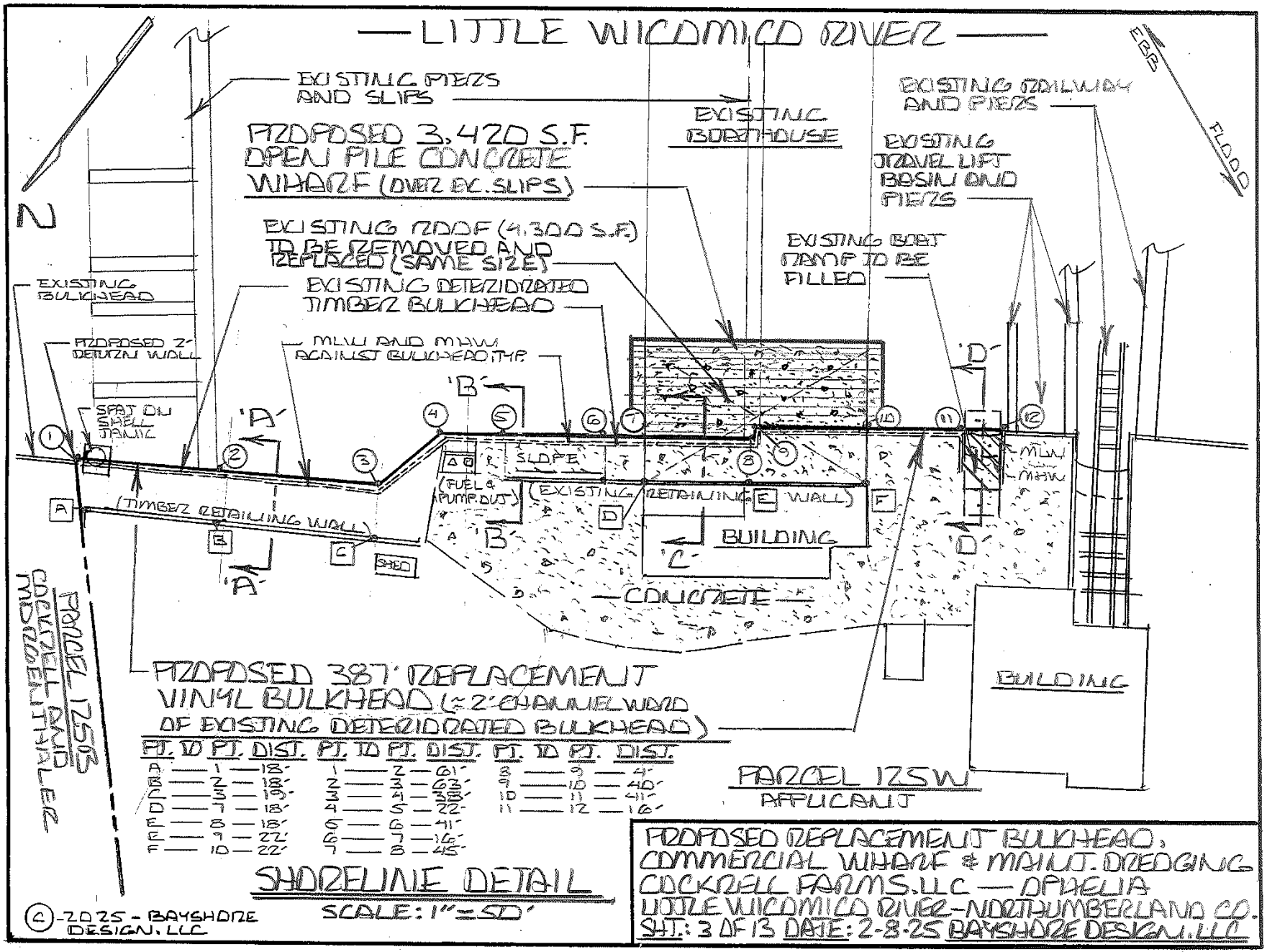
1 0 1 MILE
1000 0 1000 2000 3000 4000 5000 6000 7000 FEET
1 .5 0 1 KILOMETER

CONTOUR INTERVAL 10 FEET
DASHED LINES REPRESENT 5-FOOT CONTOURS
NATIONAL GEODETIC VERTICAL DATUM OF 1929
BATHYMETRIC CONTOUR INTERVAL 1 METER WITH SUPPLEMENTARY
0.5 METER CONTOURS—DATUM IS MEAN LOW WATER
THE RELATIONSHIP BETWEEN THE TWO DATUMS IS VARIABLE
THE MEAN RANGE OF TIDE IS APPROXIMATELY 0.2 METER



UTM GRID AND 1968 MAGNETIC NORTH
DECLINATION AT CENTER OF SHEET

PROPOSED REPLACEMENT BULKHEAD, COMMERCIAL WHARF & MAINT. DREDGING
COCKRELL FARMS, LLC — OPHELIA
LITTLE WICOMICO RIVER – NORTHUMBERLAND CO.
SHT: 2 OF 13 DATE: 2-8-25 BAYSHORE DESIGN, LLC

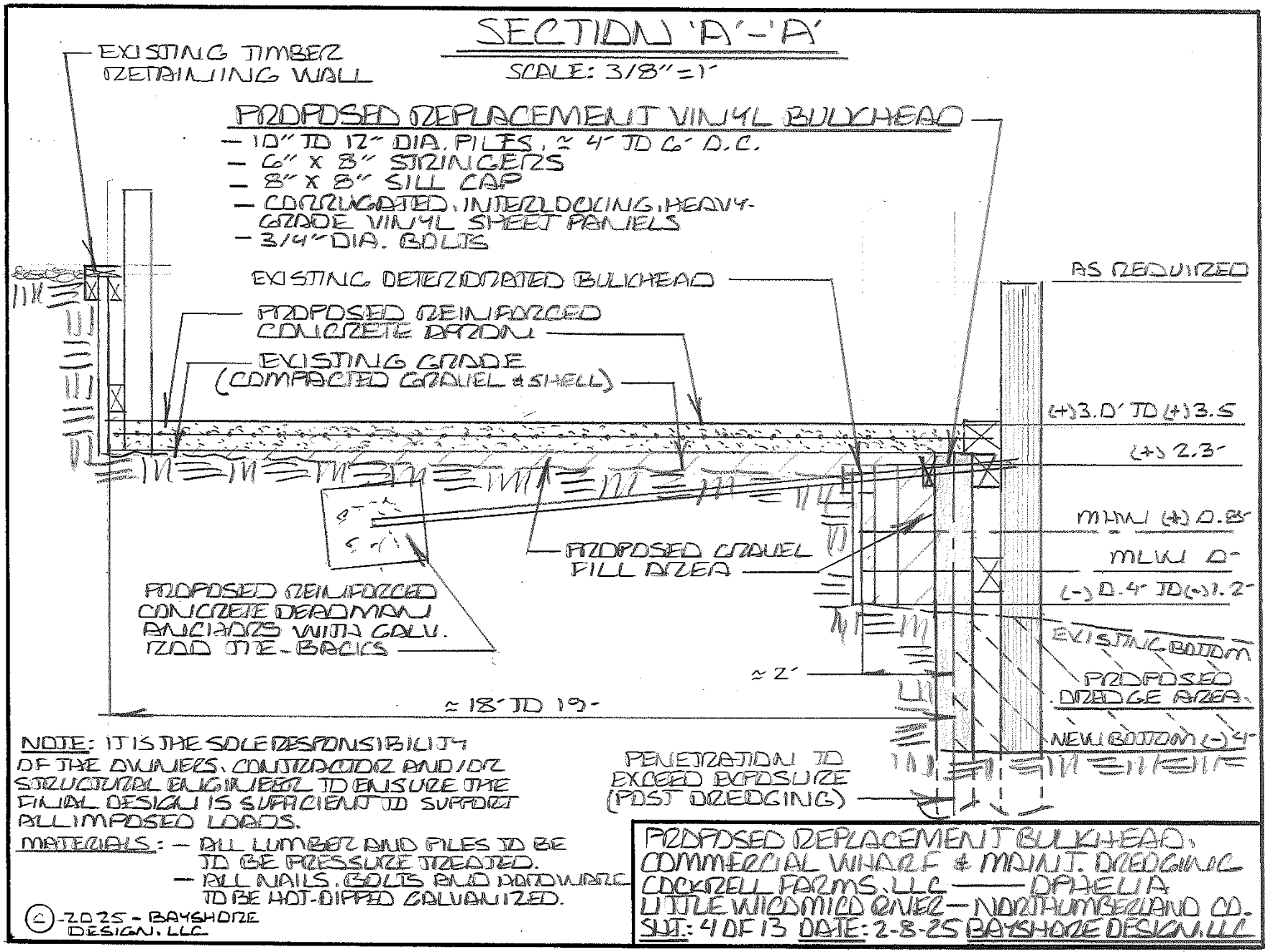


PT. TO PT.	DIST.	PT. TO PT.	DIST.	PT. TO PT.	DIST.
A — 1	18'	1 — 2	61'	8 — 9	4'
B — 2	18'	2 — 3	63'	9 — 10	40'
C — 3	19'	3 — 4	38'	10 — 11	41'
D — 7	18'	4 — 5	22'	11 — 12	16'
E — 8	18'	5 — 6	41'		
F — 9	22'	6 — 7	16'		
F — 10	22'	7 — 8	45'		

SHORELINE DETAIL

SCALE: 1" = 50'

PROPOSED REPLACEMENT BULKHEAD, COMMERCIAL WHARF & MAINT. DREDGING
COCKRELL FARMS, LLC — OPHELIA
LITTLE WICOMICO RIVER - NORTHUMBERLAND CO.
SHT.: 3 OF 13 DATE: 2-8-25 BAYSHORE DESIGN, LLC



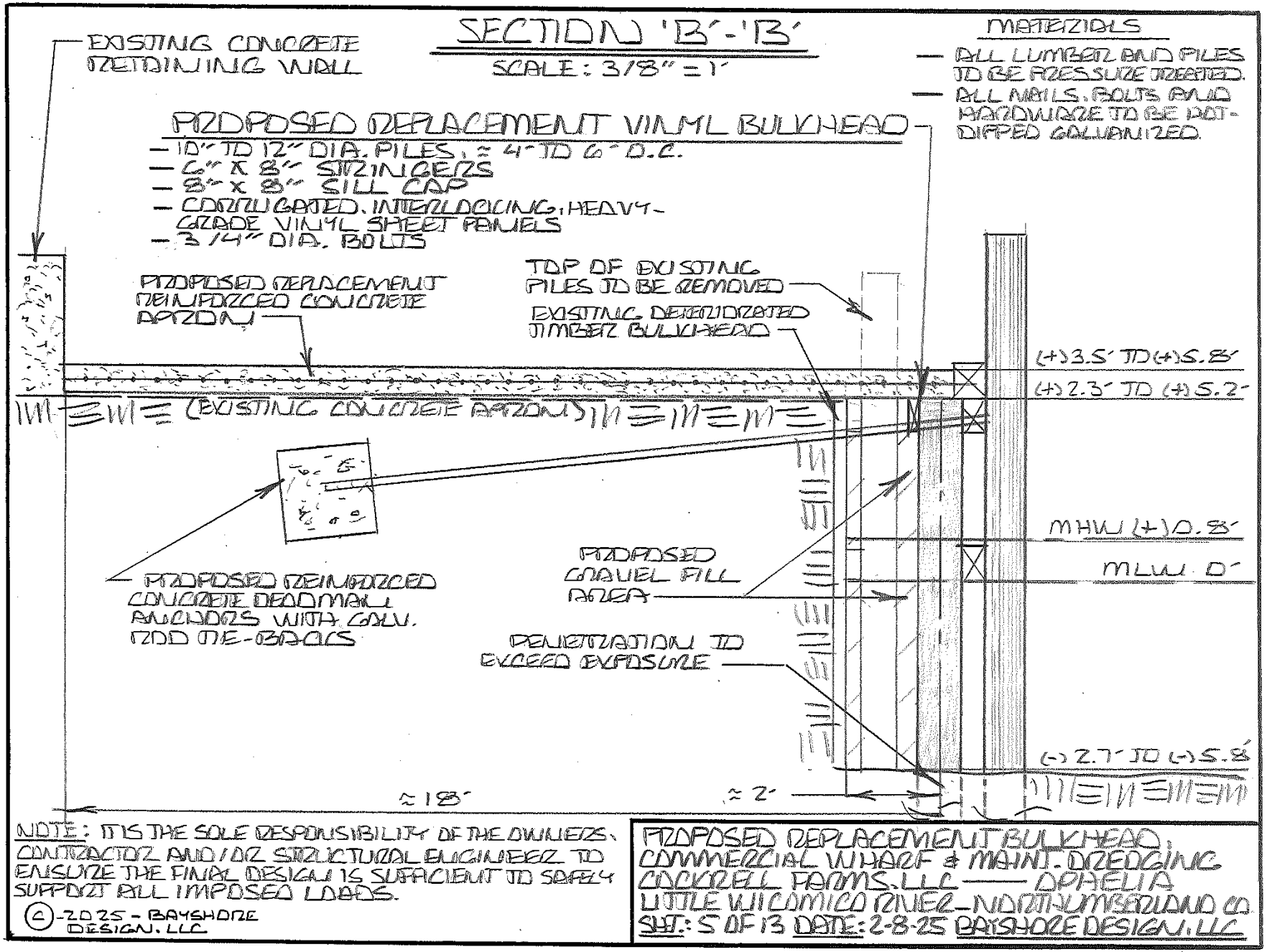
NOTE: IT IS THE SOLE RESPONSIBILITY OF THE OWNERS, CONSTRUCTION AND/OR STRUCTURAL ENGINEERS TO ENSURE THE FINAL DESIGN IS SUFFICIENT TO SUPPORT ALL IMPOSED LOADS.

MATERIALS: - ALL LUMBER AND PILES TO BE TO BE PRESSURE TREATED.
- ALL NAILS, BOLTS AND HARDWARE TO BE HOT-DIPPED GALVANIZED.

PROPOSED REPLACEMENT BULKHEAD, COMMERCIAL WHARF & MAINT. DREDGING
COCKRELL FARMS, LLC — DAPHELIA
LITTLE WICOMICO RIVER — NORTHUMBERLAND CO.
SHT.: 4 OF 13 DATE: 2-8-25 BAYSHORE DESIGN, LLC

SECTION 'B'-'B'

SCALE: 3/8" = 1'

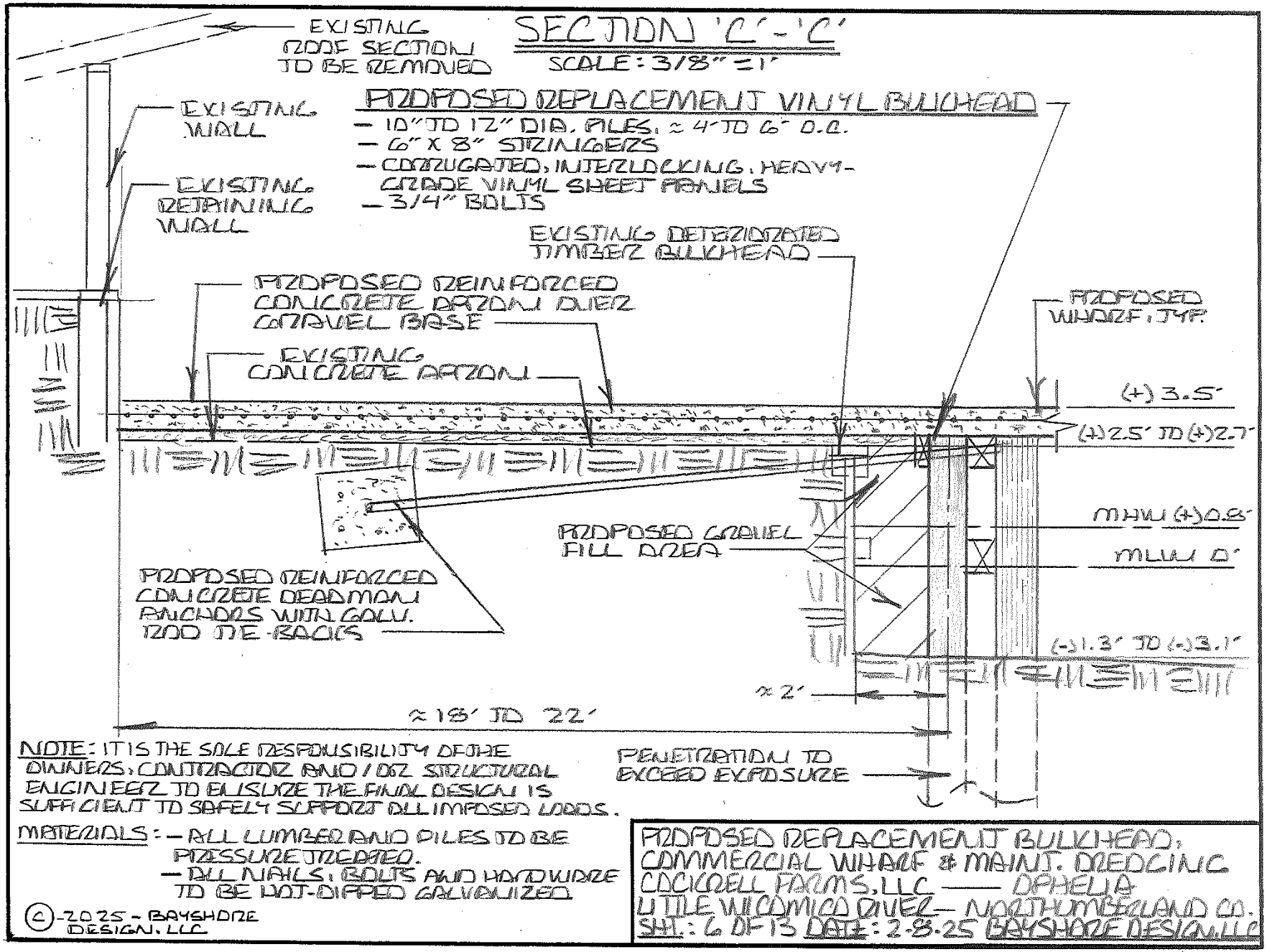


MATERIALS

— ALL LUMBER AND PILES TO BE PRESSURE TREATED.
— ALL NAILS, BOLTS AND HARDWARE TO BE HOT-DIPPED GALVANIZED.

NOTE: IT IS THE SOLE RESPONSIBILITY OF THE OWNERS, CONTRACTOR AND/OR STRUCTURAL ENGINEER TO ENSURE THE FINAL DESIGN IS SUFFICIENT TO SAFELY SUPPORT ALL IMPOSED LOADS.

PROPOSED REPLACEMENT BULKHEAD, COMMERCIAL WHARF & MAINT. DREDGING
COCKRELL FARMS, LLC — OPHELIA
LITTLE WICOMICO RIVER - NORTHUMBERLAND CO.
SHT.: 5 OF 13 DATE: 2-8-25 BAYSHORE DESIGN, LLC

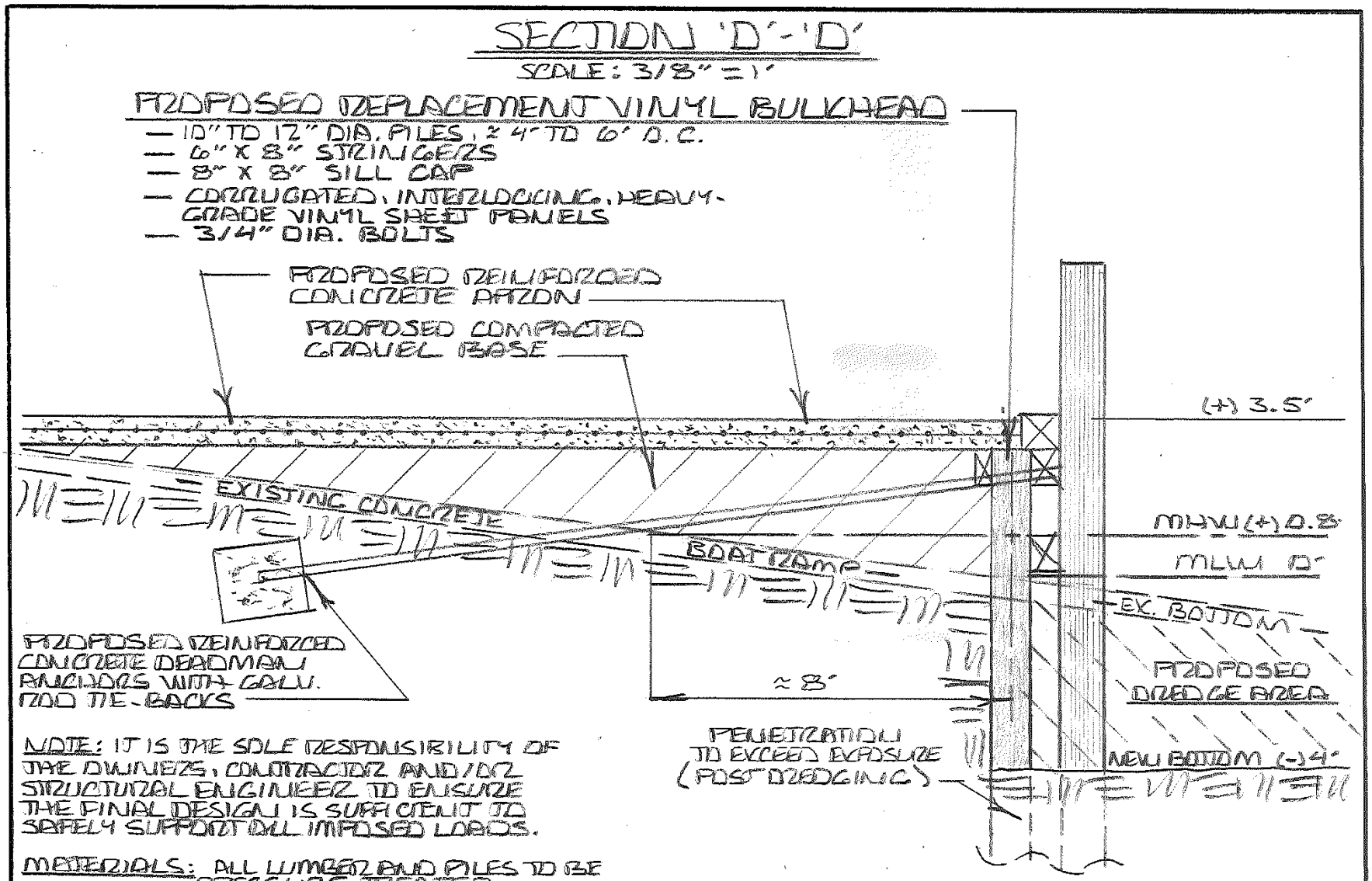


SECTION 'D'-'D'

SCALE: 3/8" = 1'

PROPOSED REPLACEMENT VINYL BULKHEAD

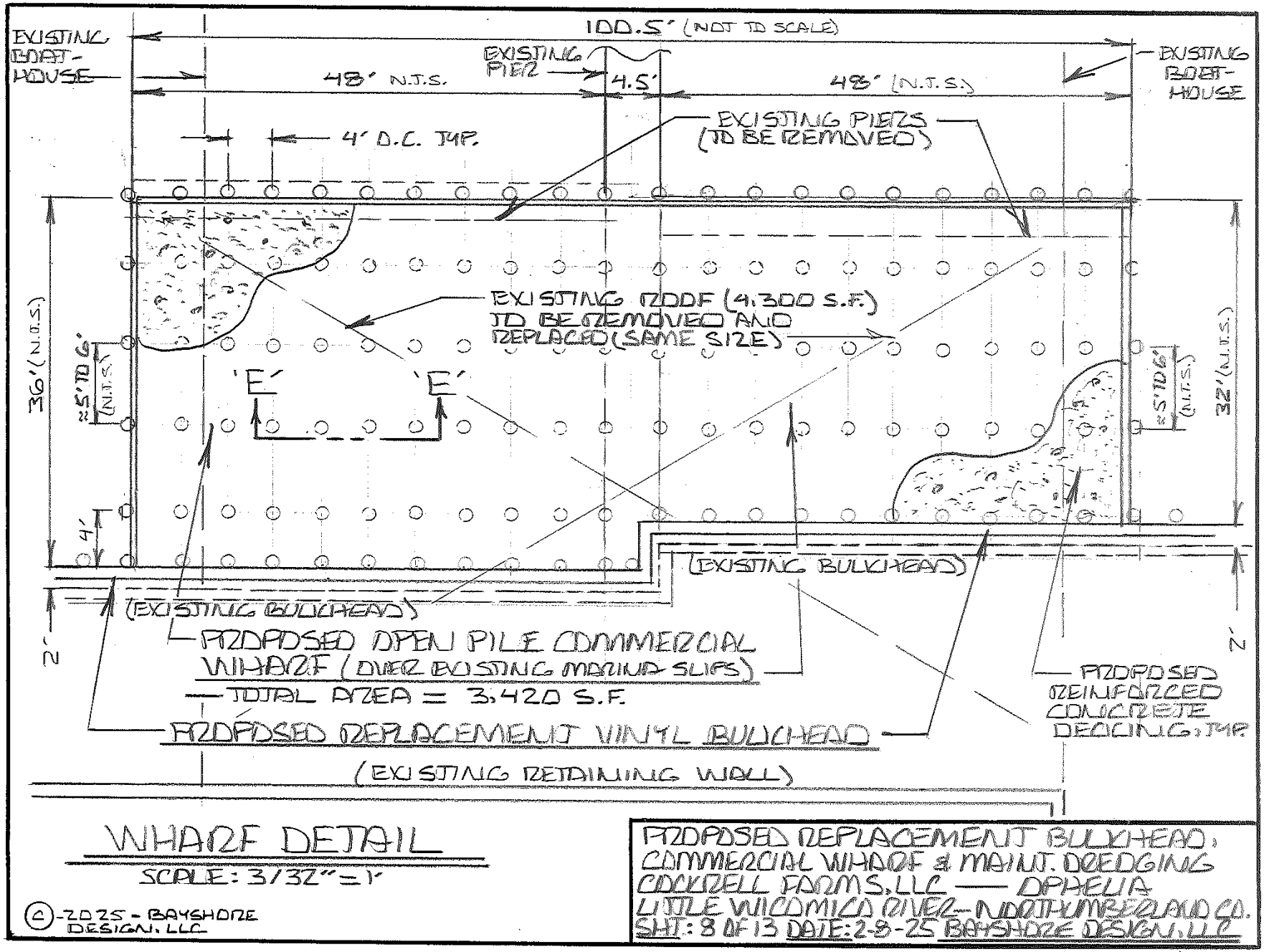
- 10" TO 12" DIA. PILES, @ 4' TO 6' O.C.
- 6" X 8" STRINGERS
- 8" X 8" SILL CAP
- CORRUGATED, INTERLOCKING, HEAVY-GRADE VINYL SHEET PANELS
- 3/4" DIA. BOLTS



NOTE: IT IS THE SOLE RESPONSIBILITY OF THE OWNERS, CONTRACTORS AND/OR STRUCTURAL ENGINEERS TO ENSURE THE FINAL DESIGN IS SUFFICIENT TO SAFELY SUPPORT ALL IMPOSED LOADS.

MATERIALS: ALL LUMBER AND PILES TO BE PRESSURE TREATED. ALL NAILS, BOLTS AND HARDWARE TO BE HOT-DIPPED GALVANIZED.

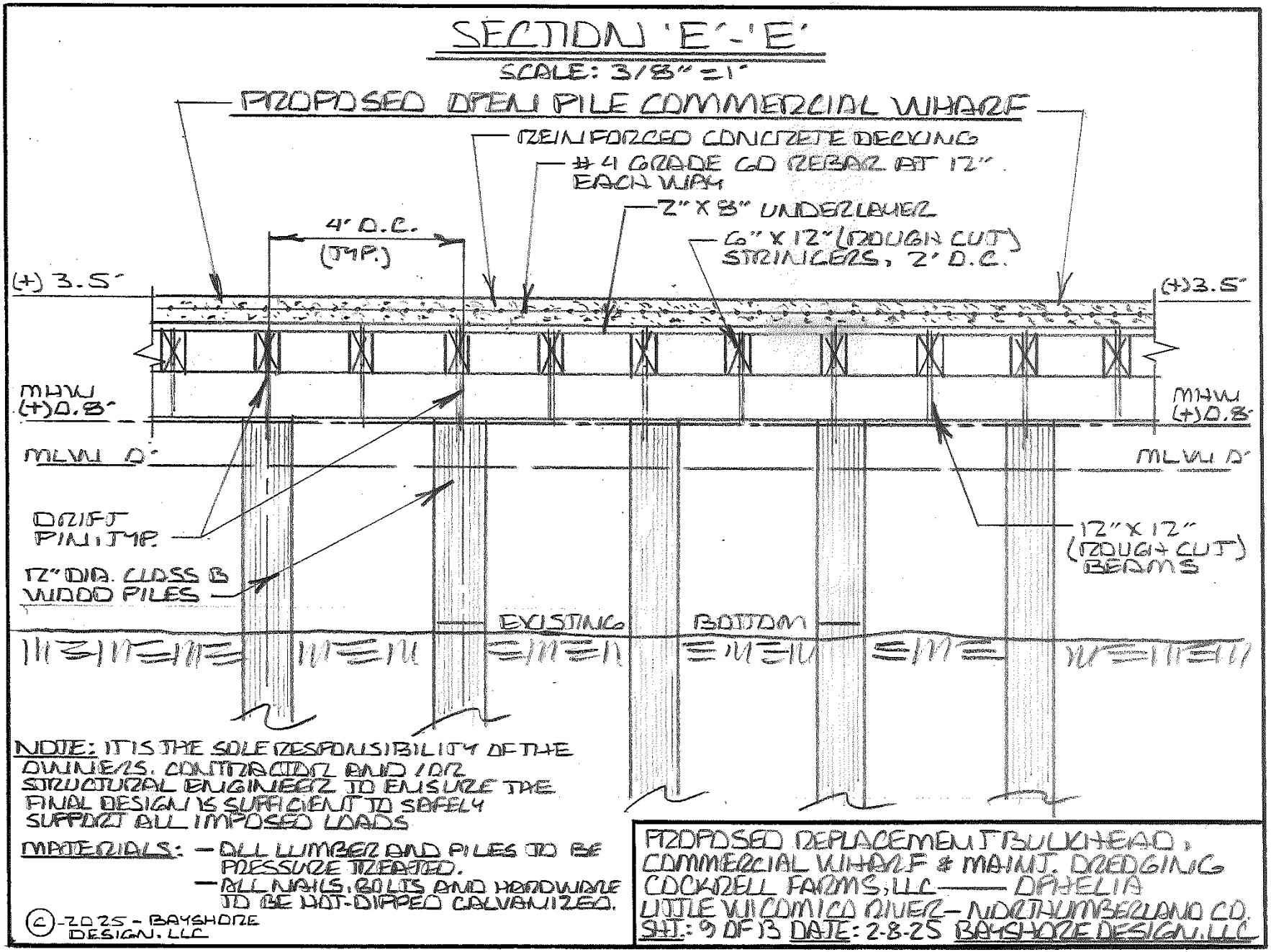
PROPOSED REPLACEMENT BULKHEAD, COMMERCIAL WHARF & MAINT. DREDGING
COCKRELL FARMS, LLC — DAHLIA
LITTLE WICOMICO RIVER — NORTHUMBERLAND CO.
SHT: 7 OF 13 DATE: 2-8-25 BAYSHORE DESIGN, LLC

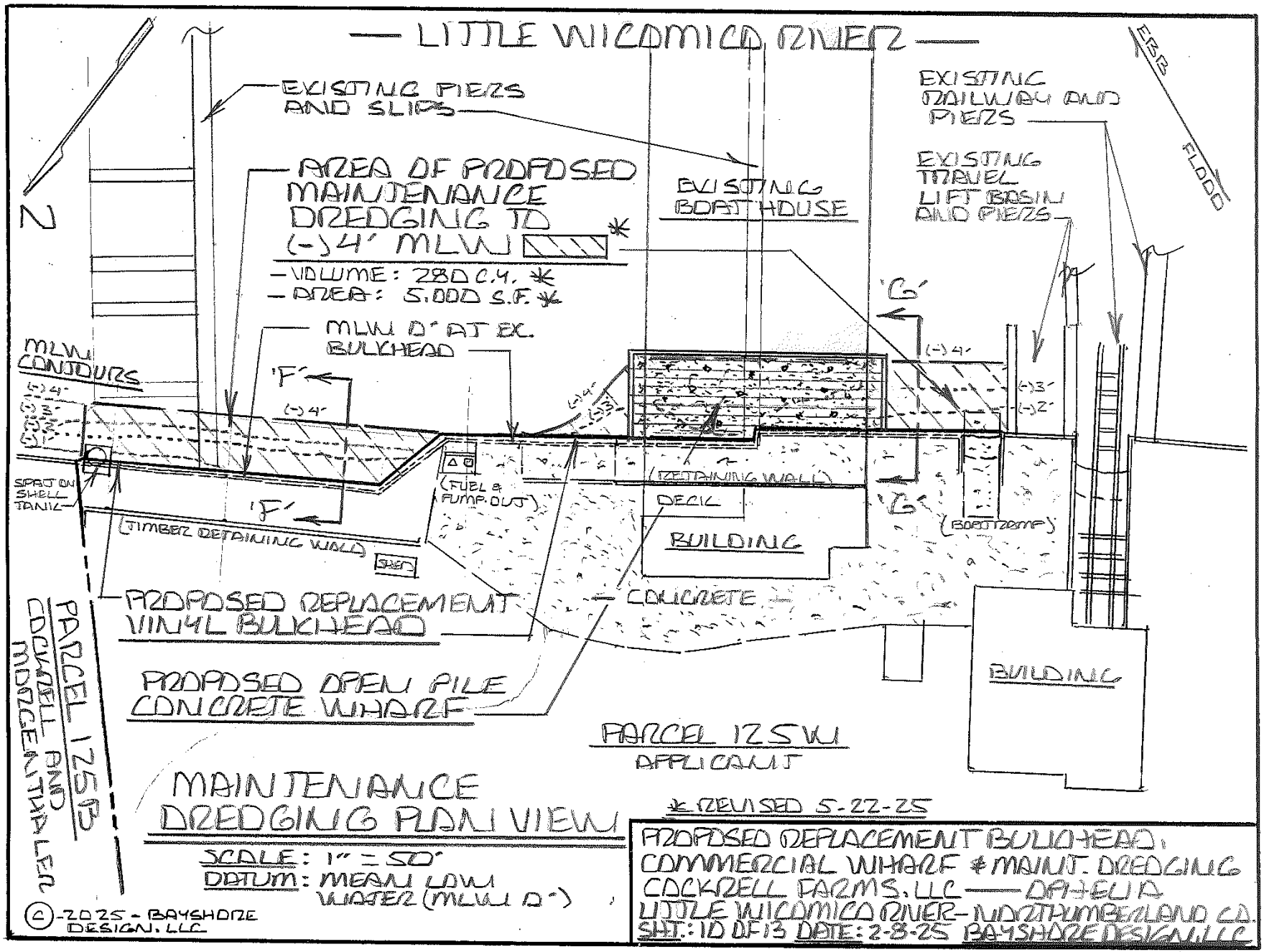


WHARF DETAIL

SCALE: 3/32" = 1'

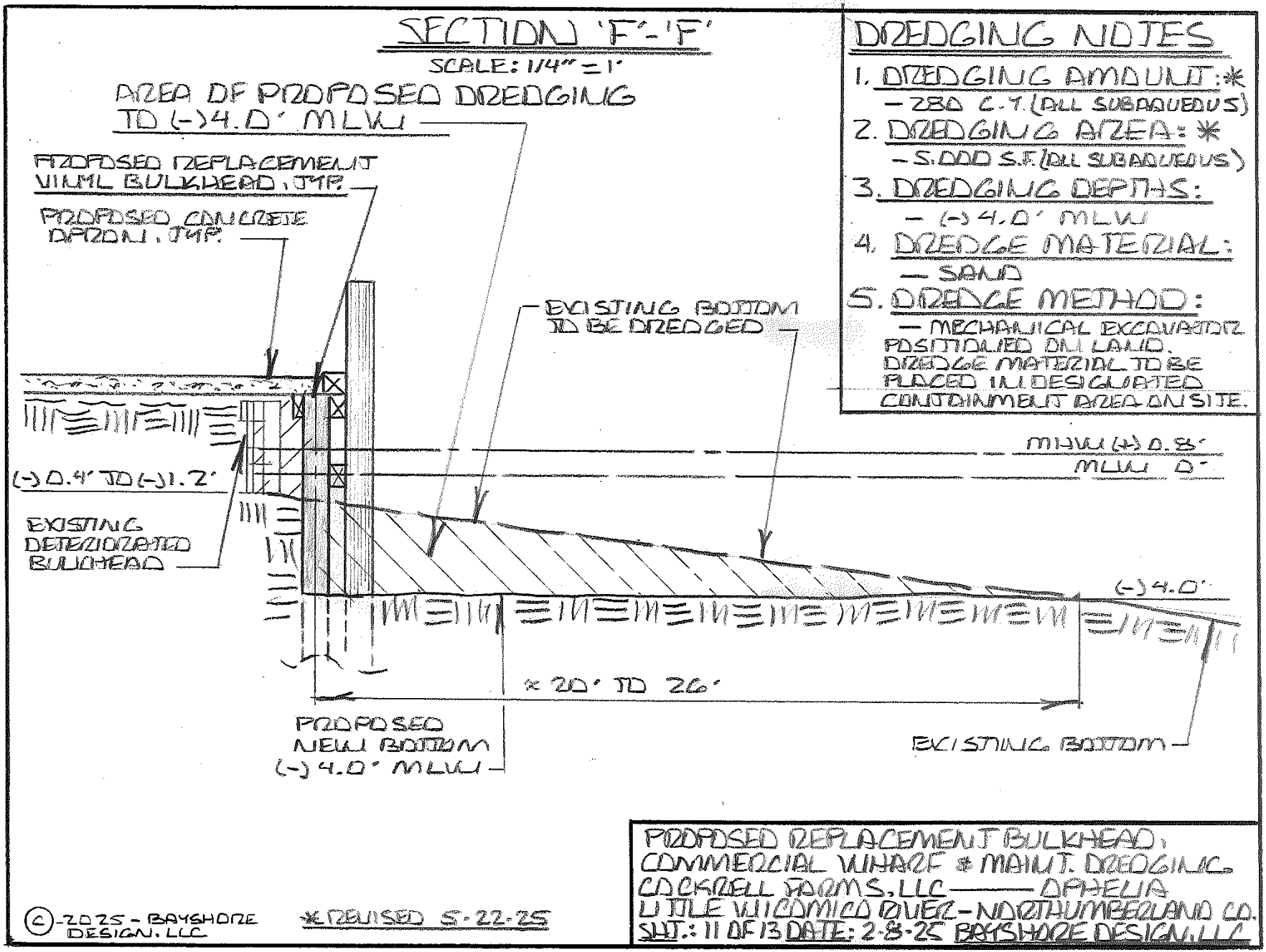
PROPOSED REPLACEMENT BULKHEAD, COMMERCIAL WHARF & MAINT. DREDGING
COCKRELL FARMS, LLC — OPHELIA
LITTLE WICOMICO RIVER — NORTHUMBERLAND CO.
SHT: 8 OF 13 DATE: 2-8-25 BAYSHORE DESIGN, LLC





SECTION 'F'-'F'

SCALE: 1/4" = 1'

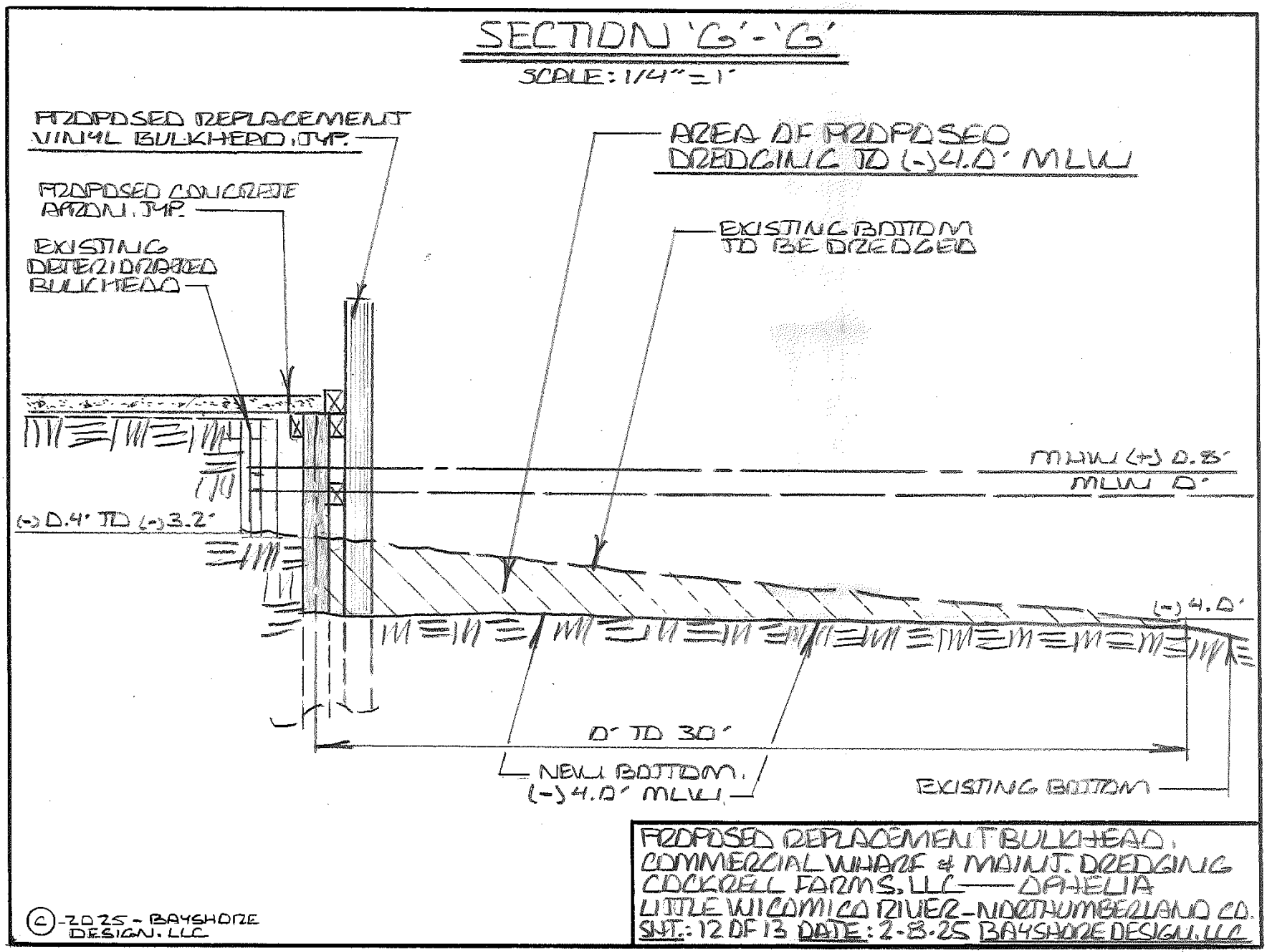


DREDGING NOTES

1. DREDGING AMOUNT: *
   - 280 C.Y. (ALL SUBAQUEOUS)
2. DREDGING AREA: *
   - 5,000 S.F. (ALL SUBAQUEOUS)
3. DREDGING DEPTHS:
   - (-) 4.0' MLW
4. DREDGE MATERIAL:
   - SAND
5. DREDGE METHOD:
   - MECHANICAL EXCAVATOR POSITIONED ON LAND. DREDGE MATERIAL TO BE PLACED IN DESIGNATED CONTAINMENT AREA ON SITE.

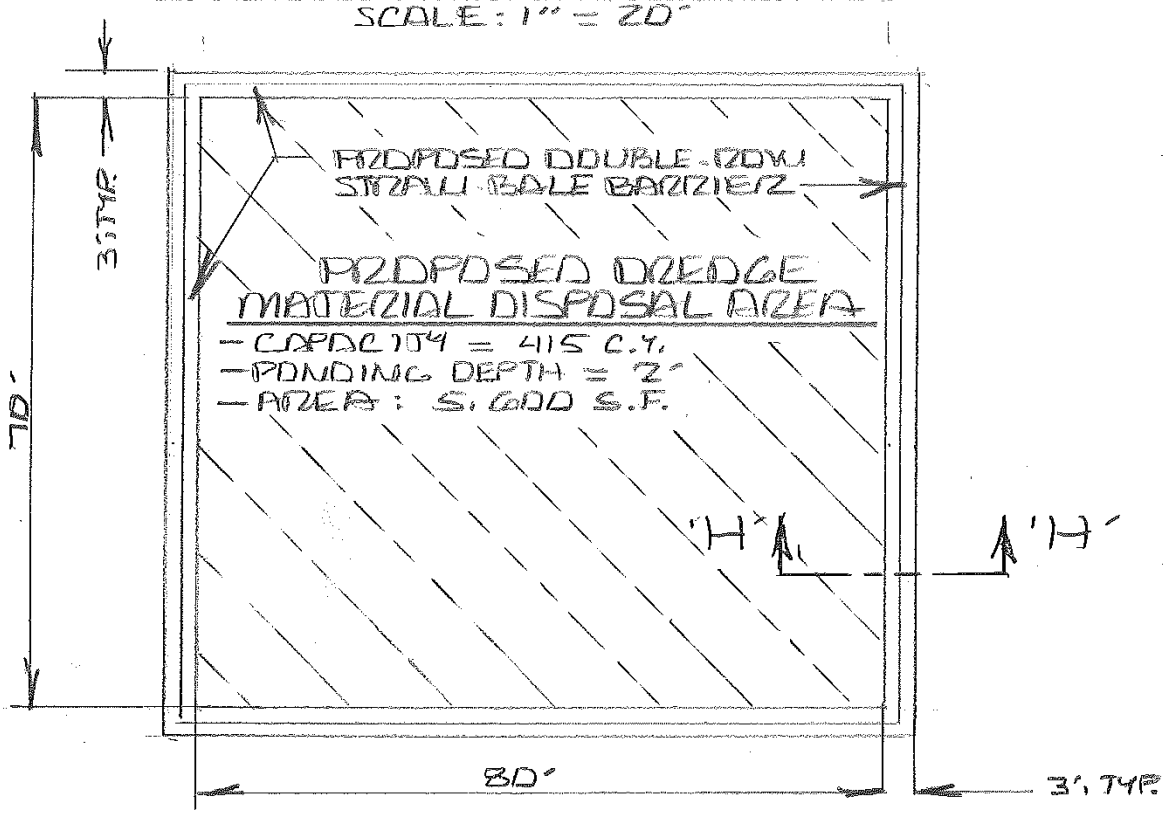
PROPOSED REPLACEMENT BULKHEAD, COMMERCIAL WHARF & MAINT. DREDGING
COCKRELL FARMS, LLC — OPHELIA
LITTLE WICOMICO RIVER - NORTHUMBERLAND CO.
SHT.: 11 OF 13 DATE: 2-8-25 BAYSHORE DESIGN, LLC

*REVISED 5-22-25



DISPOSAL SITE DETAIL

SCALE: 1" = 20'

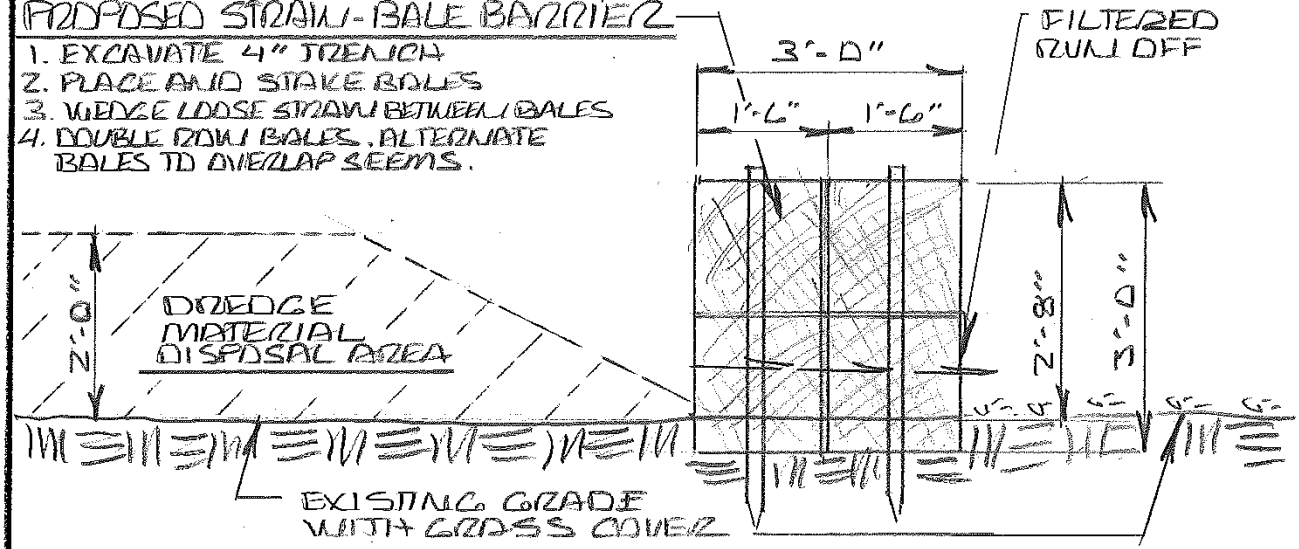


SECTION 'H'-'H'

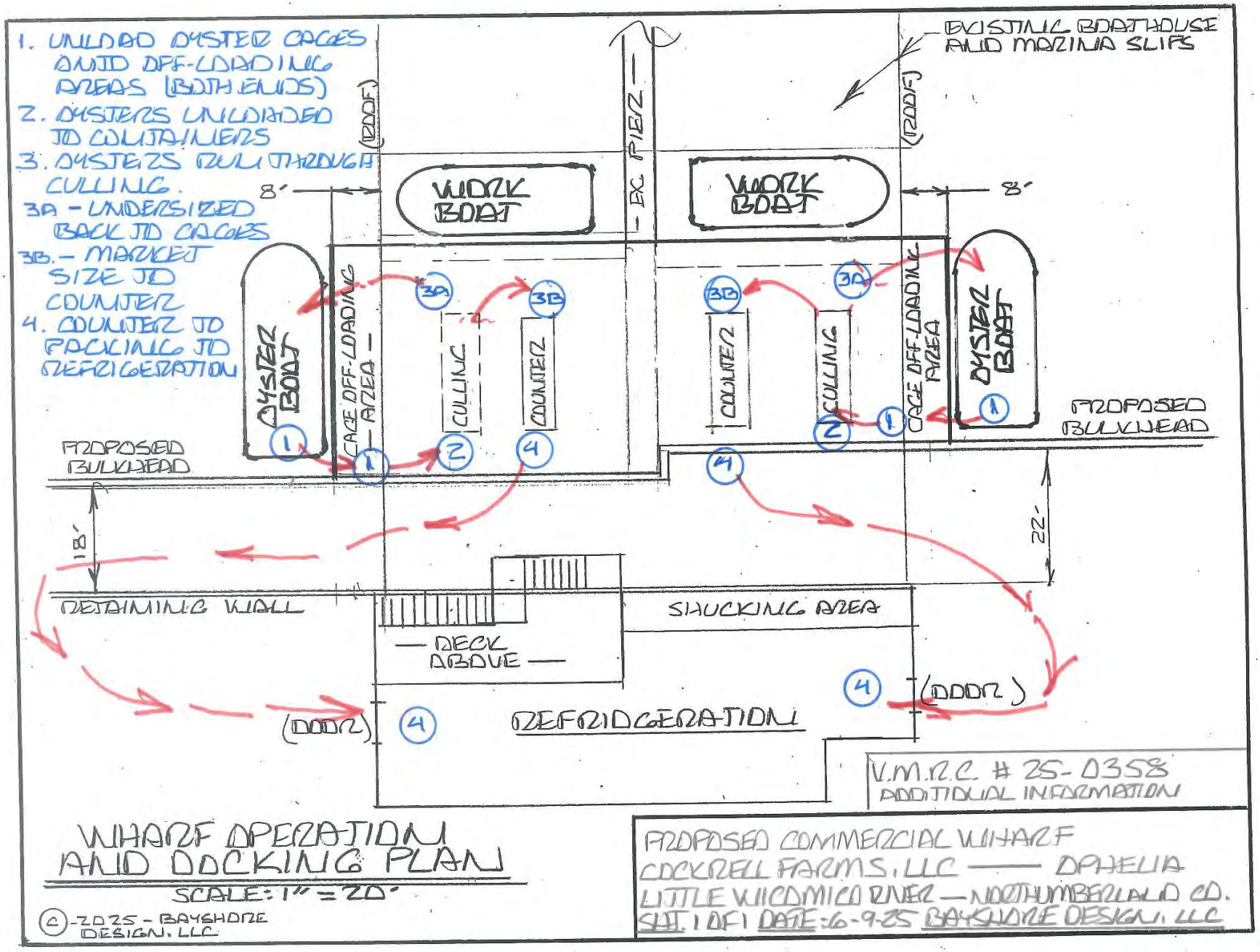
SCALE: 1/2" = 1'

PROPOSED STRAW-BALE BARRIER

1. EXCAVATE 4" TRENCH
2. PLACE AND STAKE BALES
3. WEDGE LOOSE STRAW BETWEEN BALES
4. DOUBLE ROW BALES, ALTERNATE BALES TO OVERLAP SEEMS.



PROPOSED REPLACEMENT BULKHEAD, COMMERCIAL WHARF & MAINT. DREDGING
COCKRELL FARMS, LLC — DAHLIA
LITTLE WICOMICO RIVER — NORTHUMBERLAND CO.
SHT.: 13 OF 13 DATE: 2-8-25 BAYSHORE DESIGN, LLC



Additional Information/Revisions Recieved by VMRC June 10, 2025 map

From: Madden, Jeff (MRC)
To: MRC - jpa Permits
Subject: VMRC # 25-0358 (Cockrell Farms, LLC) VDH Div Shellfish Sanitation comments
Date: Friday, March 14, 2025 10:42:36 AM
Attachments: Outlook-sn1s4n4a.png
Outlook-p3vt40vn.png
DSS_20250313_20250358_CommentsMemo.pdf

Jeffrey P. Madden
Senior Environmental Engineer
Habitat Management Division
Virginia Marine Resources Commission
380 Fenwick Road Bldg. 96
Fort Monroe, VA 23651
Jeff.madden@mrc.virginia.gov

From: Wood, Adam (VDH) <Adam.Wood@vdh.virginia.gov>
Sent: Thursday, March 13, 2025 11:52 AM
To: Madden, Jeff (MRC) <jeff.madden@mrc.virginia.gov>
Subject: Re: JPA: 20250358 in Northumberland, Applicant: Cockrell Farms, LLC

Good Morning,

This project will not cause any change in shellfish classification areas. Please accept the attached memo as VDH/DSS's response.

Very Respectfully

Adam Wood

Growing Area Manager

Virginia Department of Health

Division of Shellfish Safety

Cell: (804) 839-2809

Office: (804) 577-4007

www.vdh.virginia.gov/shellfish

From: Madden, Jeff (MRC) <jeff.madden@mrc.virginia.gov>
Sent: Tuesday, March 4, 2025 4:00 PM
To: Smigo, Margaret (VDH) <Margaret.smigo@vdh.virginia.gov>; Wood, Adam (VDH) <Adam.wood@vdh.virginia.gov>
Subject: JPA: 20250358 in Northumberland, Applicant: Cockrell Farms, LLC

Joint Permit Application Request for Comments

Virginia Marine Resources Commission, Habitat Management Division, requests your review and evaluation of the following permit. Your evaluation is requested no later than March 25, 2025. By statute, we are obliged to refer an objection by any state agency to the full Commission in a public hearing. An unacceptable evaluation will be considered an agency objection. Evaluations suggesting modifications or indicating that the proposal is unacceptable should include comments in the justification of your finding.

Please click the link below for full application details.

Application: 20250358

Applicant: Cockrell Farms, LLC
Locality: Northumberland
Project Description: Bulkhead/Dredge/Pier
Date Received: February 13, 2025
Engineer: Jeffrey P. Madden

After reviewing the application, please reply to this email and indicate one of the following:

I HAVE CONDUCTED A THOROUGH REVIEW OF THE PROPOSED PROJECT BASED UPON THE STATUTORY RESPONSIBILITY OF THIS AGENCY AND MY EVALUATION IS THAT:

[ ] THE PROPOSED PROJECT IS **ACCEPTABLE.**

[ ] CERTAIN ASPECTS OF THE PROPOSAL ARE OBJECTIONABLE AND UNLESS THE SUGGESTED MODIFICATIONS ARE INCORPORATED, THE PROJECT IS **UNDESIRABLE.** (SUGGESTED MODIFICATIONS SHOULD BE PROVIDED TO THE APPLICANT EXPEDITIOUSLY FOR HIS CONSIDERATION.)

[ ] THERE ARE ASPECTS THAT ARE OBJECTIONABLE AND, IN OUR OPINION, NOT RECONCILABLE; THEREFORE, THE PROJECT IS **UNACCEPTABLE.** (THIS IS CONSIDERED AN **AGENCY OBJECTION** REQUIRING REQUIRING REVIEW BY THE FULL COMMISSION IN ACCORDANCE WITH SECTION 28.2-1207(A2) OF THE CODE OF VIRGINIA; MUST BE FULLY JUSTIFIED AND MAY REQUIRE YOUR PRESENCE TO TESTIFY AT THE PUBLIC HEARING.)

WAS A FIELD INVESTIGATION OF THE PROPOSAL PERFORMED BY A MEMBER OF YOUR AGENCY? YES / NO

DATE OF INVESTIGATION:_____
NAME OF INVESTIGATOR: _____
COMMENTS: _____

Should you have any questions regarding this permit application, please do not hesitate to contact me at (757) 247-2276 or jeff.madden@mrc.virginia.gov

Jeffrey P. Madden
Environmental Engineer
Virginia Marine Resources Commission
Phone: (757) 247-2276
Email: jeff.madden@mrc.virginia.gov

Viewing application and related documents requires Google Chrome, Mozilla Firefox, Safari, or Microsoft Edge.

COMMONWEALTH of VIRGINIA

Department of Health
P. O. BOX 2448
RICHMOND, VA 23218-2448

TTY 7-1-1 OR
1-800-828-1120

MEMORANDUM

DATE:

TO: Jeff Madden
Virginia Marine Resources Commission

FROM: Adam Wood, Growing Area Manager
Division of Shellfish Safety Waterborne Hazards Control

SUBJECT: COCKRELL FARMS, LLC

City / County: Northumberland

Waterbody: Little Wicomico River

Type: ☐ VPDES ☐ VMRC ☐ VPA ☐ VWP ☑ JPA ☐ Other:

Application / Permit Number: 20250358

☐ The project will not affect shellfish growing waters.

☐ The project is located in or adjacent to approved shellfish growing waters, however, the activity as described will not require a change in classification.

☑ The project is located in or adjacent to condemned shellfish growing waters and the activity, as described, will not cause an increase in the size or type of the existing closure.

☐ The project will affect condemned shellfish waters and will not cause an increase in the size of the total condemnation. However, a prohibited area (an area from which shellfish relay to approved waters for self-purification is not allowed) will be required within a portion of the currently condemned area. See comments.

☐ A buffer zone (including a prohibited area) has been previously established in the vicinity of this discharge, however, the closure will have to be revised. Map attached.

☐ This project will affect approved shellfish waters. If this discharge is approved, a buffer zone (including a prohibited area) will be established in the vicinity of the discharge. Map attached.

☐ Other.

ADDITIONAL COMMENTS:

Area #: 010

ACW

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment
www.vdh.virginia.gov/shellfish

Recieved by VMRC Mar 14, 2025 map

From: Madden, Jeff (MRC)
To: MRC - jpa Permits
Subject: VMRC # 25-0358 (Cockrell Farms, LLC) VDH-OEHS comments
Date: Wednesday, May 7, 2025 3:39:16 PM

Jeff Madden
Senior Environmental Engineer
Habitat Management Division
Virginia Marine Resources Commission
380 Fenwick Road Bldg. 96
Fort Monroe, VA 23651
757-247-2276
Jeff.madden@mrc.virginia.gov

From: Smigo, Margaret (VDH) <Margaret.Smigo@vdh.virginia.gov>
Sent: Tuesday, May 6, 2025 3:17 PM
To: Madden, Jeff (MRC) <Jeff.Madden@mrc.virginia.gov>
Subject: Approved for Marina Programs - VDH - RE: JPA: 20250358 in Northumberland, Applicant: Cockrell Farms, LLC

Sorry for the delay – this is approved for Marina Programs.

Thank you,

Margaret Smigo
Waterborne Hazards and Marina Programs Manager

Office of Environmental Health Services
Division of Shellfish Safety and Waterborne Hazards

Phone: (804)731-1352
HAB Hotline: (888) 238-6154
www.SwimHealthyVA.com

Facebook | Twitter | YouTube | LinkedIn

Virginia Department of Health
109 Governor Street
Richmond, VA 23219

From: Smigo, Margaret (VDH) <Margaret.smigo@vdh.virginia.gov>
Sent: Thursday, April 24, 2025 12:51 PM
To: Madden, Jeff (MRC) <Jeff.Madden@mrc.virginia.gov>
Subject: RE: JPA: 20250358 in Northumberland, Applicant: Cockrell Farms, LLC

Hi Jeff,
This one slipped by me, reviewing this now. We will try to get this back ASAP.

Margaret Smigo
Waterborne Hazards and Marina Programs Manager

Office of Environmental Health Services
Division of Shellfish Safety and Waterborne Hazards

Phone: (804)731-1352
HAB Hotline: (888) 238-6154
www.SwimHealthyVA.com

Facebook | Twitter | YouTube | LinkedIn

Virginia Department of Health
109 Governor Street
Richmond, VA 23219

From: Madden, Jeff (MRC) <jeff.madden@mrc.virginia.gov>
Sent: Tuesday, March 4, 2025 4:01 PM
To: Smigo, Margaret (VDH) <Margaret.smigo@vdh.virginia.gov>; Wood, Adam (VDH) <Adam.wood@vdh.virginia.gov>
Subject: JPA: 20250358 in Northumberland, Applicant: Cockrell Farms, LLC

Joint Permit Application Request for Comments

Virginia Marine Resources Commission, Habitat Management Division, requests your review and evaluation of the following permit. Your evaluation is requested no later than March 25, 2025. By statute, we are obliged to refer an objection by any state agency to the full Commission in a public hearing. An unacceptable evaluation will be considered an agency objection. Evaluations suggesting modifications or indicating that the proposal is unacceptable should include comments in the justification of your finding.

Please click the link below for full application details.

Application: 20250358

Applicant: Cockrell Farms, LLC
Locality: Northumberland
Project Description: Bulkhead/Dredge/Pier
Date Received: February 13, 2025
Engineer: Jeffrey P. Madden

After reviewing the application, please reply to this email and indicate one of the following:

I HAVE CONDUCTED A THOROUGH REVIEW OF THE PROPOSED PROJECT BASED UPON THE STATUTORY RESPONSIBILITY OF THIS AGENCY AND MY EVALUATION IS THAT:

[x] THE PROPOSED PROJECT IS **ACCEPTABLE.**

[ ] CERTAIN ASPECTS OF THE PROPOSAL ARE OBJECTIONABLE AND UNLESS THE SUGGESTED MODIFICATIONS ARE INCORPORATED, THE PROJECT IS **UNDESIRABLE.** (SUGGESTED MODIFICATIONS SHOULD BE PROVIDED TO THE APPLICANT EXPEDITIOUSLY FOR HIS CONSIDERATION.)

[ ] THERE ARE ASPECTS THAT ARE OBJECTIONABLE AND, IN OUR OPINION, NOT RECONCILABLE; THEREFORE, THE PROJECT IS **UNACCEPTABLE.** (THIS IS CONSIDERED AN **AGENCY OBJECTION** REQUIRING REQUIRING REVIEW BY THE FULL COMMISSION IN ACCORDANCE WITH SECTION 28.2-1207(A2) OF THE CODE OF VIRGINIA; MUST BE FULLY JUSTIFIED AND MAY REQUIRE YOUR PRESENCE TO TESTIFY AT THE PUBLIC HEARING.)

WAS A FIELD INVESTIGATION OF THE PROPOSAL PERFORMED BY A MEMBER OF YOUR AGENCY? YES / NO

DATE OF INVESTIGATION:_____
NAME OF INVESTIGATOR: _____
COMMENTS: _____

Should you have any questions regarding this permit application, please do not hesitate to contact me at (757) 247-2276 or jeff.madden@mrc.virginia.gov

Jeffrey P. Madden
Environmental Engineer
Virginia Marine Resources Commission
Phone: (757) 247-2276
Email: jeff.madden@mrc.virginia.gov

Viewing application and related documents requires Google Chrome, Mozilla Firefox, Safari, or Microsoft Edge.

From: Craig Palubinski
To: MRC - jpa Permits
Subject: Cockrell Farms, LLC #25-0359
Date: Wednesday, March 5, 2025 4:13:52 PM
Attachments: Apo forms - protest.pdf

HI Beth and Michele,

Please find attached the apo forms and protest for Cockell Farms, LLC - #25-0359.

Thanks,
Craig

MURPHY LAW OFFICES, PLC

TRIAL AND APPELLATE REPRESENTATION

E. STANLEY MURPHY
ATTORNEY AT LAW

(804) 493-4075
stan@murphylawplc.com

March 4, 2025

Via Email to craigp@bayshoredesign.com

Mr. Craig Palubinski
BAYSHORE DESIGN, LLC
8518 Cople Highway
Hague, Virginia 22469

Re: Cockrell Farms, LLC

Dear Craig:

I represent Olivia Cockrell and John Morgenthaler, who own property next door to the proposed project described in your letter of February 13, 2025.

John and Olivia received your letter on February 21, 2025 and have asked me to respond on their behalf within the two-week period mentioned in your letter.

Please be advised that my client's object to the project that Cockrell Farms, LLC apparently is attempting to permit. I enclose your form, which I have completed on their behalf objecting to this project.

Further communications regarding this matter should be directed to my attention.

Very truly yours,

Stan

E. Stanley Murphy

cc: Ms. Cockrell and Mr. Morgenthaler

BAYSHORE DESIGN
MAR 04 2024
RECEIVED

P.O. BOX 85 • WHITE STONE, VIRGINIA 22578

ADJACENT PROPERTY OWNER'S ACKNOWLEDGMENT FORM

I, OLIVIA R. COCKRELL, JOHN L. MORGENTHALER AND [redacted], am the property owner whose land is adjacent to, across from or nearby the land of COCKRELL FARMS, LLC.

I have reviewed the applicant's drawings, dated 2-28-25, to be submitted for all necessary local, state, and federal permits.

____ I DO NOT OBJECT to the project as proposed.

X I DO OBJECT to the project as proposed and have returned my written objections with this form.

The applicant has agreed to contact me for additional comments if the proposal changes prior to construction of the project.

BEFORE SIGNING THIS FORM, PLEASE BE SURE YOU HAVE CHECKED ONE OF THE LINES ABOVE. IF NO CHOICE IS MADE, IT WILL BE ASSUMED YOU HAVE NO OBJECTION TO THIS PROJECT.

E. Taylor Kellam

ADJACENT OWNER'S SIGNATURE

3/4/25

DATE

ATTORNEY & AGENT FOR MS COCKRELL & MR MORGENTHALER

NOTE: If you object to this project, please provide specific objections made in writing and return with this form.

Please return this form within two (2) weeks from the date of receipt. Please call Bayshore Design, LLC if you have any questions or wish to discuss the project.

BAYSHORE DESIGN, LLC – 8518 COPLE HIGHWAY
HAGUE, VIRGINIA 22469 PH: 804/472-4439
EMAIL:craigp@bayshoredesign.com

RONALD COLLINS
MRC#25-0732

1. Habitat Management Evaluation dated June 24, 2025.
   (Pages 1 and 2)

2. Project drawings dated received April 15, 2025, June 9, 2025, and June 10, 2025.
   (Pages 3 through 5)

3. Letters of protest from Marion Sutton received April 22, 2025, and Camille Fisher received May 14, 2025.
   (Pages 6 through 8)

4. Letter from the applicant received June1, 2025.
   (Pages 9 and 10)

All project drawings, plans and application information are available at https://webapps.mrc.virginia.gov/public/habitat/

June 24, 2025

HABITAT MANAGEMENT DIVISION EVALUATION

RONALD COLLINS, VMRC#25-0732, requests authorization to construct a 14-foot by 18-foot open-sided gazebo on a statutorily authorized private pier along Winder Creek at 135 Starlight Lane in Mathews County. The project is protested by an adjacent property owner.

Narrative

The project is located along a small tributary to the Piankatank River in a residentially zoned area of Mathews County. This area is characterized by single family homes with private piers. Three nearby piers have open-sided roof structures.

Mr. Collins' application was submitted in April of 2025 to replace an existing private pier with a 5-foot wide by 76-foot long private pier including a 4-foot by 16-foot water access deck, and a 12-foot by 16-foot fixed deck with a 14-foot by 18-foot open-sided gazebo roof. Staff determined the pier to be statutorily authorized and notified the adjacent property owners of the proposed open-sided roof structure pursuant to Title 28.2-1203.A.5 of the Code of Virginia.

On April 22, 2025, staff received an electronic submission from Marion and Naomi Sutton, the adjacent property owners at 202 Happy Landings Lane, objecting to the pier and gazebo. Two other electronic submissions were received from the Suttons as well, on April 30 and May 14. Since the Suttons are objecting to the roof structure, a VMRC subaqueous permit is required for that portion of the pier proposal.

Issues

The Suttons' comments regarding the pier and gazebo centered on two issues. The first were impacts to their viewshed, and the second was that the proposed pier would infringe on their riparian rights.

The applicant submitted a rebuttal letter on June 2, 2025, stating the gazebo would be an important part of the pier as it would allow for use of the deck space with protection from UV radiation due to prior medical history.

The other adjacent property owner has not submitted any comments to VMRC. The project is exempt from the local wetlands board.

Summary/Recommendations

Staff notes that the proposed pier meets the statutory authorization requirements defined in §28.2-1203.A.5 of the Code of Virginia and believes it is properly sited so that it will not encroach into the Suttons' riparian area. VMRC has no legal authority to specifically determine the limits of riparian areas. If the protestants consider the pier to encroach into their riparian area, they should file suit with their local circuit court to adjudicate the riparian boundaries for both riparian properties.

Summary/Recommendations (cont'd)

Had the gazebo not been protested, it would also have been statutorily authorized under the aforementioned code section since the proposed gazebo is under 400 square feet in size and open-sided.

There are three other piers in Winder Creek which have roofed structures on them, two of which are in the applicant's viewshed. Further, the protestants themselves applied on April 21, 2025, for a new gazebo on their replacement pier application (VMRC#25-0821). Mr. Collins has not objected to their proposal, as such the protestant's proposed gazebo and pier were deemed statutorily authorized by VMRC on May 12, 2025.

In light of the protestants recent request and approval for their own gazebo, we believe the open-sided design of the gazebo proposed by Mr. Collins only minimally adds to the visual obstruction to Mr. and Mrs. Sutton. His request is considered to be a reasonable use of state-owned subaqueous bottom in conjunction with his statutorily authorized private pier. Accordingly, after evaluating the merits of the project against the concerns expressed by those in opposition, and after considering all the factors contained in §28.2-1205 of the Code of Virginia, staff recommends approval of the project as proposed.

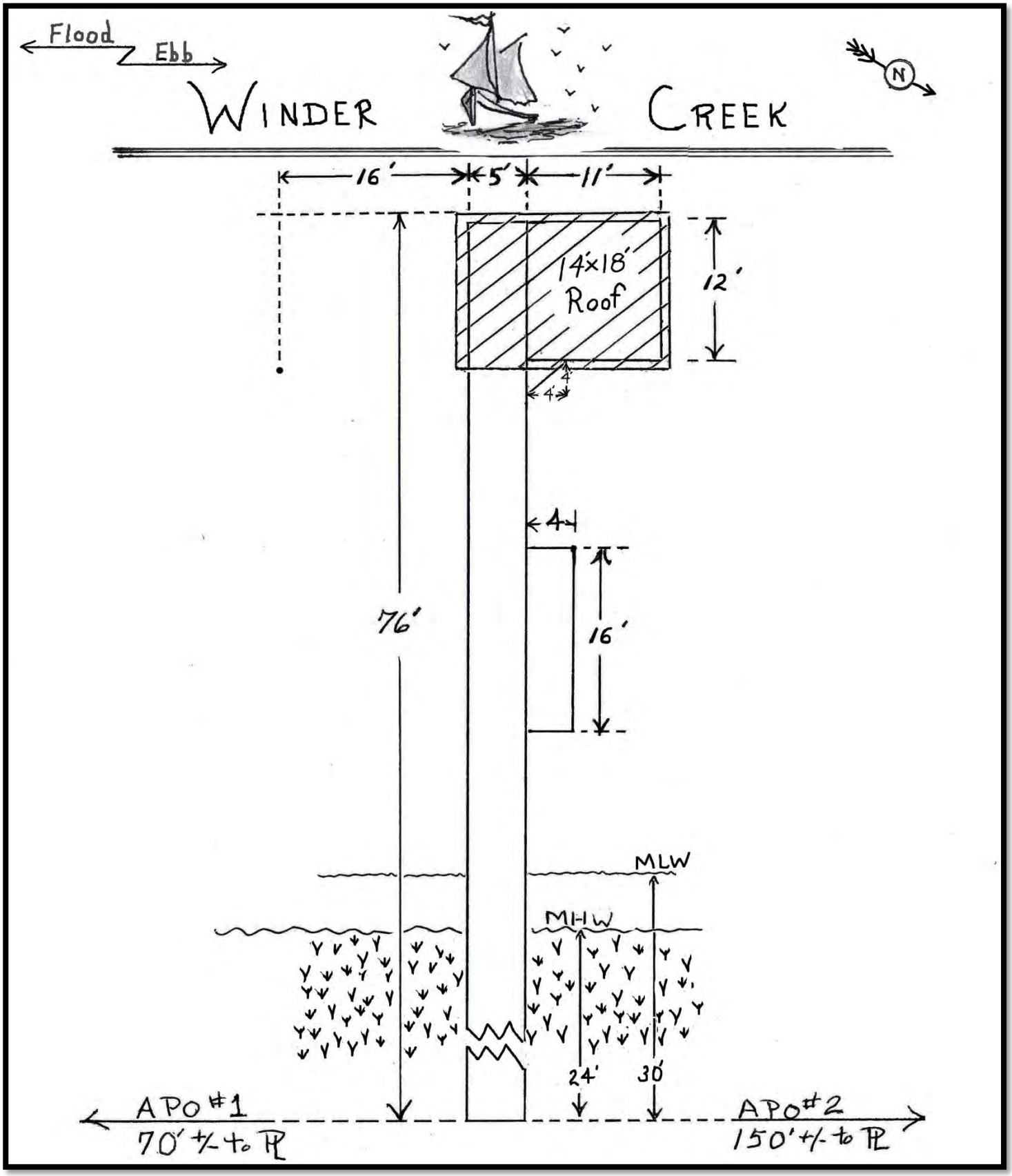
◄Distances

▼VMRC Oyster grounds lease map▼

Red arrows indicate pier location

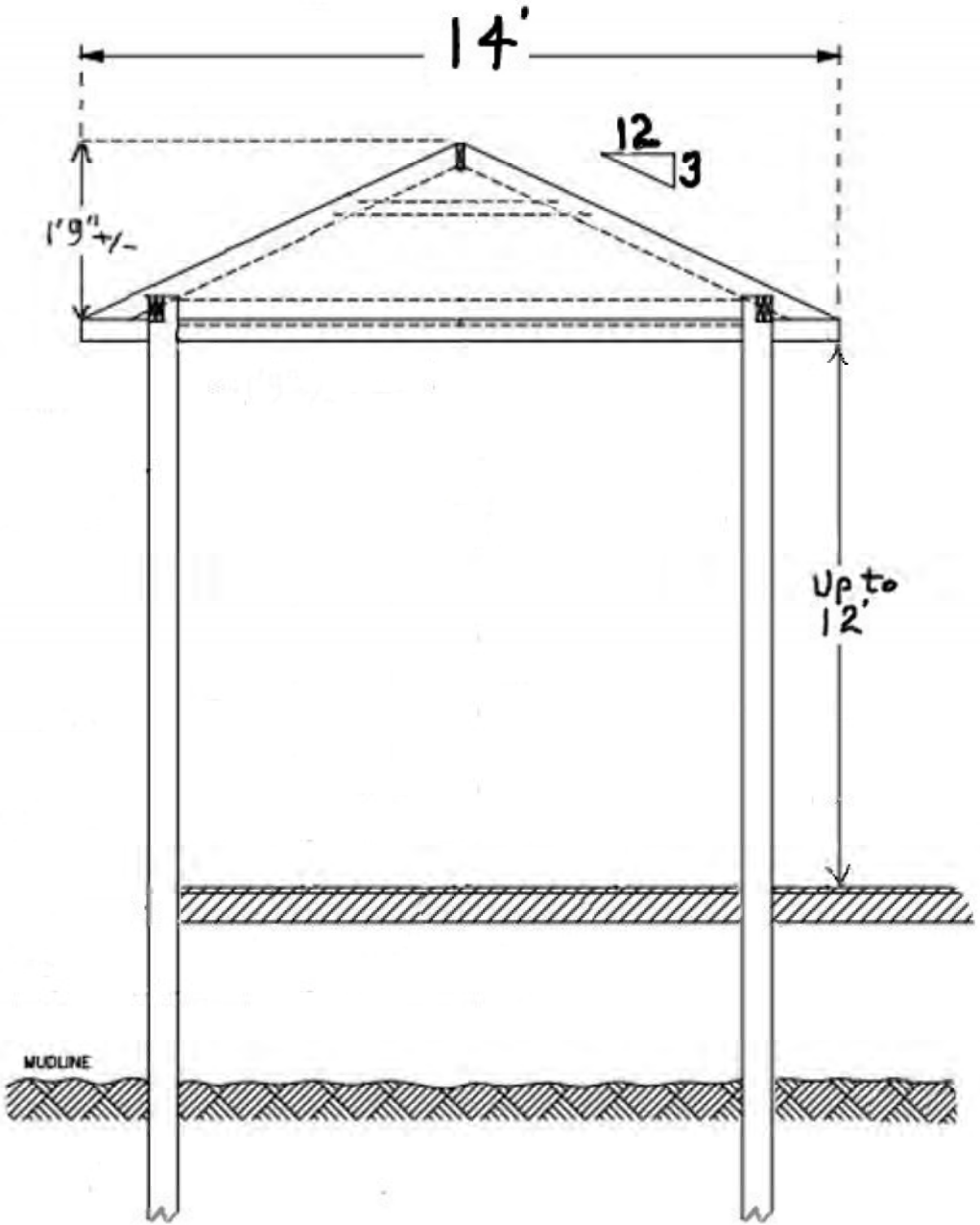
Adjacent Property Owners: 1. Sutton 2. Aylor	**Aerial Views** **Tax Map 11D (2) E** **135 Starlight Lane**	Proposed **Replacement Pier** In **Mathews County** On **Winder Creek** Applicant: **Ronald & Elizabeth Collins** Sheet **4** of **5** Date **3/22/25**

Received by VMRC April 15, 2025 /blh



Adjacent Property Owners: 1. Sutton 2. Aylor	**Plan View** *Not to Scale* **Tax Map 11D (2) E** **135 Starlight Lane**	Proposed **Replacement Pier** In **Mathews County** On **Winder Creek** Applicant: **Ronald & Elizabeth Collins** Sheet **1** of **5** Date **3/22/25** **REVISED 5/9/2025**

Additional Information/Revisions Recieved by VMRC June 10, 2025 map



Additional Information/Revisions Recieved by VMRC June 9, 2025 map

To: Virginia Marine Resource Commission
Attention Habitat Management

Re: proposed pier project on Winder Creek submitted by Ronald R. & Elizabeth H. Collins, Tax Map 11D (2) E, 135 Starlight Lane, Mathews, VA. 23076.

We are objecting to the proposed pier on the basis that it appears as shown on the provided drawings to be infringing on our water rights in relation to the property line. We believe that it's in the best interest of both parties that this be verified.

Marion Sutton and Naomi Sutton

Marion and Naomi Sutton
202 Happy Landings Lane
Hudgins, VA 23076

Recieved by VMRC April 22, 2025 map

From: Johnson, Mike (MRC)
To: MRC - jpa Permits
Subject: FW: FW: VMRC #2025-0732 Ronald R. Collins
Date: Wednesday, May 14, 2025 9:44:43 AM

From: Camille Fisher <camillesfisher@gmail.com>
Sent: Tuesday, May 13, 2025 11:12 AM
To: Jackson, Pippa (MRC) <Pippa.Jackson@mrc.virginia.gov>
Subject: Re: FW: VMRC #2025-0732 Ronald R. Collins

Hi Mike,

We would like to object to the gazebo/roof portion of the Collins' pier project. Because of how our house is situated and where the pier will be located, we feel that this is not only a detriment to our enjoyment of our waterfront property but to the value of the property. The Collins' property is up creek from us leading to the bay. Attached is a picture from the house that may help explain the situation.

We appreciate the Collins' not objecting to our roof but our property is behind their property on the creek and does not obstruct their view to the bay. We are the last property on the creek and do not interfere with any other property owner.

We did not submit this on the link per our telephone discussion with you yesterday.

Thank you so much for helping us on this issue. Please call if you need any other information.

Marion & Naomi Sutton
281-636-0888

Recieved by VMRC May 14, 2025 map

On Mon, May 5, 2025 at 10:48 AM Camille Fisher <camillesfisher@gmail.com> wrote:

> Hi Mr Johnson,
>
> The Collins' existing pier appears to be infringing on our riparian rights now. I'm not sure when they built the pier but we never received an adjacent property letter to object at that time. Our concern is that the proposed replacement pier is being moved over only 10 feet more from our property line but extended 75 feet out to the creek at an angle that appears to infringe on our water rights. We just want to state for the record that we object now to this for any future legal action that may need to be taken.
>
> Also, we strongly object to the gazebo but we were told that interfering with a neighbors view was not a legitimate reason to object. We will revise our objection comments to reflect this at the link you gave us.
>
> My parents are in their 90's and have difficulty communicating that's why I am helping them resolve this. I also have power of attorney for them.
>
> Please call me at your earliest convenience to help us in clarifying this matter.
> Thank you so much,
> Camille Fisher
> (daughter of Marion/Naomi Sutton with POA)
>
> 281-636-0888

From:	Johnson, Mike (MRC)
To:	MRC - jpa Permits
Subject:	FW: VMRC#2025-0732 Ronald R. Collins
Date:	Monday, June 2, 2025 11:03:44 AM
Attachments:	2 Pathology reports.pdf Collins response to Suttons .docx

---

J. Michael Johnson
Lead Environmental Engineer
Habitat Management Division
Virginia Marine Resources Commission
Office Phone #757-247-2255

From: betty collins <piano4u@msn.com>
Sent: Friday, May 30, 2025 11:36 AM
To: Johnson, Mike (MRC) <mike.johnson@mrc.virginia.gov>
Subject: VMRC#2025-0732 Ronald R. Collins

Mr. Johnson,

Attached is a letter with our comments in regard to the Sutton's opposition to the location of our proposed pier and the 14' x 18' roof.
We have also attached Elizabeth's pathology reports (skin cancer). OUT OF REGARD FOR ELIZABETH'S RIGHT TO PRIVACY,
WE ARE REQUESTING THAT THE PATHOLOGY REPORTS NOT BE POSTED ON LINE. Thank you.

Respectfully,
Ronald and Elizabeth Collins

757-723-2332

May, 30, 2025
VMRC #2025-0732 Ronald R. Collins

Mr. Johnson,

We would like to offer the following comments in response to the Suttons' opposition to both the proposed location of our pier replacement and the addition of a 14' x 18' roof structure.

1. **Views from the Sutton Property**
   The photo submitted by the Suttons represents just one of the many views they enjoy from their expansive property. Several vantage points—including their back porch and the location of their proposed pier—offer unobstructed views that do not include our proposed pier
2. **Pier Dimensions and Placement**
   Our agent, Sherry Ashe, has calculated that the new pier will extend 52 feet channelward from the average high tide line with an additional 24 feet landward over marsh, reaching the upland area. The Suttons' assertion that our pier will be "extended 75 feet out to the creek" is incorrect. The proposed placement accounts for topographical challenges, particularly the frequent flooding we experience. Accessing our current pier has become difficult, if not impossible, during high water events, necessitating a design that begins from a higher, drier point on the uplands.
3. **Medical Necessity for Roof Structure**
   Elizabeth has previously had skin cancer removed from her face and upper chest (pathology reports attached), and she is scheduled for another round of topical chemotherapy treatment this August. Since her diagnosis in 2020, she has been unable to comfortably use the current uncovered pier during daylight hours. The proposed 14' x 18' roof will provide critical shade and protection, directly supporting her medical needs.
4. **Design Modifications to Address View Concerns**
   In response to the Suttons' concerns about their view of Hills Bay, we have made several design concessions:

   - The roof height has been lowered from 10 feet to 8 feet.
   - We have agreed to a 3:12 pitch to minimize the roof's visual impact.
   - Only the narrow profile (the peak) will be visible to the Suttons, not the broader side.
   - The roof will be constructed in a light color to blend more seamlessly with the horizon.
   - We have agreed to shift the pier 10 feet to the right (when facing the creek). Our contractor has confirmed this is the maximum feasible adjustment due to the presence of a sandbar.

We have requested that Sherry Ashe represent us at the upcoming hearing.

Respectfully submitted,
Elizabeth H. And Ronald R. Collins
757-723-2332

BRETT NOONE
MRC#25-0817

1. Habitat Management Evaluation dated June 24, 2025.
   (Page 1)

2. Project drawings dated received April 21, 2025, and June 9, 2025.
   (Pages 2 through 5)

3. Letter of protest from Bruce Keeling received May 21, 2025.
   (Pages 6 through 8)

All project drawings, plans and application information are available at https://webapps.mrc.virginia.gov/public/habitat/

June 24, 2025

HABITAT MANAGEMENT DIVISION EVALUATION

BRETT NOONE, VMRC#25-0817, requests authorization to construct an 11-foot by 11-foot open-sided gazebo on a statutorily authorized private pier along Mill Creek at 477 Rains Lane in Mathews County. The project is protested by an adjacent property owner.

Narrative

The project is located along a small tributary to the East River in a residentially zoned area of Mathews County. This area is characterized by single family homes with private piers, two of which have roof structures with a third roofed structure serving property owned by Mathews County.

Mr. Noone's application was submitted in April of 2025 to replace an existing private pier with a 5-foot wide by 88-foot long private pier including an 8-foot by 12-foot water access deck, a 15-foot by 20-foot fixed deck with a 14-foot by 18-foot open-sided gazebo roof, and an uncovered boat lift and associated wrap-around finger pier. After staff reviewed the application, the pier was determined to be statutorily authorized and notified the adjacent property owners of the proposed open-sided roof structure pursuant to Title 28.2-1203.A.5 of the Code of Virginia.

On May 27, 2025, staff received a public comment from Bruce Keeling, the adjacent property owner at 411 Rains Lane Lane, objecting to the pier and roof.

Issues

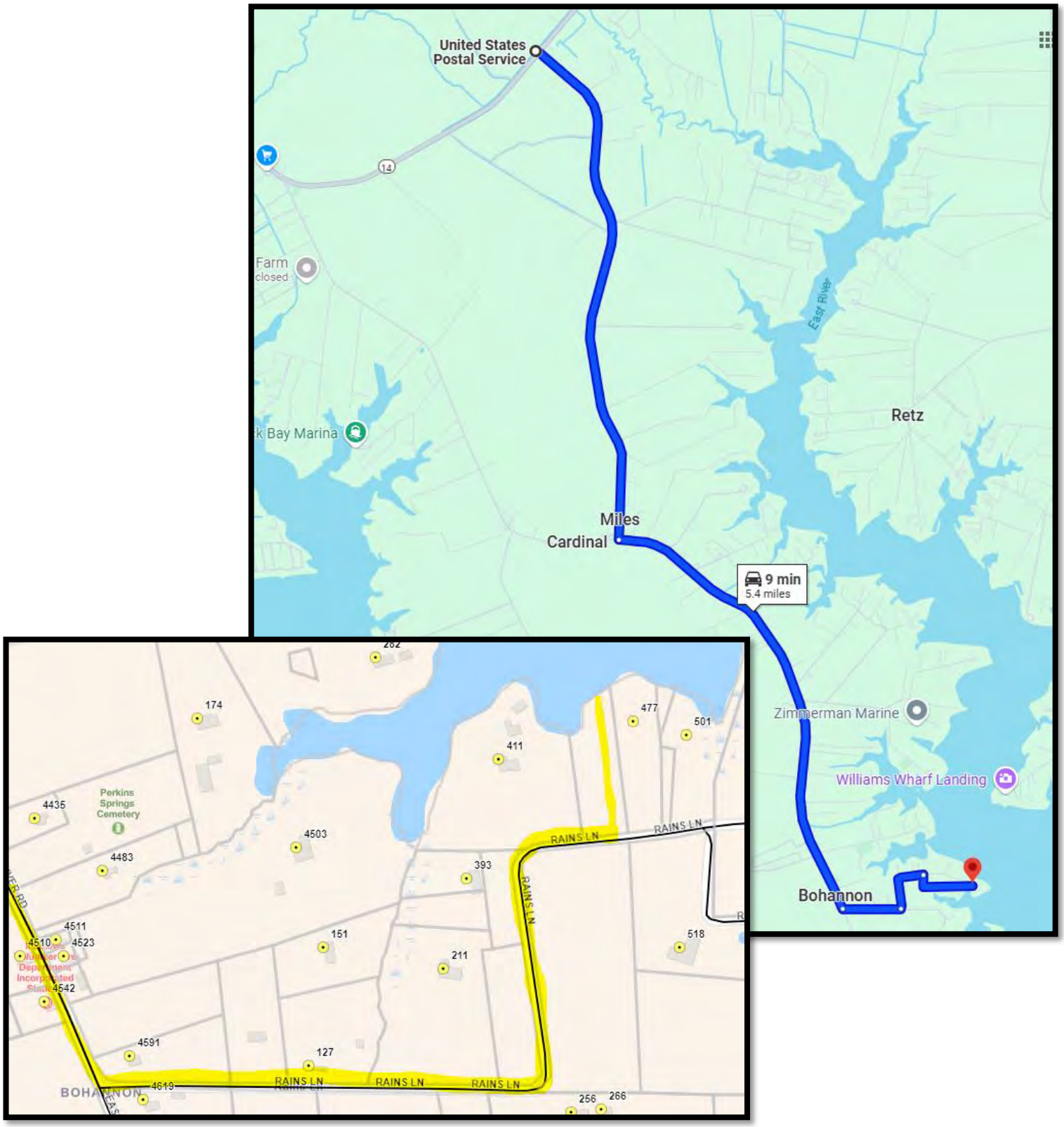
Mr. Keeling's comments regarding the pier and gazebo focus on the pier and gazebo's impacts to his viewshed. He states he will only agree to the pier being reconstructed as it currently exists.

The other adjacent property owner has not submitted any comments to VMRC. The project is exempt from the local wetlands board.

Summary/Recommendations

Since Mr. Keeling is objecting to the proposed gazebo, a VMRC public hearing is required to determine if a subaqueous permit should be issued for that portion of the project. Staff notes that the proposed pier meets the statutory authorization requirements defined in §28.2-1203.A.5 of the Code of Virginia. Had the proposed gazebo not been protested, it would also have been statutorily authorized under the aforementioned code section since it is under 400 square feet in size and open-sided.

In this case, we believe the open-sided design of the gazebo only minimally adds to the visual obstruction already presented by the Noone's statutorily authorized pier. The design is also similar to other nearby pier roof structures. Ultimately, staff feels that the gazebo is a reasonable use of state-owned subaqueous bottom in conjunction with the statutorily authorized private pier. Accordingly, after evaluating the merits of the project against the concerns expressed by those in opposition, and after considering all the factors contained in §28.2-1205 of the Code of Virginia, staff recommends approval of the project as proposed.



From Foster US Post Office Turn onto Route 660 (North River Road. At "T" turn left, continuing on Route 660 (North River Road). Go 2.3 miles; turn left onto Route 667 (Rains Lane). Go 0.5 miles; turn left onto driveway. Site to left of house.

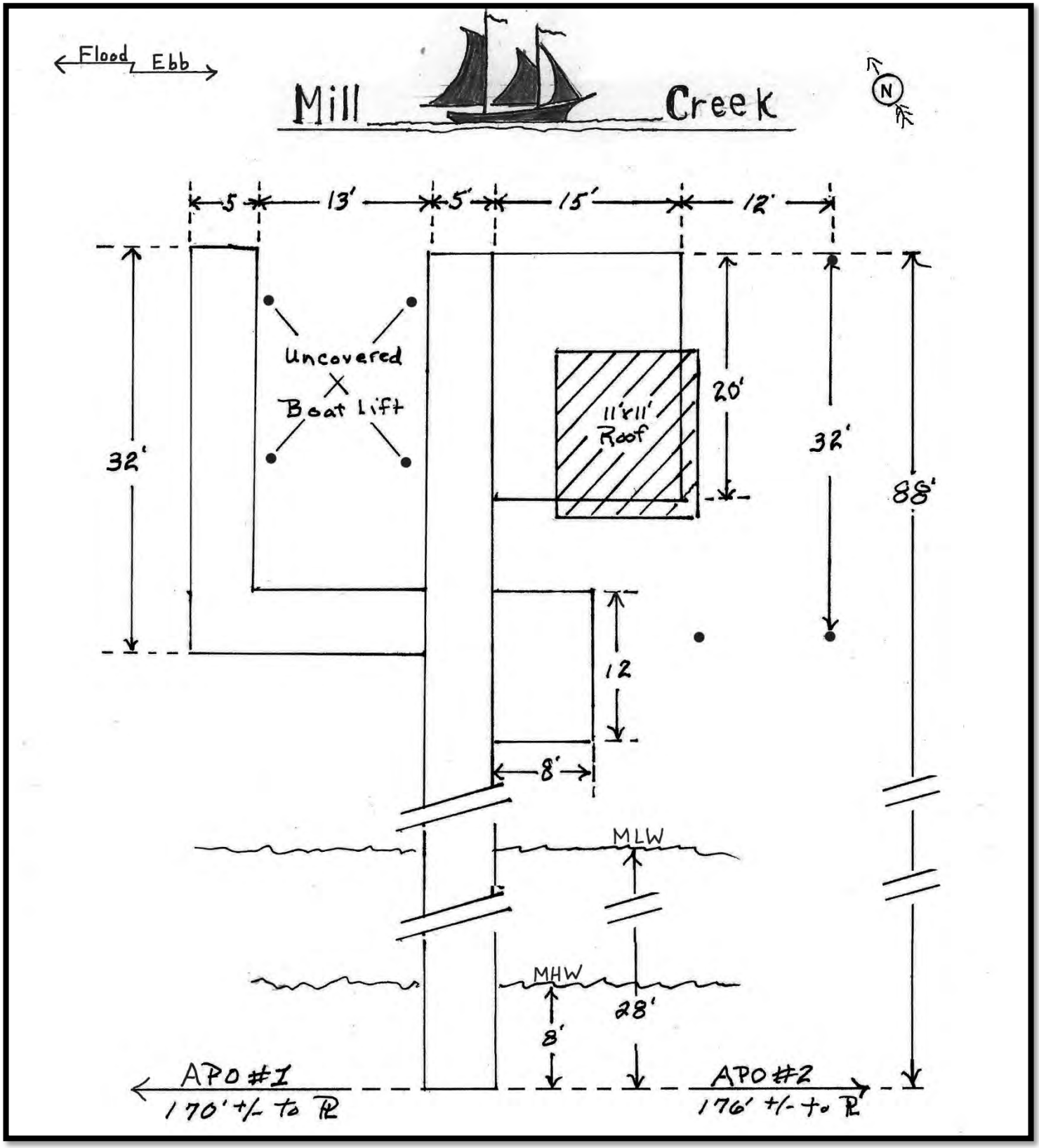
Adjacent Property Owners: 1. Keeling 2. Lathan	**Vicinity Map** **Tax Map #29 (A) 117** **Rains Lane**	Proposed **Replacement Pier** In **Mathews County** On **Mill Creek** Applicant: **Brett E. & Dana M. Noone** Sheet **5** of **5** Date **3/19/25**

▲ Distances ▲

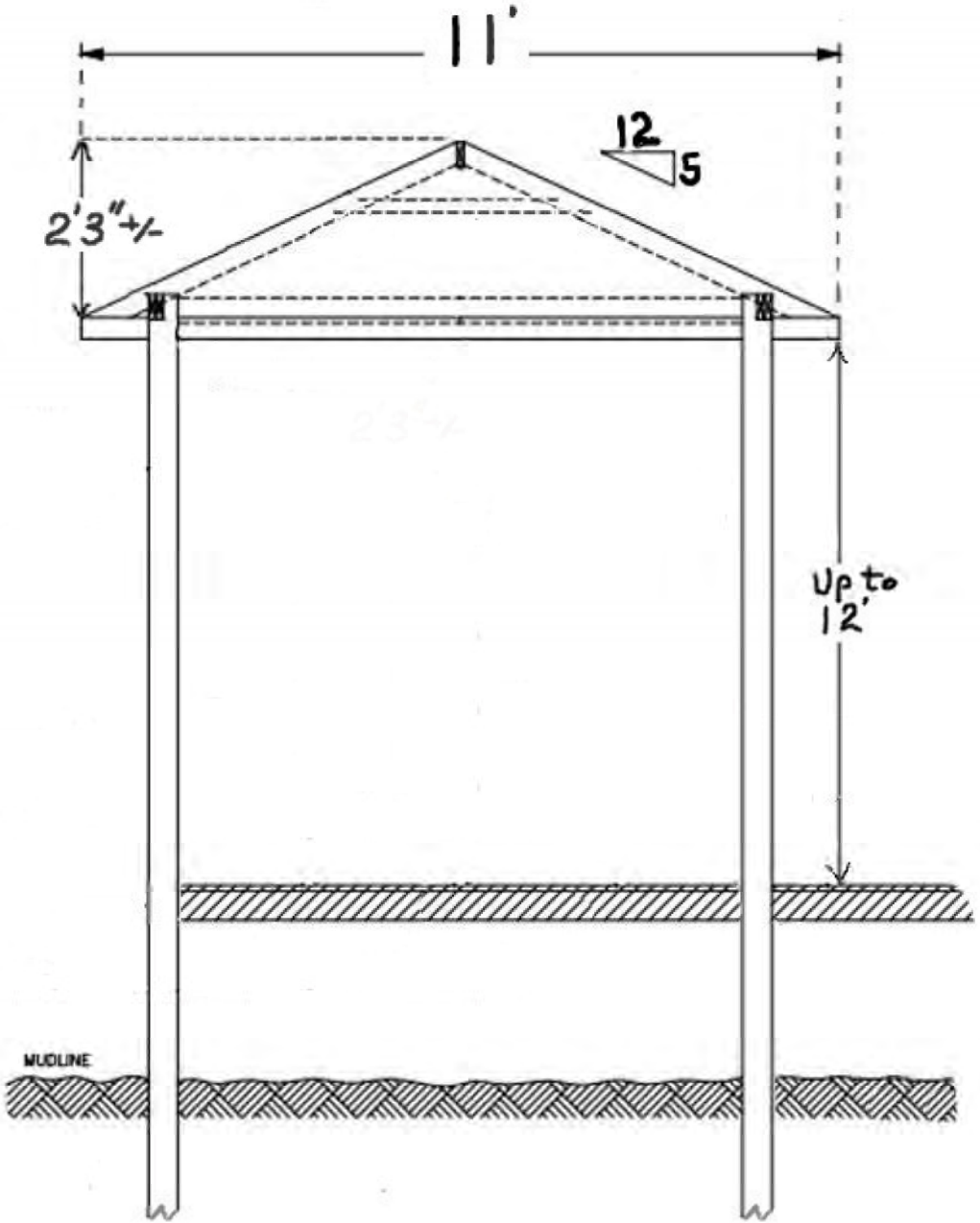
▼ VMRC Oyster Ground Lease Map ▼

Red arrows indicate location of pier in creek

Adjacent Property Owners: 1. Keeling 2. Lathan	**Aerial Views** **Tax Map #29 (A) 117** **Rains Lane**	Proposed **Replacement Pier** In **Mathews County** On **Mill Creek** Applicant: **Brett E. & Dana M. Noone** Sheet **4** of **5** Date **3/19/25**



Adjacent Property Owners: 1. Keeling 2. Lathan	**Plan View** *Not to Scale* **Tax Map #29 (A) 117** **Rains Lane**	Proposed **Replacement Pier** In **Mathews County** On **Mill Creek** Applicant: **Brett E. & Dana M. Noone** Sheet **1** of **5** Date **3/19/25**


11'
12
5
2'3"+/-
Up to
12'
MUDLINE

MAY 21 2024

J. Michael Johnson
ENVIRONMENTAL ENGINEER

R.E-VMRC # 2025-0817

SIR: my property, 411 RAINS LN., LIES UP STREAM and NEXT TO Mr. Noone. From my yard looking downstream TOWARARD EAST RIVER, MR. Noone's pier covers Approximately half of Mill CREEK and EAST River. Any additional construction on this pier will simply close off more of my view of the CREEK and RIVER. I AM opposed TO ANY NEW construction other than Rebuilding The pier as it is. If a building of some type (GAZEBO) is wanted put it at the foot of the pier OR on SHORE.

THEN NO ONE WILL HAVE TO LOOK THRU IT
BUT MR. MOORE. I WOULD APPRECIATE
SOMEONE COMING TO MY YARD AND HAVE
A LOOK FOR YOURSELF

THANK YOU.

BONNIE M. KELLY

KEELING
411 RAINS LN.
BOHANNON, VA. 23021

RICHMOND VA RPDC 230
22 MAY 2025 PM 6 L

VMRC
380 FENWICK Rd.
Building 96
FORT MONROE, VA. 23651

ATTN. MR. JOHNSON

23651-106480

8

June 24, 2025

SHELLFISH MANAGEMENT DIVISION EVALUATION

MARK JOHNSON
Oyster Planting Ground Application #2021-016
Requests authorization to lease approximately 250 acres of oyster planting ground in the Chesapeake Bay in the City of Norfolk.

NARRATIVE

Staff received an Oyster Planting Ground Application from Mr. Mark Johnson on June 22, 2021. The application underwent a public interest review process to include a newspaper public notice and notification of a nearby highland property owners.

ISSUES

The application was subjected to the required public interest review to include a newspaper, agency website, and Town Hall public notices and notification of a nearby leaseholders and highland property owners. Staff received 3 public comments from the City of Norfolk, United States Army Corp of Engineers (USACE), and a private citizen.

The City of Norfolk and the USACE formally protested Application 2021-016 for oyster planting ground in the Chesapeake Bay, citing significant concerns that the proposed lease would interfere with critical public resilience and infrastructure projects. Specifically, the City argued that the lease area would obstruct ongoing and future beach nourishment efforts that are essential to protecting nearby properties from coastal hazards and sea level rise as well as potential stormwater outfall improvements. These projects are key components of the City's long-term strategy to safeguard public welfare and environmental stability. The 1986 Federal *Willoughby Spit and Vicinity Beach Renourishment Project* utilizes this area for beach nourishment and shoreline stabilization (See Attachment).

Additionally, the City contended that the proposed lease would conflict with the public trust doctrine by limiting recreational use of nearby beaches and waters. The protest emphasized that the proposed project is not in the public interest as required under Virginia Code § 28.2-607, and that any potential private benefit from oyster harvesting would be outweighed by the harm to public access, safety, and resilience. Based on these concerns, the City requested that the application be denied.

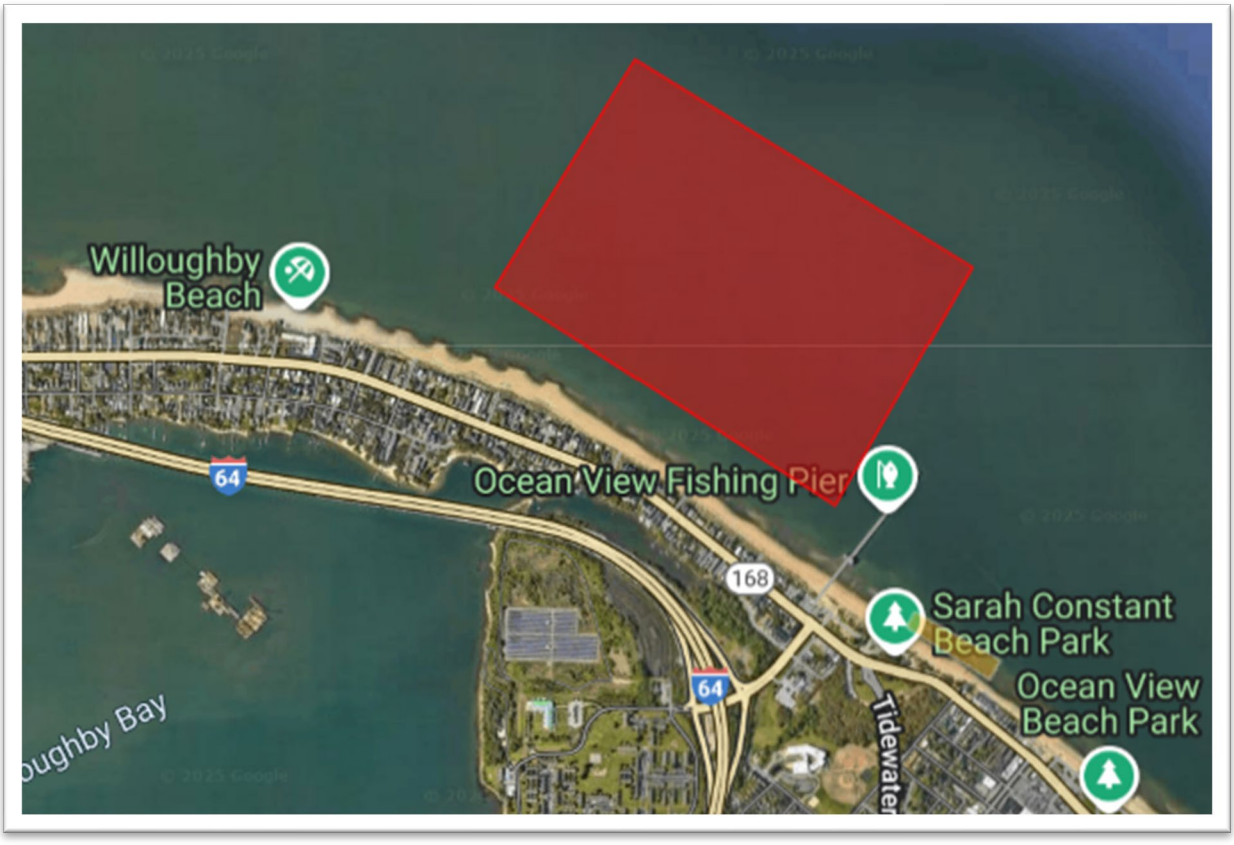
The applicant has submitted all required fees, including those for the application, public notice, and surveying. This area has no existing oyster planting ground leases, and there is no record of such leases having been assigned here in the past. As such, the proposed lease would establish shellfish aquaculture operations in a location with no prior history of this use. Notably, there are no private piers, navigation channels, or submerged aquatic vegetation in the vicinity that would be affected by the potential assignment.

Staff considers each lease application on a case-by-case basis, considering the requirements of the Code of Virginia and the Public Trust Doctrine. The increased interest in shellfish propagation, has resulted in increased public awareness of such activity and highlighted the necessity for a more comprehensive review of these methods of shellfish aquaculture propagation. Such lease requests in populated areas raise issues regarding public trust lands to include user conflicts, property values, aesthetics, navigation impacts, and suitable bottom types. Stewardship of public trust lands, while weighing the public and private benefits versus detriments, requires a balanced approach to the review of such lease requests.

SUMMARY

The Code of Virginia § 28.2-1205 allows the Commission to grant or deny any permit for the use of state-owned bottomlands taking into consideration the public and private benefits of the proposed project. Staff is requesting guidance from the Commission to approve or deny this application based upon consideration of the objections raised by local residents, comments concerning support of the request, and consideration of the public trust doctrine.

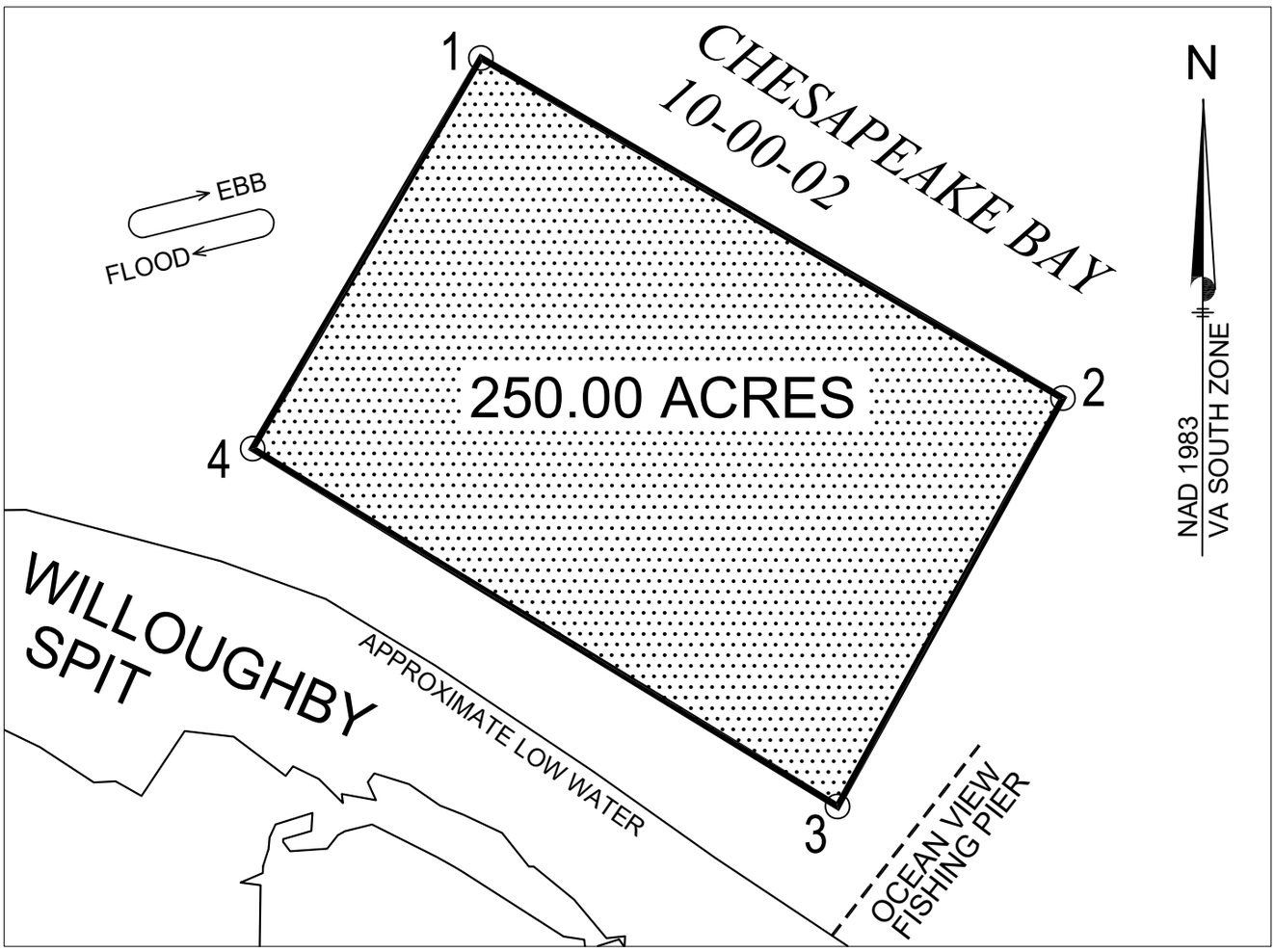
MAP



VIRGINIA MARINE RESOURCES COMMISSION

ENGINEERING / SURVEYING DEPARTMENT

APPLICATION NO. 2021016	
DISTRICT NO. 21	MAP NO. 23_1531
SHEET NO. 1 OF 1	FILE NO. 22173



ALL CORNERS WERE SET BY GPS (RTN) METHODS

VIRGINIA STATE PLANE COORDINATES SOUTH ZONE (U.S. FEET)			GEOGRAPHIC COORDINATES DEGREES, MINUTES	
NORTHING	EASTING	POINT NO.	LATITUDE	LONGITUDE
3522274.33	12135096.53	1	36° 58.5172981' N.	76° 16.0319863' W.
3520272.35	12138537.61	2	36° 58.1740263' N.	76° 15.3351751' W.
3517859.29	12137212.09	3	36° 57.7816627' N.	76° 15.6190920' W.
3519964.79	12133751.86	4	36° 58.1420360' N.	76° 16.3192946' W.

COMMONWEALTH OF VIRGINIA
WALLACE F. COOLEY
License No. 2054
2-25-2025
LAND SURVEYOR

250.00 ACRES
OYSTER PLANTING GROUND

OF

MARK K. JOHNSON

IN

CHESAPEAKE BAY (LOWER WEST) 10-00-02

CITY OF NORFOLK

SCALE: 1/12000 (1" = 1000') **DATE:** FEBRUARY 25, 2025

V.M.R.C. APPROVED / RECORDED

DANIEL FAGGERT
SURVEYOR

DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1011

June 9, 2025

SUBJECT: Formal Objection of VMRC Application No. 2021016 Oyster Planting Ground Lease for Mr. Mark Johnson

Mr. Adam Kenyon
Chief, Shellfish Management Division
Virginia Marine Resources Commission
380 Fenwick Road, Bldg 96
Fort Monroe, VA 23651

Dear Mr. Kenyon,

The U.S. Army Corps of Engineers, Norfolk District (Corps), has reviewed the Virginia Marine Resources Commission (VMRC) public notice regarding VMRC Application No. 2021016, submitted by Mr. Mark Johnson (the leaseholder), for a proposed 250± acre oyster planting ground lease (Proposed Lease) located just offshore of Willoughby Spit, between 4th View Street and 9th View Street in Norfolk, Virginia. The Corps was also notified of the pending VMRC Commission Hearing, tentatively scheduled for June 24, 2025.

Due to scheduling conflicts, a Corps representative may be unable to attend the June 24th hearing. Therefore, this letter serves as the Corps' formal objection to the Proposed Lease. Based on available information, as explained below, the Proposed Lease between VMRC and Mr. Johnson will alter and impair the use of the federally authorized Willoughby Spit and Vicinity Beach Renourishment Project (Federal Project), and requires permission under Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408), referred to as Section 408. The Norfolk District operates and maintains this Federal Project in partnership with the City of Norfolk, the non-federal sponsor.

On March 31, 2025, Mr. Robert Pruhs of the Norfolk District Operations Branch submitted comments regarding the Proposed Lease location, noting that it would impact the Corps' ability to construct and maintain the Federal Project. The Federal Project will utilize hopper dredging to borrow sand from distant sources, transport it to a pump-out location near the Proposed Lease area, and convey the sand via submerged pipelines across the Proposed Lease area to the beach.

The Federal Project consists of 7.3 miles of southern Chesapeake Bay shoreline extending from the tip of Willoughby Spit near the Hampton Roads Bridge-Tunnel to the

federal navigation project at Little Creek Inlet. The Federal Project includes periodic renourishment over a 50-year period. Initial construction was completed in 2017 and consisted of a protective beach berm with an average width of 60-feet at an elevation of 5-feet above mean low water (3.5-feet, North American Vertical Datum, 1988 (NAVD 88)) along the entire 7.3-mile shoreline. The City of Norfolk conducted an independent renourishment effort to address erosional hotspots at four reaches within the limits of the Federal Project in 2021. The periodic renourishment effort is due in calendar year 2026.

As required by Section 408, the VMRC and the leaseholder must obtain Corps approval via a Section 408 permission for any alteration of the Federal Project. An "alteration" includes any action by a party other than the Corps that builds upon, alters, improves, moves, obstructs, or occupies an existing federal project. Geographically, Section 408 jurisdiction extends to alterations to submerged lands occupied or used by a federal project, as well as alterations to submerged lands in the vicinity of a federal project when those alterations have the potential to impair the federal project. (Engineer Circular 1165-2-220, at p. 10.). A Section 408 evaluation of the Proposed Lease is necessary to determine whether it would impair the usefulness of the Federal Project or harm the public interest. Final permission decisions are made by the District Commander. If granted, a Section 408 permission would require both the VMRC and the leaseholder to fully defend, indemnify, and hold harmless the United States and the Corps from any and all damage, injury, or compensation claims arising from authorized work, structures, or future operations undertaken by the United States, subject to any limitations in law. Furthermore, the leaseholder will be required to remove, relocate, or alter any authorized structures or obstructions at their expense, and to repair any damage to the Federal Project resulting from leaseholder activities, also at their expense.

For questions regarding this objection or the Section 408 Program, please contact the Norfolk District Section 408 Coordinator, Katy Damico, via email at nao.section408@usace.army.mil and/or Katy.R.Damico@usace.army.mil, or by telephone at (757) 201-7670.

Sincerely,

Keith B. Lockwood

Keith B. Lockwood
Chief, Water Resources Division

moffatt & nichol

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Norfolk, VA 23510

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www.moffattnichol.com

MEMORANDUM

To: **Tammy Halstead, PE, City of Norfolk**

From: **Brian Joyner, PE and Holly Berckenhoff, PE**

Date: **May 13, 2025**

Subject: Evaluation of Potential Detrimental Impacts of Offshore Commercial Oyster Lease near Chesapeake Bay Facing Beaches

M&N No.: 231247-13

1 PURPOSE

The purpose of this memorandum is to document potential detrimental impacts that a proposed offshore commercial oyster lease might have on the City of Norfolk's (City) beach management efforts. This document contains a summary of beach management along the Chesapeake Bay shoreline followed by a description of potential impacts from the oyster lease on beach management construction methodology and construction costs and public safety. Moffatt & Nichol (M&N) has developed this memorandum as the City's consultants for Shoreline Protection and Engineering Services.

2 BEACH MANAGEMENT HISTORY & POTENTIAL CONSTRUCTION IMPACTS

2.1 BEACH MANAGEMENT HISTORY

The U.S. Army Corps of Engineers (USACE) completed a feasibility study in 1983 that recommended an implementable plan for beach nourishment that was authorized in the Water Resources Development Act of 1986 (WRDA 1986). Design and implementation of the Authorized Project did not occur immediately following authorization because of the focus on other shoreline stabilization practices. Because of the damages incurred due to Hurricane Isabel in 2003, there was renewed interest in the Authorized Project. A Limited Reevaluation Report (LRR) was completed in 2014 and confirmed that the Authorized Project remained economically justified. According to the LRR, the Authorized Project consists of a berm with an average width of 60 feet constructed at an elevation of +3.5 feet NAVD88 with a foreshore slope of 1V:20H

extending to the natural bottom along the entire 7.3-mile shoreline where an adequate berm does not presently exist.

The initial nourishment of the Federal Willoughby and Vicinity Coastal Storm Damage Reduction Project (Federal Project) was constructed in March, April and May 2017. Since the initial construction of the Federal Project in May 2017, there has not been a standalone Federal beach renourishment conducted along the Ocean View beaches. However, in August and September 2022 the City partnered with the Virginia Port Authority / USACE Norfolk Harbor Deepening construction contract to place 264,500 cubic yards of sand in two reaches of the project shoreline, as beneficial use of dredged material. This material was hydraulically placed between the eastern end of Willoughby Spit and the western end of 800 Block Breakwaters (37+50 to 61+62) and at West Ocean View reach (93+41 to 169+63).

2.2 POTENTIAL CONSTRUCTION IMPACTS

Large sources of beach compatible dredge material are not located close to the Chesapeake Bay facing beaches within the City. Therefore, hydraulically placing dredged material on the beach requires a hopper dredge which needs a pump out buoy and submerged pipeline (subline) to transport sand from an offshore location to the beach placement area. How far offshore the pump out buoy needs to be is dependent on the draft of the vessel to be used for the dredging, and the alongshore location is highly dependent upon the beach placement template.

To allow construction Contractors the most flexibility, and to employ cost control measures, the offshore and alongshore location of the pump out buoy(s) are up to the Contractor, and proposed locations are provided to the Owner (City) in a pre-construction submittal titled “Beach Fill and Borrow Area Work Plan”, as seen in Figure 1. During construction, the Contractor may slightly deviate from the pre-construction submittal if found to lead to more efficient dredge production. Figure 2 displays documentation from the daily quality control report that was received during the 2022 nourishment event which shows a subline that would go directly through the proposed commercial oyster lease area.

Authorizing a commercial oyster lease offshore of Ocean View Beach would lead to a significant reduction in alongshore extent available to Contractors for subline placement for beach nourishment. This would likely lead to increased construction costs for future nourishment events. Thus, a commercial oyster lease negatively impacts the City’s ability to manage the Ocean View Beach.

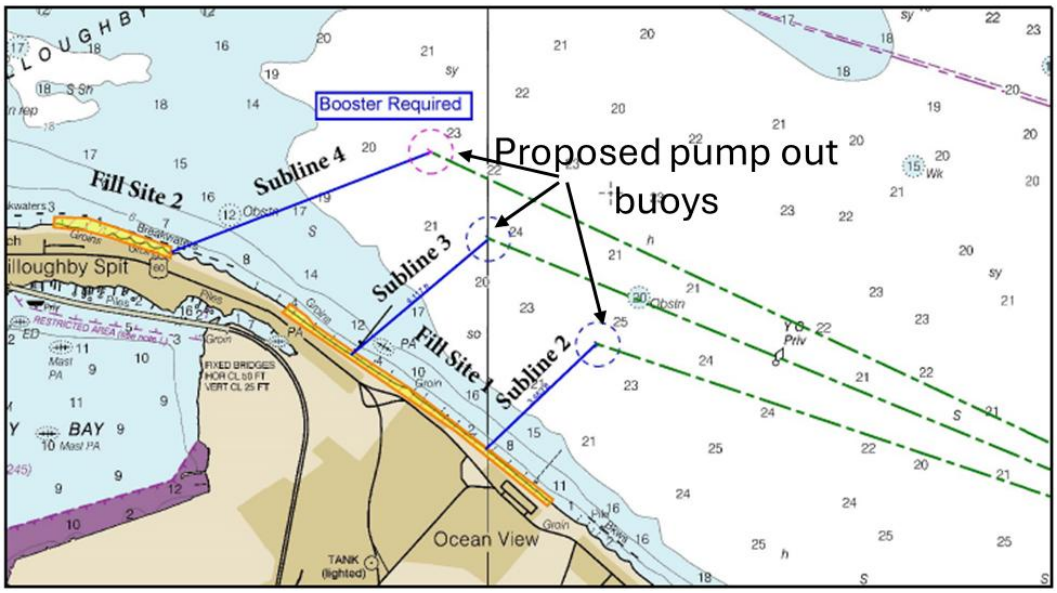

Figure 1. Proposed Sublines from 2022 Nourishment Beach Fill and Borrow Area Work Plan

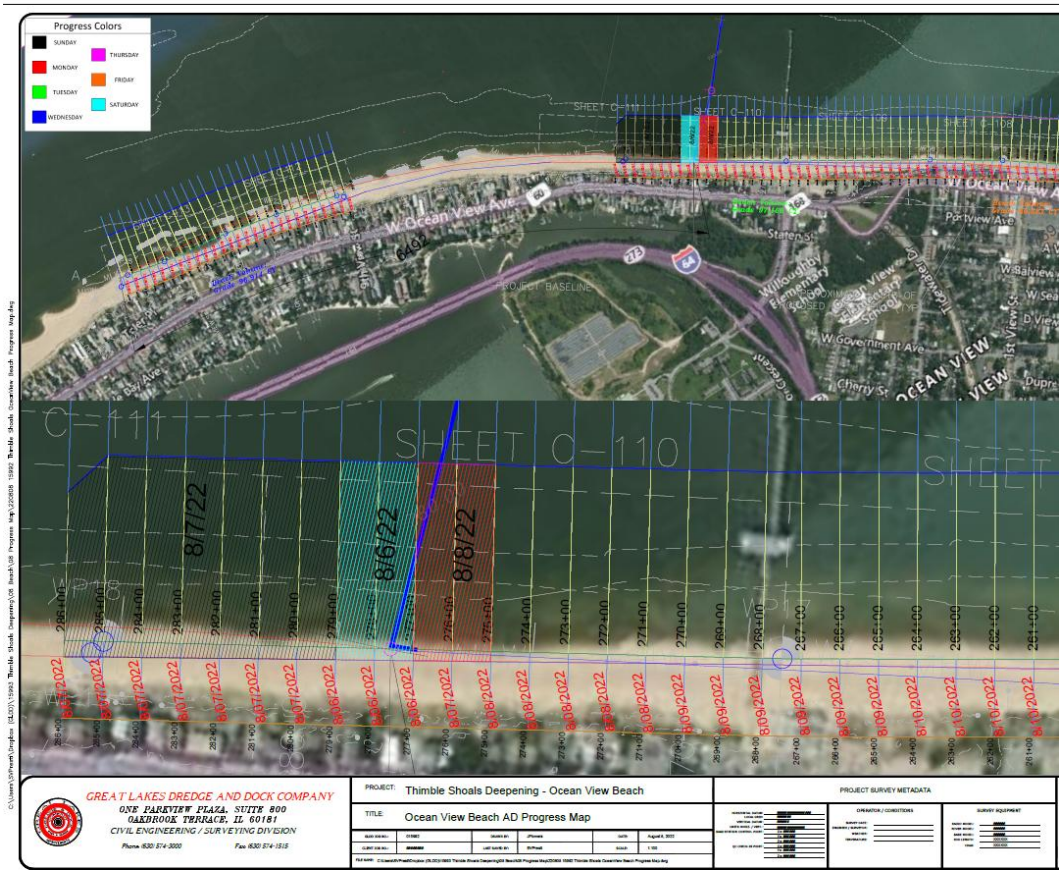

Figure 2. Actual Subline Location from 2022 Nourishment Daily Quality Control Report

3 PUBLIC SAFETY CONCERNS

Additional concerns have been raised about the feasibility of a commercial oyster lease offshore of the Chesapeake Bay facing beaches within the City of Norfolk. While these do not have a direct impact on construction costs, they do require consideration for overall safety risks to beach users and boaters.

1. This area is prone to high wave energy when winds are from the North. The type of proposed equipment within the oyster lease is unknown, but anything that is anchored to the bottom would need to be evaluated with appropriate metocean considerations to prevent anchors from being exposed, cables snapping, etc.
2. The proposed oyster lease is in an area that is heavily used by boaters. Since the proposed equipment within the oyster lease is unknown, estimates for the under keel clearance can not be determined. Additionally, any floating cages that break loose, or partially break loose, from their anchors may become a hazard to mariners.

THE CITY OF
NORFOLK
OFFICE OF THE CITY ATTORNEY

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September 27, 2021

VMRC Commissioner Bowman
Virginia Marine Resources Commission
380 Fenwick Road
Fort Monroe, VA 23651

AND

Virginia Marine Resources Commission
Engineering/Surveying Department
380 Fenwick Road
Fort Monroe, VA 23651

NOTICE OF PROTEST

To Commissioner Bowman,

The City of Norfolk protests Application 2021016 for oyster planting ground in the Chesapeake Bay, submitted by Mark K Johnson (attached). An oyster planting ground at the proposed location would negatively impact the City's resilience and public welfare projects in that area. If the application is granted and the land assigned, it would jeopardize the City's work to protect its citizens and their property from coastal hazards and would impede the City's efforts to defend against the consequences of sea level rise. The assignment would also violate the public trust doctrine by inhibiting recreational enjoyment of the nearby beach. Virginia Code § 28.2-607(1) requires that any assignment for general oyster planting ground must be in the public interest. Assignment of Application 2021016 would be damaging to the public interest and therefore the application should be denied.

Standard of Review

When the Virginia Marine Resources Commission issues a general oyster lease such as the application that is the subject of this protest, Virginia Code § 28.2-607(1) requires that the Commissioner consider "whether the assignment is in the public interest." VA Code § 28.2-607(1). The Commissioner's determination about the public interest must include consideration of the factors defined in Virginia Code § 28.2-1205(A). Id. The factors relevant to the proposed project and the City's protest are:

1. The conservation policies of Article XI, Section I of the Virginia Constitution;
2. The public and private benefits of the proposed project;
3. The public trust doctrine;

4. The proposed project's effect on "[o]ther reasonable and permissible uses of state waters and state-owned bottom lands;" and
5. The proposed project's effect on "[a]djacent or nearby properties."

VA Code § 28.2-1205(A).

The proposed project is only approximately 500 feet from the City of Norfolk's coastline and beaches. The City was not given notice of this application because the City's property is more than 200 feet from the proposed application site. However, when deciding whether to grant the application, the VMRC may not limit its consideration just to the effect on adjacent properties. The VMRC must consider the proposed project's effect on the City's nearby property as well as the nearby properties of the coastal community. The beach operates as both a natural defense for the coastal community as well as a recreation area for people's use and enjoyment. The proposed project would have a significant negative effect on the City's and nearby properties and on the public interest.

A. Any Benefits of the Proposed Project Are at the Expense of the Public Interest

While the VMRC must consider the public and private benefits of the proposed project in making its determination, these potential benefits come at the cost of the public interest. The City of Norfolk values the public benefits of healthy oyster reefs and supports their use throughout appropriate locations in the Chesapeake Bay Preservation Area. Healthy oyster reefs can act as a buffer from waves and slow erosion, while cleaning nearby waters and supporting local habitats. The actual intended use for oysters planted under this application is unknown to the City, but it has been indicated that the applicant intends to harvest the oysters for private benefit and not for the public benefits that a sustained, healthy oyster reef can confer.

Any public benefit from the project would be minimal and cancelled out by the negative effect the project would have on the public interest. The public benefits created by healthy oyster reefs are not guaranteed in every planting project since oyster reefs can be damaged by unsustainable harvesting. If the applicant intends to harvest the oysters for private benefit, the sustainability measures the applicant will take to preserve the reef are unknown. However, even if the applicant intends to build and sustain a healthy oyster reef at the proposed location, the proposed location is not appropriate for an oyster planting ground for the reasons explained within this protest. The public and private benefits of applicant's project are eclipsed by the damage the project would do to the public interest.

B. The Proposed Project Jeopardizes the City's Resilience Efforts to Defend Nearby Properties Against Coastal Hazards and Sea Level Rise

If the application is granted, the proposed planting ground would put nearby properties at risk to damage from coastal hazards. The beach near the proposed ground operates as a natural defense against coastal storms and flooding. The City must retain its ability to conserve and develop this natural defense as projected future sea level rise comes with predictions of more extreme and increased coastal hazards. The City and the Virginia Port Authority (VPA) are working together on a beach nourishment project along the Ocean View and Willoughby Spit shoreline. The beach nourishment project is important to the public interest and the City's

resilience efforts because it restores and increases the natural coastal defense against storms and flooding for homes, businesses, and recreation areas. As the sea level rises, coastal hazards increase, and the beach erodes, the beach needs to be replenished and nourished to maintain and improve that crucial line of defense for nearby properties. But the proposed oyster planting ground jeopardizes the City-VPA beach nourishment project and any future beach nourishment efforts.

The City-VPA beach nourishment project is a reasonable and permissible use of state waters and state-owned bottomlands to benefit the public interest. The current beach nourishment project involves placing approximately 393,000 cubic yards of sand along 14,400 linear feet of shoreline by way of pipelines and pump-out buoys. The pipelines run from the off-shore pump-out buoys and will necessarily have to go through the proposed oyster planting ground to replenish that length of shoreline. Because the proposed oyster planting ground covers much of the area the City and the VPA need to utilize to complete the project, there is a conflict with the proposed lease. Therefore, a lease granted to this oyster planting ground application could jeopardize the current City-VPA beach nourishment project and any future beach nourishment projects in that area, depriving the coastal community of its main natural defense. While healthy oyster reefs act as buffers and potentially slow erosion, a reef created by this application would not be a sufficient defense. The beach renourishment project provides a greater natural defense to coastal hazards than the proposed application could. Beach nourishment should be prioritized over a private oyster planting ground.

The City is highly concerned about the effect the proposed application could have on the City's ability to obtain environmental permits for future beach nourishment projects adjacent to or near the proposed lease area. Beach nourishment projects require the placement of sand, and sand placement can result in fine particles being stirred up in the water. These fine particles can sometimes affect oyster beds at certain times of the year. The VMRC has exhibited significant care towards preventing this effect: on recent City dredging projects, the VMRC precluded dredging within 1,000 feet from oyster reefs to protect them from the potential impact by fine particles. The fine particles stirred up during dredging projects are very similar to the those stirred up during beach nourishment projects. The current City-VPA beach nourishment project, and future beach nourishment projects, would include placement of sand near the proposed oyster planting ground in order to add to the shoreline. A buffer around the proposed 250 acres of oyster planting ground would preclude the City from placement of sand in the surf zone and would severely inhibit the ability of the City to perform any beach nourishment. The proposed application would therefore impact the City's current beach nourishment project and all future beach nourishment projects in that area of the Chesapeake Bay. Any public or private benefit of the proposed oyster planting ground would be at the expense of the nearby properties' natural defense barrier against coastal hazards and would leave them exposed to the consequences of sea level rise.

The City is also concerned that the proposed lease may impact permitting of future storm water outfall extensions in the area. Storm water management is another important element of the City's efforts to combat the effects of sea level rise and flooding throughout the City. The City may need to adapt its storm water management and add storm water outfalls near the proposed lease area in the future to protect nearby properties from flooding that occurs beyond the beach. Storm water management is in the public interest and is a reasonable and permissible use of state waters and bottomlands. But storm water outfalls bring freshwater discharge and sediments into

contact with the water and land at the end of the outfalls. Therefore, the City has similar concerns for its storm water management as it does for its beach nourishment projects. If an extension is needed in the area near the proposed oyster planting ground, the lease holder might try to challenge the City's permit request as detrimental to their lease. Any public benefit of an oyster reef as a natural defense buffer or private benefit to the applicant would be at the expense of the surrounding properties' storm water management.

C. The Proposed Project Is Inconsistent with Constitutional Conservation Policies and the Public Trust Doctrine

A determination whether or not a proposed project is in the public interest is not limited to a review of the effect a project would have on public safety and resilience. Public interest also includes the people of Virginia's recreational use and enjoyment of the lands and waters of the Commonwealth. The Constitution of Virginia declares that, "To the end that the people have clean air, pure water, and the use and enjoyment for recreation of adequate public lands, waters, and other natural resources, it shall be the policy of the Commonwealth to conserve, develop, and utilize its natural resources, its public lands...." Va. Const. art. XI, § 1. The VMRC is also charged that its decision regarding the application must be "consistent with the public trust doctrine as defined by the common law of the Commonwealth adopted pursuant to § 1-200 in order to protect and safeguard the public right to the use and enjoyment of the subaqueous lands of the Commonwealth...." VA Code § 28.2-1205(A).

The proposed application is not just contrary to the public interest from a resilience standpoint. Due to the proposed location of the oyster planting ground, an assignment of this lease would be inconsistent with the conservation policies found in Article XI, Section I of the Constitution of Virginia and the public trust doctrine. The City-VPA beach nourishment program conserves and develops the beach in the proposed planting area as a natural defense against coastal hazards, but beach nourishment programs also increase people's use and enjoyment of the beach and waters through development and restoration of the beach. By impeding the City's beach nourishment efforts as discussed above, the project also stands in the way of conserving the beach for public enjoyment now and in the future.

In contrast to the City's work to conserve the beach, the proposed project in the application could have a chilling effect on people's use and enjoyment of the water and beach for recreation. Norfolk citizens have already alerted the VMRC to their concerns that the proposed oyster planting ground would pose a danger to people's safety. Oyster beds can be damaged by storms. When the beds are damaged, the broken shells do not remain in place. Instead, they wash up all along the coast. In an email exchange with the VMRC on August 9 and 12, 2021, a Norfolk resident conveyed worries that broken shells washed onto the beach and into the surf zone during storms could result in injury to people using the water for recreation and those walking along the beach. While broken shells are naturally occurring along the coast already, the application seeks to introduce 250 acres worth of additional oyster shells only 500 feet off-shore in a shallow area of the Chesapeake Bay. The citizen's protest clearly shows the apprehension and discomfort such a proposal has brought to the people of the Commonwealth who have a right to use and enjoy these lands and waters.

The concern about the broken shells needs to be carefully considered and not dismissed as something that would occur in the absence of the proposed project. The applicant would deliberately introduce 250 acres of oyster shells to a shallow recreation area close to the beach during a time when sea level rise is predicted to increase coastal hazards that can damage the oyster bed. If the application is granted, people may continue to feel unsafe coming to use and enjoy that stretch of the coastline for recreation, despite the Constitution's policy that the lands and waters should be conserved for that use. Va. Const. art. XI, § 1.

This apprehension can have a damaging rippling effect on the Commonwealth's and City's conservation efforts. As mentioned above, the City recognizes the public benefits of healthy oyster reefs and supports their use in appropriate locations. People should be encouraged to understand the public interest value of healthy oyster reefs and add their support to maintaining reefs in appropriate locations. However, this location is not appropriate. To grant this application could send a negative message about oyster reefs to concerned citizens by prioritizing the private benefit of oyster planting over the public interest.

Conclusion

Virginia Code § 28.2-607 requires that the Commissioner of the VMRC determine that the assignment of a planting ground is in the public interest before granting the lease. The City of Norfolk protests Application 2021016 for oyster planting ground in the Chesapeake Bay, submitted by Mark K Johnson, because the proposed project is not in the public interest. The proposed planting ground would have damaging effects on the City's existing and future efforts to defend against coastal hazards and sea level rise. And the proposed planting ground would impair people's use and enjoyment of the lands and waters in this area for recreation. Therefore, the application should be denied.

Sincerely,

Margaret A. Kelly
Assistant City Attorney
City of Norfolk

MAK
Attachment

Public Law 99-662
99th Congress

An Act

Nov. 17, 1986
[H.R. 6]

To provide for the conservation and development of water and related resources and the improvement and rehabilitation of the Nation's water resources infrastructure.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Water Resources Development Act of 1986.
33 USC 2201 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1986".

(b) TABLE OF CONTENTS.—

33 USC 2201.

SEC. 2. DEFINITION OF SECRETARY.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

TITLE I—COST SHARING

33 USC 2211.

SEC. 101. HARBORS.

(a) CONSTRUCTION.—

Contracts.

(1) PAYMENTS DURING CONSTRUCTION.—The non-Federal interests for a navigation project for a harbor or inland harbor, or any separable element thereof, on which a contract for physical construction has not been awarded before the date of enactment of this Act shall pay, during the period of construction of the project, the following costs associated with general navigation features:

(A) 10 percent of the cost of construction of the portion of the project which has a depth not in excess of 20 feet; plus

(B) 25 percent of the cost of construction of the portion of the project which has a depth in excess of 20 feet but not in excess of 45 feet; plus

(C) 50 percent of the cost of construction of the portion of the project which has a depth in excess of 45 feet.

(2) ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS.—The non-Federal interests for a project to which paragraph (1) applies shall pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period

first Federal cost of $7,950,000 and an estimated first non-Federal cost of $7,950,000.

PRESQUE ISLE PENINSULA, ERIE, PENNSYLVANIA

The project for shoreline protection, Presque Isle Peninsula, Erie, Pennsylvania: Report of the Chief of Engineers, dated October 2, 1981, at a total cost of $34,800,000, with an estimated first Federal cost of $18,900,000 and an estimated first non-Federal cost of $15,900,000.

FOLLY BEACH, SOUTH CAROLINA

The project for shoreline protection, Folly Beach, South Carolina: Report of the Chief of Engineers, dated March 17, 1981, at a total cost of $7,040,000, with an estimated first Federal cost of $3,870,000 and an estimated first non-Federal cost of $3,170,000.

WILLOUGHBY SPIT, VIRGINIA

The project for shoreline protection, Willoughby Spit and Vicinity, Norfolk, Virginia: Report of the Chief of Engineers, dated April 17, 1984, at a total cost of $5,690,000, with an estimated first Federal cost of $4,250,000 and an estimated first non-Federal cost of $1,440,000.

VIRGINIA BEACH, VIRGINIA

The project for beach erosion control and hurricane protection, Virginia Beach, Virginia: Report of the Chief of Engineers, dated May 22, 1985, at a total cost of $42,400,000, with an estimated first Federal cost of $27,600,000 and an estimated first non-Federal cost of $14,800,000.

(b) AUTHORIZATION OF CONSTRUCTION SUBJECT TO FAVORABLE REPORT.—The following projects are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports cited, with such modifications as are recommended by the Chief of Engineers and approved by the Secretary, and with such other modifications as are recommended by the Secretary. If no report is cited for a project, the project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers, and with such modifications as are recommended by the Secretary, and no construction on such project may be initiated until such a report is issued and approved by the Secretary.

PINELLAS COUNTY, FLORIDA

The project for beach erosion control for Pinellas County, Florida: Report of the Board of Engineers for Rivers and Harbors, dated April 23, 1985, at a total cost of $52,600,000, with an estimated first Federal cost of $32,700,000 and an estimated first non-Federal cost of $19,900,000.

ILLINOIS BEACH STATE PARK, ILLINOIS

The project for shoreline protection, Illinois Beach State Park, Illinois described as alternative 3A in Interim Report 1, Illinois-Wisconsin Stateline to Waukegan of the District Engineer, Chicago District, dated June 1982, at a total cost of $13,400,000, with an

Federal cost of $1,750,000. The non-Federal share of the cost of the project authorized by this section shall be 25 percent.

(5) TARRANT COUNTY, TEXAS.—The Secretary is authorized and directed to develop detailed plans and specifications and to construct measures in Tarrant County, Texas, to eliminate flood damage in the historical stockyards along Tony's Creek and Marine Creek, at a total cost of $20,000,000, with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000. The non-Federal share of the cost of the project authorized by this section shall be 25 percent.

SEC. 402. COMPLIANCE WITH FLOOD PLAIN MANAGEMENT AND INSURANCE PROGRAMS. 33 USC 701b-12.

Before construction of any project for local flood protection, the non-Federal interests shall agree to participate in and comply with applicable Federal flood plain management and flood insurance programs.

SEC. 403. GROUNDWATER INDUCED DAMAGES.

Section 2 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 889; 33 U.S.C. 701a-1), is amended by inserting after "drainage improvements" the following: "and flood prevention improvements for protection from groundwater-induced damages".

TITLE V—SHORELINE PROTECTION

SEC. 501. AUTHORIZATION OF PROJECTS. Reports.

(a) AUTHORIZATION OF CONSTRUCTION.—The following works of improvement for the benefit of shoreline protection are adopted and authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection, except as otherwise provided in this subsection. Construction of the projects authorized in this title shall be subject to determinations of the Secretary, after consultation with the Secretary of the Interior, that the construction will be in compliance with the Coastal Barrier Resources Act (Public Law 97-348). 16 USC 3501 note.

PANAMA CITY BEACHES, FLORIDA

The project for shoreline protection, Panama City Beaches, Florida: Report of the Chief of Engineers, dated July 8, 1977, House Document Numbered 96-65, at a total cost of $48,500,000, with an estimated first Federal cost of $22,800,000 and an estimated first non-Federal cost of $25,700,000.

ST. JOHNS COUNTY, FLORIDA

The project for shoreline protection, St. Johns County, Florida: Report of the Chief of Engineers, dated February 26, 1980, at a total cost of $18,200,000, with an estimated first Federal cost of $11,100,000 and an estimated first non-Federal cost of $7,100,000. To the maximum extent feasible, the Secretary shall construct such project so as to avoid adverse effects on sea turtle nesting. Wildlife.

Joint Permit Application and Supporting Information
for

Ocean View Beach Nourishment Project

City of Norfolk
Department of Public Works

Contents

Attachments

1. Tidewater Joint Permit Application
2. Proposed Project Plans
3. Adjacent Property Owners List

Date	***Version***	
12/02/2020	*Submittal to VMRC*	

Project Description, Purpose and Need

The City of Norfolk (City) proposes to construct a beach nourishment project at four beach reaches along its Ocean View and Willoughby Spit shoreline. The proposed fill at Reach 1 is between 24th Bay St. and Bay Point Dr. The proposed fill at Reach 2 is between Chesapeake Blvd. and Atlans St. The proposed fill at Reach 3 is between 6th View St. and Norfolk Ave. The proposed fill at Reach 4 is between 12th View St. and 9th View St. Refer to Figure 1 for nourishment reach locations.

The purpose of the project is to restore and enhance coastal storm protection to residential, public and commercial structures by increasing beach width (advancing shoreline), establishing a beach berm at +4.0 feet NAVD88. The project will particularly address a chronic erosional "hot spot" between 12th View St. and 10th View St. The primary purpose of the project is to restore beach width and volume to segments of beach that are more severely eroded than their neighboring shorelines. This will help to maintain beach width and its protective function during the remaining interval before the planned renourishment of the Federal coastal storm damage reduction project. The secondary purpose of the project is the beneficial use of sandy material being dredged as part of a Federal navigation improvement project.

The project will accomplish its purpose by placing approximately 393,000 cubic yards (cy) of sand along approximately 14,400 linear feet of shoreline, to tie into existing submerged grade at approximately -5.0 feet to -8.0 feet NAVD88. The sand material will be obtained from the Thimble Shoals Channel as part of the Norfolk Harbor Navigation Improvement projects.

Figure 1: Location of Ocean View Beach nourishment project areas

The location of the project area and major project elements are shown in Figure 1. The beach fill length is fully within the limits of the U.S. Army Corps of Engineers' (USACE) Willoughby Spit & Vicinity Coastal

Storm Damage Reduction Project (the Federal Project) initially constructed by USACE in May 2017. The Federal Project basis of design is described in the USACE report[1] *Willoughby Spit and Vicinity, Norfolk, Virginia, Hurricane Sandy Limited Reevaluation Report* and its appendices.

The proposed beach nourishment profiles at Reach 1 through Reach 4 are intended to be consistent with those constructed by USACE in its May 2017 construction of the Federal Project. Figure 2 shows a typical nourishment construction profile within Reach 3 in West Ocean View.

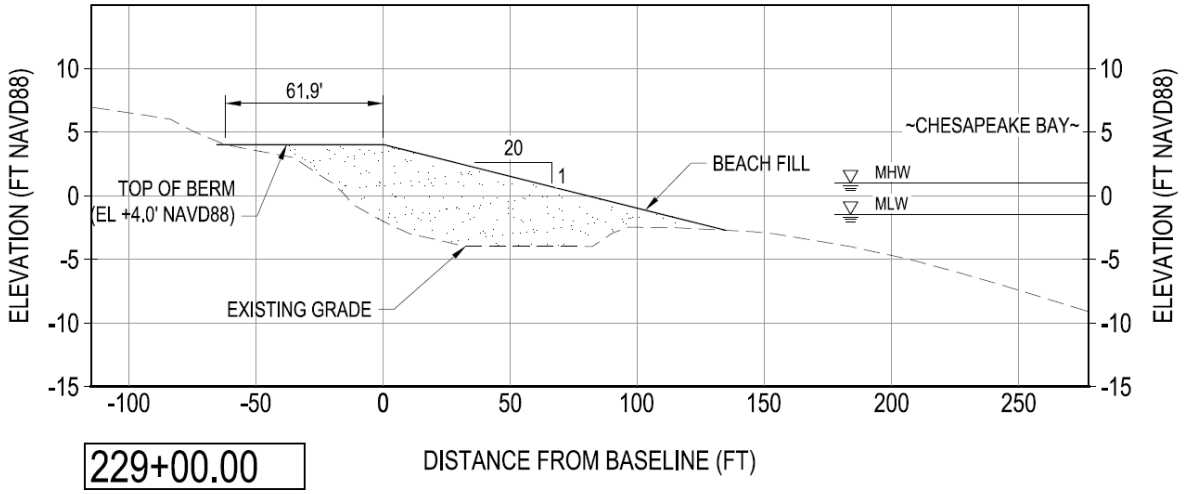


Figure 2: Typical beach profile showing existing grades and proposed nourishment construction in Reach 3 (STA 229+00)

It is the intent of this permit application to obtain permissions to hydraulically place sand beach fill material obtained by hopper dredging in the Thimble Shoals Channel (TSC) and adjacent Meeting Areas, on the beach within the design templates shown in the Attachment 2 permit drawings. The beach fill material would be dredged from the TSC as part of the Norfolk Harbor Navigation Improvement projects being completed jointly between USACE and the Virginia Port Authority. The approved General Reevaluation Report (GRR) and Environmental Assessment[2] for the ongoing Norfolk Harbor Navigation Improvements projects considered the beneficial use of the dredged material for beach nourishment. This permit application is being submitted in support of a project to implement the GRR's encouragement of the beneficial use of dredged material.

The project is further documented in the Joint Permit Application included as Attachment 1 to this document. The proposed project would place sand on previously-nourished sandy beaches. The impacts of the proposed sand placement are considered to be equivalent to those associated with the

[1] https://www.nao.usace.army.mil/WilloughbyandVicinity/
[2] https://www.nao.usace.army.mil/About/Projects/Norfolk-Harbor-Channel-Deepening/

May 2017 initial construction of the Federal Project. No impacts are expected to any vegetated or non-vegetated wetlands as part of the proposed beach nourishment. No mitigation is proposed.

Beach Fill Material Dredging and Hydraulic Placement

The nourishment will require placement of up to approximately 393,000 cy that will be dredged from a portion of the Thimble Shoals Channel (TSC) and Meeting Area. The TSC is shown in Figure 3. It is noted that separate environmental regulatory approvals have been obtained (by others) for the dredging, and the dredging for navigation improvement will occur regardless of whether the material is placed on the beach.

Figure 3: Location of Thimble Shoals Channel dredging area providing the proposed beach fill material

S&ME, Inc. and Ocean Services, Inc. studied and summarized the geotechnical evaluation of borrow material at the TSC in July 2008 for USACE, Norfolk District. A total of approximately 4 nautical trackline miles were surveyed along 19 lines in the TSC area. Vibracores were advanced a maximum of 20 feet below the seafloor and cone penetrometer testing (CPT) was performed as deep as 30 feet below the bottom in places. A total of 36 vibracore and 22 penetrometer stations were occupied in the TSC.

The shoal sediments are generally described in the report *Craney Island Eastward Expansion, Draft Geotechnical Evaluation of Potential Offshore Borrow, Atlantic Ocean Channel, Thimble Shoals Channel, Newport News Channel and Anchorages* (S&ME and Ocean Surveys, 2008) as being greater than 90% sand and gravel. The S&ME and Ocean Surveys (2008) evaluation indicated that median grain sizes at

the Thimble Shoals Channel are from 0.15 mm to 0.30 mm. The May 2017 construction of the Federal Project by USACE used same sand source for the same project areas.

Dredging is proposed to be completed using a hopper dredge with a pipeline to the beach. Additional pipeline and onshore grading equipment will be trucked to the site, with expected maximum widths of 14 feet for over the road transportation. Expected equipment includes:

- Hopper dredge
- Floating pump-out buoy (may include booster pump depending on distance of pump).
- Pipeline to shore and along the shore; approximately 24" diameter, but variable depending on the size and pumping capacity of the dredge
- Survey vessel
- D-6N or similar dozer for shore crew
- 980H or similar front loader for shore crew
- 20-Ton offshore crane for assembling pipeline

Production for the hydraulic dredging is estimated to be on the order of 300 – 600 cy/hr, (depending on dredge size and efficiency), and it is assumed that the dredging and grading operation will be conducted 24 hours per day to maximize cost effectiveness.

Contractor site access and laydown areas will be provided by the City. It is expected that construction access can be made at 13th View Street, east of Ocean View Fishing Pier, Chesapeake Street, and 11th Bay Street. It is expected that laydown areas for pipeline can be on the beach within the public beach easement. Based on an estimated dredge volume of up to 393,000 cy, and production of 9,000-21,600 cy/day, the project construction period is estimated to be less than three months.

Attachment 1:

Tidewater Joint Permit Application

- DEQ: Permit application fees required for Virginia Water Protection permits – while detailed in 9VAC25-20 – are conveyed to the applicant by the applicable DEQ office (http://www.deq.virginia.gov/Locations.aspx). Complete the Permit Application Fee Form and submit it per the instructions to the address listed on the form. Instructions for submitting any other fees will be provided to the applicant by DEQ staff.
- VMRC: An application fee of $300 may be required for projects impacting tidal wetlands, beaches and/or dunes when VMRC acts as the LWB. VMRC will notify the applicant in writing if the fee is required. Permit fees involving subaqueous lands are $25.00 for projects costing $10,000 or less and $100 for projects costing more than $10,000. Royalties may also be required for some projects. The proper permit fee and any required royalty is paid at the time of permit issuance by VMRC. VMRC staff will send the permittee a letter notifying him/her of the proper permit fees and submittal requirements.
- LWB: Permit fees vary by locality. Contact the LWB for your project area or their website for fee information and submittal requirements. Contact information for LWBs may be found at http://ccrm.vims.edu/permits_web/guidance/local_wetlands_boards.html.

FOR AGENCY USE ONLY	
	Notes:
	JPA # **20-2232**

APPLICANTS
Part 1 – General Information

PLEASE PRINT OR TYPE ALL ANSWERS: If a question does not apply to your project, please print N/A (not applicable) in the space provided. If additional space is needed, attach 8-1/2 x 11 inch sheets of paper.

Check all that apply		
Pre-Construction Notification (PCN) ☐ NWP # _____ (*For Nationwide Permits ONLY - No DEQ-VWP permit writer will be assigned*)	Regional Permit 17 (RP-17) ☐	

County or City in which the project is located: City of Norfolk

Waterway at project site: Chesapeake Bay

PREVIOUS ACTIONS RELATED TO THE PROPOSED WORK (Include all federal, state, and local pre application coordination, site visits, previous permits, or applications whether issued, withdrawn, or denied)

Historical information for past permit submittals can be found online with VMRC - https://webapps.mrc.virginia.gov/public/habitat/ - or VIMS - http://ccrm.vims.edu/perms/newpermits.html

Agency	Action / Activity	Permit/Project number, including any non-reporting Nationwide permits previously used (e.g., NWP 13)	Date of Action	If denied, give reason for denial
USACE	Environmental Assessment	Willoughby Spit & Vicinity CSDR Project	Jan. 2014	n/a
Various	Pre-app. mtg: USACE MRC		10/28/2020	

Part 1 - General Information (continued)

1. Applicant's legal name* and complete mailing address: Contact Information:

City of Norfolk
Department of Public Works, Attn: Richard Broad, PE
810 Union Street, #700
Norfolk, Virginia 23510

Home (____)_____
Work (757) 664-4600
Fax (____)_____
Cell (____)_____
e-mail richard.broad@norfolk.gov

State Corporation Commission Name and ID Number (if applicable) _____

2. Property owner(s) legal name* and complete address, if different from applicant: Contact Information:

Home (____)_____
Work (____)_____
Fax (____)_____
Cell (____)_____
e-mail _____

State Corporation Commission Name and ID Number (if applicable) _____

3. Authorized agent name* and complete mailing address (if applicable): Contact Information:

City of Norfolk
Department of Public Works. Attn: Chuck Joyner, PE
810 Union Street, #700
Norfolk, Virginia 23510

Home (____)_____
Work (757) 664-4648
Fax (____)_____
Cell (757) 647-0842
e-mail chuck.joyner@norfolk.gov

State Corporation Commission Name and ID Number (if applicable) _____

*** If multiple applicants, property owners, and/or agents, each must be listed and each must sign the applicant signature page.**

4. Provide a detailed description of the project in the space below, including the type of project, its dimensions, materials, and method of construction. Be sure to include how the construction site will be accessed and whether tree clearing and/or grading will be required, including the total acreage. If the project requires pilings, please be sure to include the total number, type (e.g. wood, steel, etc), diameter, and method of installation (e.g. hammer, vibratory, jetted, etc). If additional space is needed, provide a separate sheet of paper with the project description.

This project will construct a beach renourishment at four reaches along the Ocean View shoreline. The fill at Reach 1 is between 24th Bay St. and Bay Point Dr. The fill at Reach 2 is between Chesapeake Blvd. and Atlans St. The fill at Reach 3 is between 6th View St. and Norfolk Ave. The fill at Reach 4 is between 12th View St. and 9th View St. The total footprint of the project area will be approximately 90 acres. The total fill volume will be approximately 393,000 cubic yards. Additional details regarding the project and the beach fill material source are provided in the project narrative document to which this JPA is attached.

Part 1 - General Information (continued)

5. Have you obtained a contractor for the project? ___ Yes* _X_ No. *If your answer is "Yes" complete the remainder of this question and submit the Applicant's and Contractor's Acknowledgment Form (enclosed)
   Contractor's name* and complete mailing address: Contact Information:
   Home (____)_____
   Work (____)_____
   Fax (____)_____
   Cell (____)_____
   email _____
   State Corporation Commission Name and ID Number (if applicable) _____

*** If multiple contractors, each must be listed and each must sign the applicant signature page.**

6. List the name, address and telephone number of the newspaper having general circulation in the area of the project. Failure to complete this question may delay local and State processing.

   Name and complete mailing address: Telephone number
   The Virginian-Pilot (757) _____
   150 West Brambleton Avenue
   Norfolk, VA 23510

7. Give the following project location information:
   Street Address (911 address if available)_____
   Lot/Block/Parcel#_____
   Subdivision Ocean View
   City / County Norfolk ZIP Code 23510
   Latitude and Longitude at Center Point of Project Site (Decimal Degrees):
   36.94612 / -76.23700 (Example: 36.41600/-76.30733)

   If the project is located in a rural area, please provide driving directions giving distances from the best and nearest visible landmarks or major intersections. *Note: if the project is in an undeveloped subdivision or property, clearly stake and identify property lines and location of the proposed project. A supplemental map showing how the property is to be subdivided should also be provided.*

   From I-64, go north on 4th View Street, then turn left (northwest) on W Ocean View Ave. Project reaches are at four locations along Ocean View Ave. as described and as shown in the project narrative to which this JPA is attached.

8. What are the *primary and secondary purposes of and the need for* the project? For example, the primary purpose may be "to protect property from erosion due to boat wakes" and the secondary purpose may be "to provide safer access to a pier."

   The primary purpose of the project is to restore beach width and volume to segments of beach that are more severely eroded than their neighboring shorelines. Secondary purposes of the project include extending the interval before required renourishment of a Federal coastal storm damage reduction project, and the beneficial use of sandy material being dredged as part of a Federal navigation improvement project.

Part 1 - General Information (continued)

9. Proposed use (check one):
   ___ Single user (private, non-commercial, residential)
   _X_ Multi-user (community, commercial, industrial, government)

10. Describe alternatives considered and the measures that will be taken to avoid and minimize impacts, to the maximum extent practicable, to wetlands, surface waters, submerged lands, and buffer areas associated with any disturbance (clearing, grading, excavating) during and after project construction. *Please be advised that unavoidable losses of tidal wetlands and/or aquatic resources may require compensatory mitigation.*

    Alternatives include: (1) No Action, which would leave the four reaches in a condition that provides less than the recommended level of storm surge and wave protection. (2) Sand nourishment through truck haul; the footprint of the project would remain similar to the proposed extent. (3) Sand nourishment through hopper dredging (the proposed project).

11. Is this application being submitted for after-the-fact authorization for work which has already begun or been completed? ___Yes _X_No. If yes, be sure to clearly depict the portions of the project which are already complete in the project drawings.

12. Approximate cost of the entire project (materials, labor, etc.): $ 6.5 million
    Approximate cost of that portion of the project that is channelward of mean low water:
    $_____

13. Completion date of the proposed work: November 2021 – November 2022

14. Adjacent Property Owner Information: List the name and complete **mailing address**, including zip code, of each adjacent property owner to the project. (NOTE: If you own the adjacent lot, provide the requested information for the first adjacent parcel beyond your property line.) Failure to provide this information may result in a delay in the processing of your application by VMRC.

    Adjacent property owner information is provided as Attachment 3.

Part 2 - Signatures

1. Applicants and property owners (if different from applicant).
NOTE: REQUIRED FOR ALL PROJECTS

PRIVACY ACT STATEMENT: The Department of the Army permit program is authorized by Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and Section 103 of the Marine Protection Research and Sanctuaries Act of 1972. These laws require that individuals obtain permits that authorize structures and work in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters prior to undertaking the activity. Information provided in the Joint Permit Application will be used in the permit review process and is a matter of public record once the application is filed. Disclosure of the requested information is voluntary, but it may not be possible to evaluate the permit application or to issue a permit if the information requested is not provided.
CERTIFICATION: I am hereby applying for all permits typically issued by the DEQ, VMRC, USACE, and/or Local Wetlands Boards for the activities I have described herein. I agree to allow the duly authorized representatives of any regulatory or advisory agency to enter upon the premises of the project site at reasonable times to inspect and photograph site conditions, both in reviewing a proposal to issue a permit and after permit issuance to determine compliance with the permit. **In addition, I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.**

Applicant's Legal Name (printed/typed) _____ (Use if more than one applicant)

Applicant's Signature _____ (Use if more than one applicant)

Date _____

Property Owner's Legal Name (printed/typed) (If different from Applicant) _____ (Use if more than one owner)

Property Owner's Signature _____ (Use if more than one owner)

Date _____

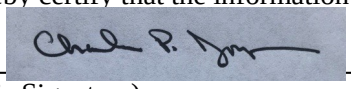
Part 2 – Signatures (continued)

2. Applicants having agents (if applicable)

CERTIFICATION OF AUTHORIZATION

I (we), Richard Broad, PE, hereby certify that I (we) have authorized Chuck Joyner, PE
(Applicant's legal name(s)) (Agent's name(s))
to act on my behalf and take all actions necessary to the processing, issuance and acceptance of this permit and any and all standard and special conditions attached.

We hereby certify that the information submitted in this application is true and accurate to the best of our knowledge.



(Agent's Signature) (Use if more than one agent)

12/8/20
(Date)

(Applicant's Signature) (Use if more than one applicant)

12/8/2020
(Date)

3. Applicant's having contractors (if applicable)

CONTRACTOR ACKNOWLEDGEMENT

I (we), _____, have contracted_____
(Applicant's legal name(s)) (Contractor's name(s))
to perform the work described in this Joint Permit Application, signed and dated_____.

We will read and abide by all conditions set forth in all Federal, State and Local permits as required for this project. We understand that failure to follow the conditions of the permits may constitute a violation of applicable Federal, state and local statutes and that we will be liable for any civil and/or criminal penalties imposed by these statutes. In addition, we agree to make available a copy of any permit to any regulatory representative visiting the project to ensure permit compliance. If we fail to provide the applicable permit upon request, we understand that the representative will have the option of stopping our operation until it has been determined that we have a properly signed and executed permit and are in full compliance with all terms and conditions.

Contractor's name or name of firm

Contractor's or firms address

Contractor's signature and title

Contractor's License Number

Applicant's signature

(use if more than one applicant)

Date

Part 2 – Signatures (continued)

ADJACENT PROPERTY OWNER'S ACKNOWLEDGEMENT FORM

I (we), _____, own land next to (across the water
(Print adjacent/nearby property owner's name)

from/on the same cove as) the land of_____.
(Print applicant's name(s))

I have reviewed the applicant's project drawings dated _____
(Date)

to be submitted for all necessary federal, state and local permits.

I HAVE NO COMMENT_____ ABOUT THE PROJECT.

I DO NOT OBJECT _____ TO THE PROJECT.

I OBJECT _____ TO THE PROJECT.

The applicant has agreed to contact me for additional comments if the proposal changes prior to construction of the project.

(Before signing this form be sure you have checked the appropriate option above).

_____
Adjacent/nearby property owner's signature(s)

_____
Date

Note: If you object to the proposal, the reason(s) you oppose the project must be submitted in writing to VMRC. An objection will not necessarily result in denial of the project; however, valid complaints will be given full consideration during the permit review process.

Part 2 – Signatures (continued)

ADJACENT PROPERTY OWNER'S ACKNOWLEDGEMENT FORM

I (we), _____, own land next to (across the water
(Print adjacent/nearby property owner's name)

from/on the same cove as) the land of_____.
(Print applicant's name(s))

I have reviewed the applicant's project drawings dated _____
(Date)

to be submitted for all necessary federal, state and local permits.

I HAVE NO COMMENT_____ ABOUT THE PROJECT.

I DO NOT OBJECT _____ TO THE PROJECT.

I OBJECT _____ TO THE PROJECT.

The applicant has agreed to contact me for additional comments if the proposal changes prior to construction of the project.

(Before signing this form, be sure you have checked the appropriate option above).

_____
Adjacent/nearby property owner's signature(s)

_____
Date

Note: If you object to the proposal, the reason(s) you oppose the project must be submitted in writing to VMRC. An objection will not necessarily result in denial of the project; however, valid complaints will be given full consideration during the permit review process.

APPENDIX B

U.S. Army Corps Of Engineers
Norfolk District

REGIONAL PERMIT 17 CHECKLIST
Expires: September 5, 2023

Please review the 18-RP-17 enclosure before completing this form and note 18-RP-17 can only be used for proposed PRIVATE USE structure(s) that comply with the terms and conditions of 18-RP-17. Copies can be obtained online at http://www.nao.usace.army.mil/Missions/Regulatory/RBregional/.

YES NO **(1)** Has the permittee reviewed the 18-RP-17 enclosure and verified that the proposed structure(s) is in compliance with all the terms, conditions, and limitations of 18-RP-17?

YES NO **(2)** Does the proposed structure(s) extend no more than one-fourth of the distance across the waterway measured from either mean high water (MHW) to MHW (including all channelward wetlands) or ordinary high water (OHW) to OHW (including all channelward wetlands)?

YES NO **(3)** Does the proposed structure(s) extend no more than 300 feet from MHW or OHW (including all channelward wetlands)?

YES NO N/A **(4)** Does the proposed structure(s) attach to the upland at a point landward of MHW or OHW (including all channelward wetlands)?

YES NO N/A **(5)** If the proposed structure(s) crosses wetland vegetation, is it an open-pile design that has a maximum width of five (5) feet and a minimum height of four (4) feet between the decking and the wetland substrate?

YES NO N/A **(6)** Does the proposed structure(s) include no more than two (2) boatlifts and no more than two (2) boat slips?

YES NO N/A **(7)** Is the open-sided roof structure designed to shelter a boat ≤ 700 square feet and/or is the open sided roof structure or gazebo structure designed to shelter a pier ≤ 400 square feet?

YES NO N/A **(8)** Are all piles associated with the proposed structure(s) non-steel, less than or equal to 12” in diameter, and will less than or equal to 25 piles be installed channelward of MHW?

YES NO N/A **(9)** Is all work occurring behind cofferdams, turbidity curtains, or other methods to control turbidity being utilized when operationally feasible and federally listed threatened or endangered species may be present?

YES NO N/A **(10)** If the proposed structure(s) is to be located within an anadromous fish use area, the prospective permittee will adhere to the anadromous fish use area time of year restriction (TOYR) prohibiting in-water work from occurring between February 15 through June 30 of any given year if (1) piles are to be installed with a cushioned impact hammer and there is less than 492 feet between the most channelward pile and mean low water (MLW) on the opposite shoreline or (2) piles are to be installed with a vibratory hammer and there is less than 384 feet between the most channelward pile and MLW on the opposite shoreline.

YES NO **(11)** Is all work occurring outside of submerged aquatic vegetation (SAV) mapped by the Virginia Institute of Marine Sciences’ (VIMS) most recent survey year and 5 year composite?

YES NO **(12)** Has the permittee ensured the construction and/or installation of the proposed structure(s) will not affect federally listed threatened or endangered species or designated critical habitat?

YES NO **(13)** Will the proposed structure be located outside of Broad Creek in Middlesex County, Fisherman’s Cove in Norfolk, or the Salt Ponds in Hampton?

YES NO **(14)** Will the proposed structure(s) be located outside of the waterways containing a Federal Navigation Project listed in Permit Specific Condition 12 of 18-RP-17 and/or will all portions of the proposed structure(s) be located more than 85 feet from the Federal Navigation Project?

YES NO **(15)** Will the proposed structure(s) be located outside a USACE Navigation and Flood Risk Management project area?

YES NO **(16)** Will the proposed structure(s) be located outside of any Designated Trout Waters?

YES NO N/A **(17)** If the proposed structure(s) includes flotation units, will the units be made of materials that will not become waterlogged or sink if punctured?

YES NO N/A **(18)** If the proposed structure(s) includes flotation units, will the floating sections be braced so they will not rest on the bottom during periods of low water?

YES NO **(19)** Is the proposed structure(s) made of suitable materials and practical design so as to reasonably ensure a safe and sound structure?

YES NO **(20)** Will the proposed structure(s) be located on the property in accordance with the local zoning requirements?

YES NO N/A **(21)** If the proposed structure(s) includes a device used for shellfish gardening, will the device be attached directly to a pier and limited to a total of 160 square feet?

YES NO N/A **(22)** If the proposed structure(s) includes a device used for shellfish gardening, does the permittee recognize this RP does not negate their responsibility to obtain an oyster gardening permit (General Permit #3) from Virginia Marina Resources Commission's Habitat Management Division?

YES NO **(23)** Does the permittee recognize this RP does not authorize any dredging or filling of waters of the United States (including wetlands) and does not imply that future dredging proposals will be approved by the Corps?

YES NO **(24)** Does the permittee understand that by accepting 18-RP-17, the permittee accepts all of the terms and conditions of the permit, including the limits of Federal liability contained in the 18-RP-17 enclosure? Does the permittee acknowledge that the structures permitted under 18-RP-17 may be exposed to waves caused by passing vessels and that the permittee is solely responsible for the integrity of the structures permitted under 18-RP-17 and the exposure of such structures and vessels moored to such structures to damage from waves? Does the permittee accept that the United States is not liable in any way for such damage and that it shall not seek to involve the United States in any actions or claims regarding such damage?

IF YOU HAVE ANSWERED "NO" TO ANY OF THE QUESTIONS ABOVE, REGIONAL PERMIT 17 (18-RP-17) DOES NOT APPLY AND YOU ARE REQUIRED TO OBTAIN WRITTEN AUTHORIZATION FROM THE CORPS PRIOR TO PERFORMING THE WORK.

IF YOU HAVE ANSWERED "YES" (OR "N/A", WHERE APPLICABLE) TO ALL OF THE QUESTIONS ABOVE, YOU ARE IN COMPLIANCE WITH REGIONAL PERMIT 17 (18-RP-17). PLEASE SIGN BELOW, ATTACH, AND SUBMIT THIS CHECKLIST WITH YOUR COMPLETED JOINT PERMIT APPLICATION (JPA). THIS SIGNED CERTIFICATE SERVES AS YOUR LETTER OF AUTHORIZATION FROM THE CORPS. YOU WILL NOT RECEIVE ANY OTHER WRITTEN AUTHORIZATION FROM THE CORPS; HOWEVER, YOU MAY NOT PROCEED WITH CONSTRUCTION UNTIL YOU HAVE OBTAINED ALL OTHER NECESSARY STATE AND LOCAL PERMITS.

I CERTIFY THAT I HAVE READ AND UNDERSTAND ALL CONDITIONS OF THE REGIONAL PERMIT 17 (18-RP-17), DATED SEPTEMBER 2018, ISSUED BY THE US ARMY CORPS OF ENGINEERS, NORFOLK DISTRICT REGULATORY BRANCH (CENAO-WRR), NORFOLK, VIRGINIA.

Proposed work to be located at:

_____ _____

Signature of Property Owner(s) or Agent

_____

Date_____ **VMRC Number:** _____

Part 3 – Appendices

Please complete and submit the appendix questions applicable to your project, and attach the required vicinity map(s) and drawings to your application. If an item does not apply to your project, please write "N/A" in the space provided.

Appendix A: (TWO PAGES) Projects for Access to the water such as private and community piers, boathouses, marinas, moorings, and boat ramps. Answer all questions that apply.

1. **Briefly describe your proposed project**.

2. **For private, noncommercial piers:**
   Do you have an existing pier on your property? ____Yes____ No
   If yes, will it be removed? ____Yes ____No
   Is your lot platted to the mean low water shoreline? ____Yes ____No
   What is the overall length of the proposed structure? _____feet.
   Channelward of Mean High Water? _____feet.
   Channelward of Mean Low Water? _____feet.
   What is the area of the piers and platforms that will be constructed over
   Tidal non-vegetated wetlands _____ square feet.
   Tidal vegetated wetlands _____ square feet.
   Submerged lands _____square feet.
   What is the total size of any and all L- or T-head platforms?_____sq. ft.
   For boathouses, what is the overall size of the roof structure? _____sq. ft.
   Will your boathouse have sides?_____Yes____ No.

   NOTE: All proposals for piers, boathouses and shelter roofs must be reviewed by the Virginia Marine Resources Commission (Commission or VMRC), however, pursuant to § 28.2-1203 A 5 of the Code of Virginia a VMRC permit may not be required for such structures (except as required by subsection D of § 28.2-1205 for piers greater than 100 feet in length involving commercially productive leased oyster or clam grounds), provided that (i) the piers do not extend beyond the navigation line or private pier lines established by the Commission or the United States Army Corps of Engineers (USACE), (ii) the piers do not exceed six feet in width and finger piers do not exceed five feet in width, (iii) any L or T head platforms and appurtenant floating docking platforms do not exceed, in the aggregate, 400 square feet, (iv) if prohibited by local ordinance open-sided shelter roofs or gazebo-type structures shall not be placed on platforms as described in clause (iii), but may be placed on such platforms if not prohibited by local ordinance, and (v) the piers are determined not to be a navigational hazard by the Commission. Subject to any applicable local ordinances, such piers may include an attached boat lift and an open-sided roof designed to shelter a single boat slip or boat lift. In cases in which open-sided roofs designed to shelter a single boat, boat slip or boat lift will exceed 700 square feet in coverage or the open-sided shelter roofs or gazebo structures exceed 400 square feet, and in cases in which an adjoining property owner objects to a proposed roof structure, permits shall be required as provided in § 28.2-1204.

Part 3 – Appendices (continued)

3. **For USACE permits**, in cases where the proposed pier will encroach beyond one fourth the waterway width (as determined by measuring mean high water to mean high water or ordinary high water mark to ordinary high water mark), the following information must be included before the application will be considered complete. For an application to be considered complete:

   a. The USACE MAY require depth soundings across the waterway at increments designated by the USACE project manager. Typically 10-foot increments for waterways less than 200 feet wide and 20-foot increments for waterways greater than 200 feet wide with the date and time the measurements were taken and how they were taken (e.g., tape, range finder, etc.).
   b. The applicant MUST provide a justification as to purpose if the proposed work would extend a pier greater than one-fourth of the distance across the open water measured from mean high water or the channelward edge of the wetlands.
   c. The applicant MUST provide justification if the proposed work would involve the construction of a pier greater than five feet wide or less than four feet above any wetland substrate.

4. Provide the type, size, and registration number of the vessel(s) to be moored at the pier or mooring buoy.

   Type Length Width Draft Registration #
   _____
   _____
   _____

5. For **Marinas, Commercial Piers, Governmental Piers, Community Piers and other non-private piers**, provide the following information:
   A) Have you obtained approval for sanitary facilities from the Virginia Department of Health?_____ (required pursuant to Section 28.2-1205 C of the Code of Virginia).
   B) Will petroleum products or other hazardous materials be stored or handled at your facility?_____.
   C) Will the facility be equipped to off-load sewage from boats?_____.
   D) How many wet slips are proposed?_____. How many are existing?_____.
   E) What is the area of the piers and platforms that will be constructed over
      Tidal non-vegetated wetlands _____ square feet
      Tidal vegetated wetlands _____ square feet
      Submerged lands _____square feet

6. For **boat ramps**, what is the overall length of the structure?_____feet.
   From Mean High Water?_____feet.
   From Mean Low Water?_____feet.

   Note: drawings must include the construction materials, method of installation, and all dimensions. If tending piers are proposed, complete the pier portion.
   Note: If dredging or excavation is required, you must complete the Standard Joint Point Permit application.

Part 3 – Appendices (continued)

Appendix B: Projects for Shoreline Stabilization in tidal wetlands, tidal waters and dunes/beaches including riprap revetments and associated backfill, marsh toe stabilization, bulkheads and associated backfill, breakwaters, beach nourishment, groins, jetties, and living shoreline projects. Answer all questions that apply. Please provide any reports provided from the Shoreline Erosion Advisory Service or VIMS**.**

NOTE: It is the policy of the Commonwealth that living shorelines are the preferred alternative for stabilizing tidal shorelines (Va. Code § 28.2-104.1). **Information on non-structural, vegetative alternatives (i.e., Living Shoreline) for shoreline stabilization is available at http://ccrm.vims.edu/coastal_zone/living_shorelines/index.html.**

1. Describe each **revetment, bulkhead, marsh toe, breakwater, groin, jetty, other structure, or living shoreline project** separately in the space below. Include the overall length in linear feet, the amount of impacts in acres, and volume of associated backfill below mean high water and/or ordinary high water in cubic yards, as applicable:

2. What is the maximum encroachment channelward of mean high water?_____feet.
   Channelward of mean low water?_____feet.
   Channelward of the back edge of the dune or beach?_____feet.

3. Please calculate the square footage of encroachment over:
   - Vegetated wetlands _____square feet
   - Non-vegetated wetlands _____square feet
   - Subaqueous bottom _____square feet
   - Dune and/or beach _____square feet

4. For bulkheads, is any part of the project maintenance or replacement of a previously authorized, currently serviceable, existing structure? ____ Yes____ No.

   If yes, will the construction of the new bulkhead be no further than two (2) feet channelward of the existing bulkhead? _____Yes ____No.

   If no, please provide an explanation for the purpose and need for the additional encroachment.

Part 3 – Appendices (continued)

5. Describe the type of construction and **all** materials to be used, including source of backfill material, if applicable (e.g., vinyl sheet-pile bulkhead, timber stringers and butt piles, 100% sand backfill from upland source; broken concrete core material with Class II quarry stone armor over filter cloth).
   NOTE: **Drawings must include construction details, including dimensions, design and all materials, including fittings if used**.

6. If using stone, broken concrete, etc. for your structure(s), what is the average weight of the:
   Core (inner layer) material_____ pounds per stone Class size _____
   Armor (outer layer) material _____ pounds per stone Class size _____

7. For **beach nourishment**, including that associated with breakwaters, groins or other structures, provide the following:

   - Volume of material
     _____ cubic yards channelward of mean low water
     _____ cubic yards landward of mean low water
     _____ cubic yards channelward of mean high water
     _____ cubic yards landward of mean high water
   - Area to be covered
     _____ square feet channelward of mean low water
     _____ square feet landward of mean low water
     _____ cubic yards channelward of mean high water
     _____ cubic yards landward of mean high water
   - Source of material, composition (e.g. 90% sand, 10% clay):_____
   - Method of transportation and placement:

     _____
   - Describe any proposed vegetative stabilization measures to be used, including planting schedule, spacing, monitoring, etc. Additional guidance is available at http://www.vims.edu/about/search/index.php?q=planting+guidelines:

Part 3 – Appendices (continued)

Appendix C: Crossings in, on, over, or under, waters, submerged lands, tidal wetlands and/or dunes and beaches, including but not limited to, bridges, walkways, pipelines and utility lines.

1. What is the purpose and method of installation of the crossing?

2. What is the width of the waterway and/or wetlands to be crossed
   from mean high water to mean high water (tidal waters)? _____ feet.
   from mean low water to mean low water (tidal waters)? _____ feet.
   from ordinary high water to ordinary high water (non-tidal waters)? _____ feet.

3. For bridges (footbridges, golf cart bridges, roadway bridges, etc.), what is the width of the structure over the tidal wetlands, dunes/beaches and/or submerged lands? _____square feet.

4. For overhead crossings:
   a. What will be the height above mean high water? _____feet.
   b. If there are other overhead crossings in the area, what is the minimum height? _____feet.
   c. If the proposed crossing is an electrical line, please confirm the total number of electrical circuits: _____

5. For buried crossings, what will be the depth below the substrate? _____feet. Will the proposed utility provide empty conduits for any additional utilities that may propose to co-locate at a later date? _____Yes _____No.

6. Will there be any excavation or fill required for placement of abutments, piers, towers, or other permanent structures on State-owned submerged lands, tidal wetlands, and dunes/beaches? ____Yes ____ No.

   If yes, please provide the following:

   a. Amount of excavation in wetlands _____ cubic yards
      _____ square feet

   b. Amount of excavation in submerged land _____ cubic yards
      _____ square feet

   c. Amount of excavation in dune/beach _____ cubic yards
      _____ square feet

   d. Amount of fill in wetlands _____ cubic yards
      _____ square feet

   e. Amount of fill in submerged lands _____ cubic yards
      _____ square feet

   f. Amount of fill in dune/beach _____ cubic yards
      _____ square feet

Part 3 – Appendices (continued)

Appendix D: Aquaculture Related Structures such as cages and floats. Before completing this appendix, please review the aquaculture requirements summary at: http://mrc.virginia.gov/Shellfish_Aquaculture.shtm.

1. Will the activity be for commercial purposes? _____Yes _____ No.

   If Yes and structures will be placed upon an oyster ground lease, you may qualify for the VMRC General Permit #4 for Temporary Protective Enclosures for Shellfish. For more info see: http://www.mrc.virginia.gov/regulations/MRC_Scanned_Regs/Shellfish_Mix/fr1130_12-0107.pdf. If you qualify for the General Permit #4, or if such structures are proposed that are not on an oyster planting ground lease, or for floating structures of any kind, complete this Joint Permit Application and include the necessary information requested below in question 2 through 11.

   If No, you may qualify for the VMRC General Permit #3, for Noncommercial Riparian Shellfish Growing (i.e. "Gardening") For more information see: http://www.mrc.virginia.gov/forms/VGP3_Aquaculture.doc.pdf. If you qualify for this general permit use the Abbreviated Joint Permit Application For Noncommercial Riparian Shellfish Aquaculture Structures available at https://mrc.virginia.gov/forms/2019/VGP3_Aquaculture_form_2019.pdf ***do not use this Joint Permit Application***.

2. Will aquaculture structures be attached to an existing pier or other structure? ____ Yes ____ No.

3. The plat file # if proposed upon oyster planting ground lease(s)._____

4. The maximum area where enclosures are proposed. _____ square feet

5. The maximum number of enclosures being proposed to be deployed. _____

6. The species of shellfish to be cultured. _____

7. A detailed description of the enclosures to include width, length and height.

8. In addition to the requirements itemized in Part 4 Project Drawings, the following additional information must be included on your project drawings: A general description of the area within 500 feet of deployment area. Provide a drawing that depicts existing marine resources such as SAV, shellfish beds, fixed fishing devices, public grounds, piers, water depths at mean low water, tide range, and the minimum clearance at mean low tide over the enclosures.

9. Provide the date enclosures are proposed to be deployed _____. How will the structures be secured? _____.

Part 3 – Appendices (continued)

10. List of all riparian land owners within 500 feet of the area where enclosures are proposed along with a map (tax map or other suitable map) depicting the locations of such parcels or riparian property owner acknowledgement forms signed by the riparian land owner with any comments concerning the enclosures deployment request.

11. Proof that the applicant holds a current oyster or clam aquaculture product owners permit, and verification that the applicant is in compliance with Mandatory Harvest Reporting requirements, and verification that the current years oyster ground rent is paid, if structures are proposed on an oyster ground lease.

Part 4 - Project Drawings

Plan view and cross-sectional view drawings are required for all projects. Application drawings do not need to be prepared by a professional draftsman, but they must be clear, accurate, and should be to an appropriate scale. If a scale is not used, all dimensions must be clearly depicted in the drawings. If available, a plat of the property should be included, with the existing and proposed structures clearly indicated. Distances from the proposed structure(s) to fixed points of reference (benchmarks) and to the adjacent property lines must be shown. A vicinity map (County road map, USGS Topographic map, etc.) must also be provided to show the location of the property. **NOTE:** The sample drawings have been included at the end of this section to provide guidance on the information required for different types of projects. Clear and accurate drawings are essential for project review and compliance determination. Incomplete or unclear drawings may cause delays in the processing of your application.

The following items must be included on <u>ALL</u> project drawings: (plan and cross-sectional, as appropriate)

- **name of project**
- **north arrow**
- **scale**
- **waterway name**
- **existing and proposed structures, labeled as such**
- **dimensions of proposed structures**
- **mean high water and mean low water lines**
- **all delineated wetlands and all surface waters on the site, including the Cowardin classification (i.e., emergent, scrub-shrub, or forested) for those surface waters (if applicable)**
- **limits of proposed impacts to surface waters, such as fill areas, riprap scour protection placement, and dredged areas, and the amount of such impacts in square feet and acres**
- **ebb/flood direction**
- **adjacent property lines and owner's name**
- **distances from proposed structures to fixed points of reference (benchmarks) and adjacent property lines**

Part 5 - Chesapeake Bay Preservation Act Information

All proposed development, redevelopment, land disturbance, clearing or grading related to this Tidewater JPA must comply with the Chesapeake Bay Preservation Area Designation and Management Regulations, which are enforced through locally adopted Chesapeake Bay Preservation Area (CBPA) ordinances. Compliance with state and local CBPA requirements mandates the submission of a ***Water Quality Impact Assessment (WQIA)*** for the review and approval of the local government. Contact the appropriate local government office to determine if a WQIA is required for the proposed activity(ies).

Because the 84 local governments within Tidewater Virginia are responsible for enforcing the CBPA Regulations, the completion of the JPA process does not constitute compliance with the Bay Act Regulations nor does it guarantee that the local government will approve encroachments into the RPA that may result from this project. Applicants should contact their local government as early in the design process as possible to ensure that the final design and construction of the proposed project meets all applicable CBPA requirements. Early cooperation with local government staff can help applicants avoid unnecessary and costly delays to construction. Applicants should provide local government staff with information regarding existing vegetation within the Resource Protection Area (RPA) as well as a description and site drawings of any proposed land disturbance, construction, or vegetation clearing. As part of their review and approval processes, local government staff will evaluate the proposed project and determine whether or not approval can be granted. Once the locality has made a decision on the project, they will advise the Local Wetlands Boards and other appropriate parties of applicable CBPA concerns or issues.

Resource Protection Areas (RPAs) are composed of the following features:

1. **Tidal wetlands;**
2. **Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;**
3. **Tidal shores;**
4. **Other lands considered by the local government to meet the provisions of subsection A of 9VAC25-830-80 and to be necessary to protect the quality of state waters; and**
5. **A buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subdivisions 1 through 4 above, and along both sides of any water body with perennial flow.**

<u>Notes for all projects in RPAs</u>

Development, redevelopment, construction, land disturbance, or placement of fill within the RPA features listed above requires the approval of the locality and may require an exception or variance from the local Bay Act ordinance. Please contact the appropriate local government to determine the types of development or land uses that are permitted within RPAs.

Pursuant to 9VAC25-830-110, on-site delineation of the RPA is required for all projects in CBPAs. Because USGS maps are not always indicative of actual "in-field" conditions, they may not be used to determine the site-specific boundaries of the RPA.

<u>Notes for shoreline erosion control projects in RPAs</u>

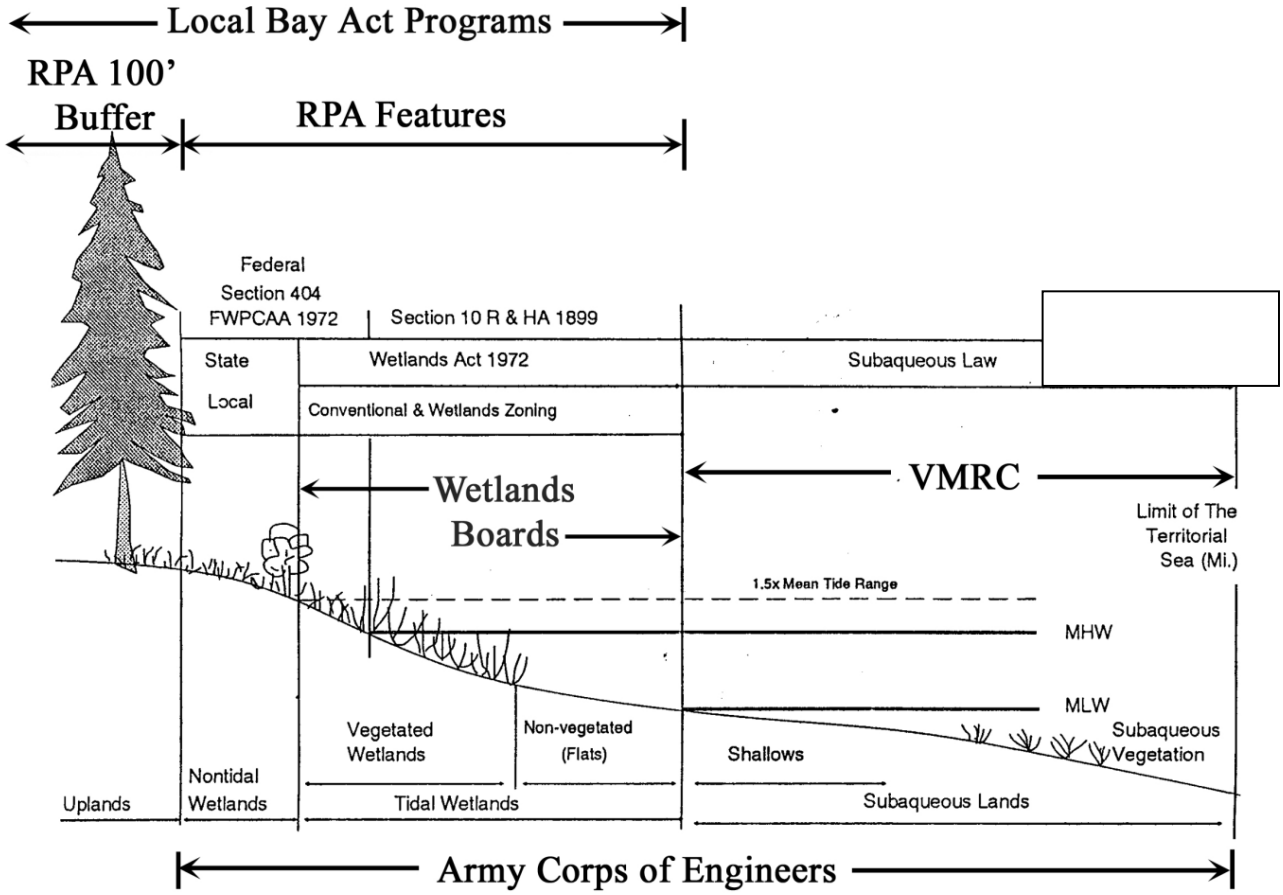
Re-establishment of woody vegetation in the buffer will be required by the locality to mitigate for the removal or disturbance of buffer vegetation associated with your proposed project. Please contact the local government to determine the mitigation requirements for impacts to the 100-foot RPA buffer.

Part 5 - Chesapeake Bay Preservation Act Information (continued)

Pursuant to 9VAC25-830-140 5 a (4) of the Virginia Administrative Code, shoreline erosion projects are a permitted modification to RPAs provided that the project is based on the "best technical advice" and complies with applicable permit conditions. In accordance with 9VAC25-830-140 1 of the Virginia Administrative Code, the locality will use the information provided in this Part V, in the project drawings, in this permit application, and as required by the locality, to make a determination that:

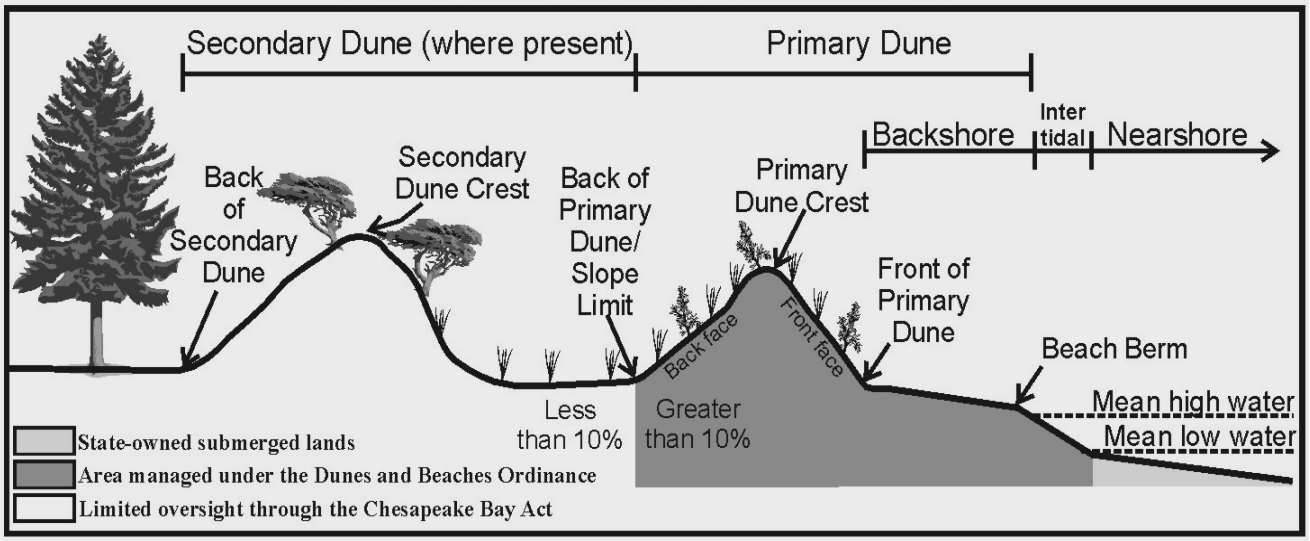
1. Any proposed shoreline erosion control measure is necessary and consistent with the nature of the erosion occurring on the site, and the measures have employed the "best available technical advice"
2. Indigenous vegetation will be preserved to the maximum extent practicable
3. Proposed land disturbance has been minimized
4. Appropriate mitigation plantings will provide the required water quality functions of the buffer (9VAC25-830-140 3)
5. The project is consistent with the locality's comprehensive plan
6. Access to the project will be provided with the minimum disturbance necessary.

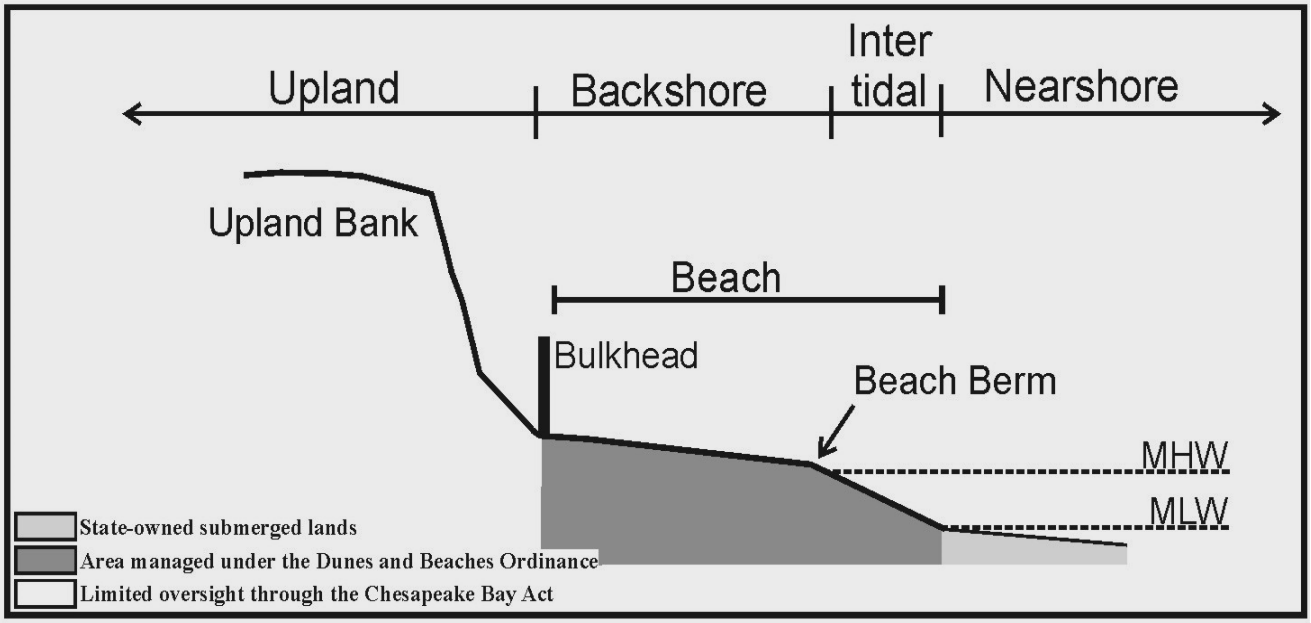
Jurisdictional Boundaries

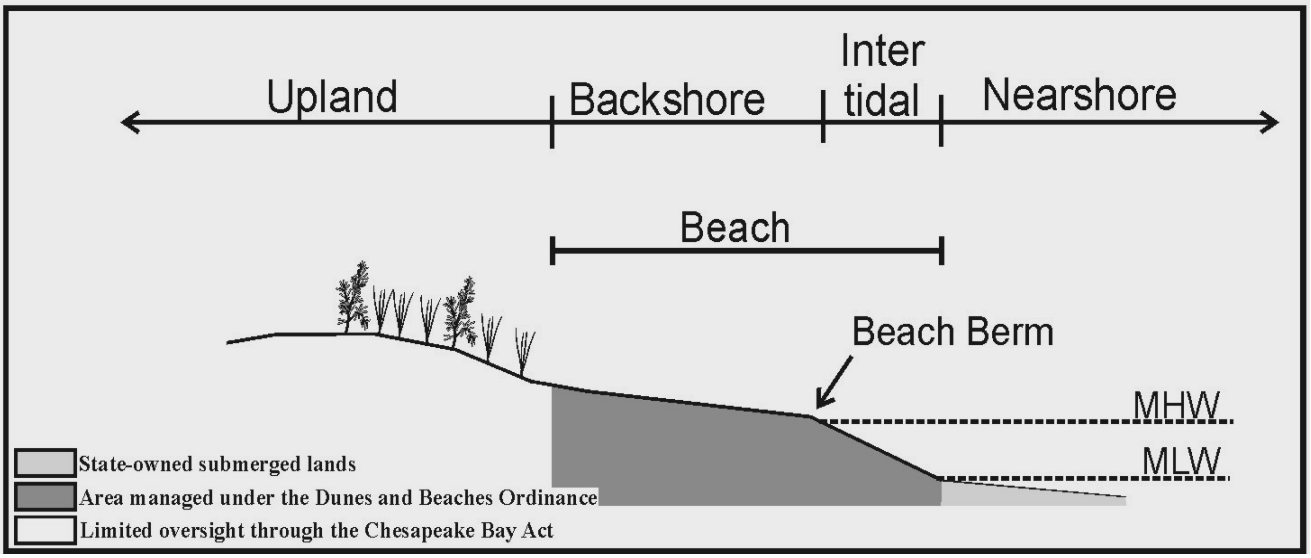


and DEQ (including isolated wetlands)

Dune and Beach Boundaries





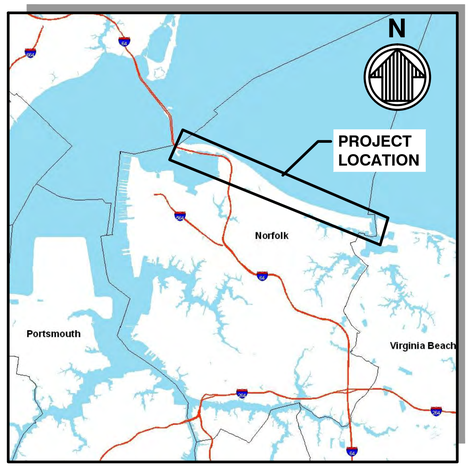


Attachment 2:

Proposed Project Plans

City of Norfolk

Department of Public Works



VICINITY MAP
NTS

OCEAN VIEW BEACH NOURISHMENT

PROPERTY JURISDICTION: CITY OF NORFOLK

CITY OF NORFOLK, VIRGINIA

SITE PLAN #_____
BEFORE YOU DIG,
CALL
"MISS UTILITY"
OF VIRGINIA
811

INDEX OF DRAWINGS		
INDEX NO	SHEET	SHEET TITLE
1	G001	COVER SHEET
2	G002	GENERAL NOTES
3	C101	EOV PLAN
4	C102	COV PLAN
5	C103	WOV PLAN – SHEET 1 OF 2
6	C104	WOV PLAN – SHEET 2 OF 2
7	C105	TOLER PLACE PLAN
8	C301	TYPICAL BEACH SECTIONS

LOCATION MAP / KEY PLAN
NTS

PERMIT DRAWINGS
NOT TO BE USED FOR CONSTRUCTION

Mark	Description	Date	Appr.

OCEAN VIEW BEACH NOURISHMENT
CITY OF NORFOLK, VA

COVER SHEET

101 W. MAIN STREET
SUITE 3000
NORFOLK, VA 23510
757-628-8222
moffatt & nichol

PREPARED FOR:
CITY OF NORFOLK
DEPARTMENT OF PUBLIC WORKS

Designed by:	YC
Drwn by:	JT
Ckd by:	BPJ
Reviewed by:	BPJ
Submitted by:	MOFFATT & NICHOL
Date:	NOV 2020
M&N Project No.	10390-19
Drawing code:	
Drawing Scale:	Plot scale: 1:1 (0 SHEET)
Rev.	0

SEAL

Sheet
Reference No.
G001
INDEX: 1 OF 8

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DRAWING SCALES SHOWN BASED ON 22"x34" DRAWING

GENERAL NOTES:

1. THESE DRAWINGS ARE "PERMIT SKETCHES" INTENDED TO PROVIDE SUFFICIENT DATA FOR REVIEW AND EVALUATIONS BY REGULATORY AGENCIES.
2. THESE DRAWINGS ARE NOT INTENDED FOR CONSTRUCTION.
3. BEACH PROFILE SURVEY DATA WERE SURVEYED BY GEODYNAMICS, LLC., DATED JUNE 2020.
4. HORIZONTAL COORDINATES ARE IN U.S. SURVEY FEET REFERRED ON THE VIRGINIA STATE GRID (SOUTH ZONE) BASED ON NAD1983/1993 (HARN).
5. ELEVATIONS ARE IN FEET REFERRED TO NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD1988).
6. BASEMAP FEATURES WERE PROVIDED BY THE CITY OF NORFOLK.
7. MEAN HIGH WATER (MHW) IS +0.98' NAVD88; MEAN LOW WATER (MLW) IS -1.48' NAVD88. THE TIDAL BENCHMARK DATA ARE FROM THE 1883 - 2001 TIDAL EPOCH AT NOAA SEWELLS POINT MEASUREMENTS.
8. FILL TO BE DREDGED FROM THE THIMBLE SHOALS CHANNEL (TSC) BY HOPPER DREDGING AND PLACED IN FILL AREA WITH HYDRAULIC PLACEMENT.
9. TOTAL FILL WILL BE APPROXIMATELY 393,000 CY.
10. THE TOTAL LINEAR LENGTH OF THE PROJECT IS APPROXIMATELY 14,400 FEET.
11. AERIAL PHOTOGRAPHY ON PLAN SHEETS IS FROM 2018 AND IS PROVIDED BY CITY OF NORFOLK.

Mark	Description	Date	Appr.
	PERMIT DRAWINGS NOT TO BE USED FOR CONSTRUCTION		

OCEAN VIEW BEACH NOURISHMENT
CITY OF NORFOLK, VA

GENERAL NOTES

101 W. MAIN STREET
SUITE 3000
NORFOLK, VA 23510
757-628-8222
moffatt & nichol

PREPARED FOR:
CITY OF NORFOLK
DEPARTMENT OF PUBLIC WORKS

Designed by: YC	Ckd by: BPJ	Date: NOV 2020	Rev. 0
Dwn by: JT	Reviewed by: BPJ	M&N Project No. 10390-19	
	Submitted by: MOFFATT & NICHOL	Drawing code:	
		Drawing Scale: Plot scale: 1:1 (0 SHEET)	

SEAL

Sheet Reference No.
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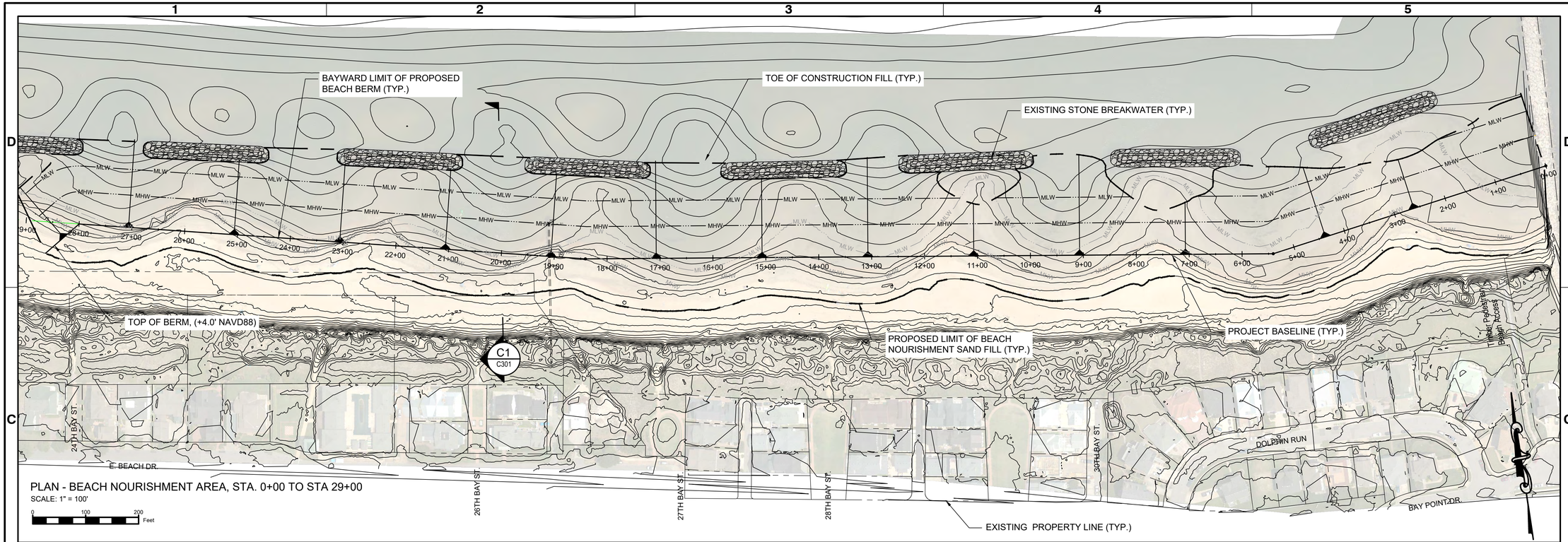

PLAN - BEACH NOURISHMENT AREA, STA. 0+00 TO STA 29+00

SCALE: 1" = 100'

0 100 200 Feet

LEGEND

- EXISTING 1' CONTOURS
- MHW — EXISTING MEAN HIGH WATER
- MLW — EXISTING MEAN LOW WATER
- MHW — PROPOSED MEAN HIGH WATER
- MLW — PROPOSED MEAN LOW WATER
- PROPERTY LINE
- STORM DRAINS

Mark	Description	Date	Appr.
	PERMIT DRAWINGS NOT TO BE USED FOR CONSTRUCTION		

OCEAN VIEW BEACH NOURISHMENT
CITY OF NORFOLK, VA

EOV PLAN

Designed by: YC	Cad by: BPJ	Date: NOV 2020	Rev. 0
Dwn by: JT		M&N Project No. 10390-19	
Reviewed by: BPJ		Drawing code:	
Submitted by: MOFFATT & NICHOL		Drawing Scale: Plot scale: 1:1 (0 SHEET)	

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PREPARED FOR:
CITY OF NORFOLK
DEPARTMENT OF PUBLIC WORKS

SEAL

Sheet Reference No.

C101

INDEX: 3 OF 8

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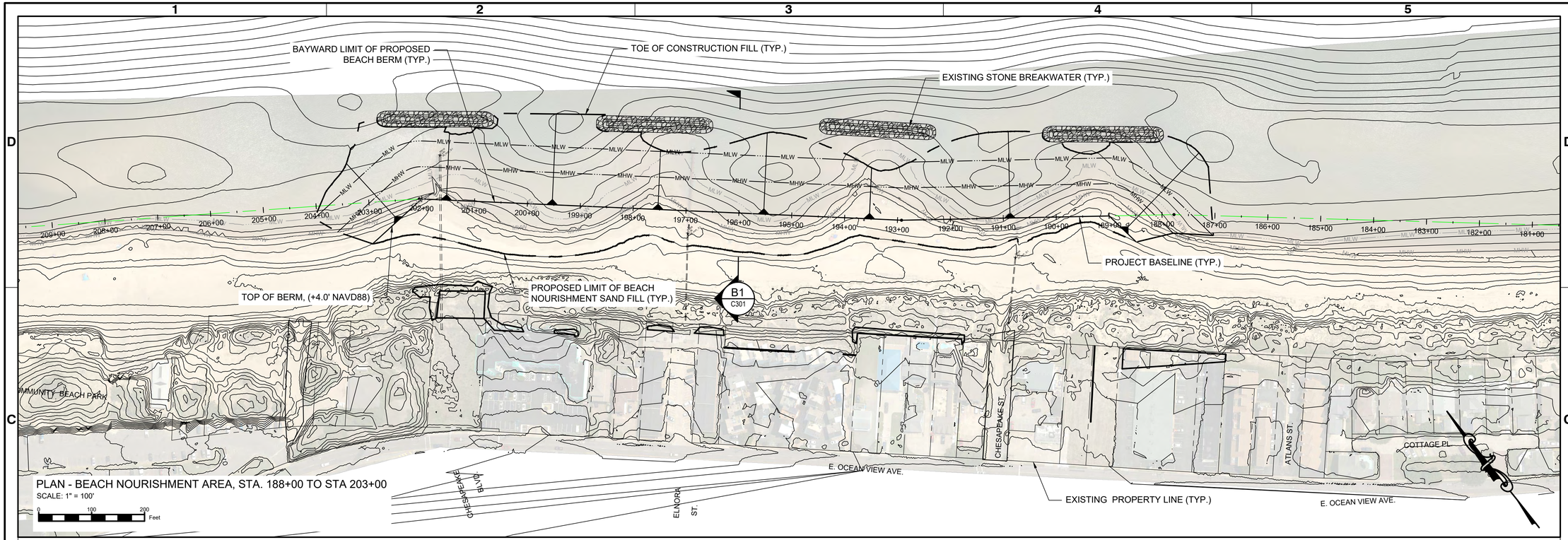

PLAN - BEACH NOURISHMENT AREA, STA. 188+00 TO STA 203+00
SCALE: 1" = 100'

0 100 200 Feet

LEGEND

- EXISTING 1' CONTOURS
- MHW — EXISTING MEAN HIGH WATER
- MLW — EXISTING MEAN LOW WATER
- MHW — PROPOSED MEAN HIGH WATER
- MLW — PROPOSED MEAN LOW WATER
- PROPERTY LINE
- STORM DRAINS

Mark	Description	Date	Appr.
	PERMIT DRAWINGS NOT TO BE USED FOR CONSTRUCTION		

OCEAN VIEW BEACH NOURISHMENT
CITY OF NORFOLK, VA

COV PLAN

Designed by: YC
Dwn by: JT
Ckd by: BPJ
Reviewed by: BPJ
Submitted by: MOFFATT & NICHOL
Date: NOV 2020
M&N Project No. 10390-19
Drawing code:
Drawing Scale: Plot scale: 1:1 (D SHEET)
Rev. 0

101 W. MAIN STREET
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PREPARED FOR:
CITY OF NORFOLK
DEPARTMENT OF PUBLIC WORKS

SEAL

Sheet Reference No.
C102
INDEX: 4 OF 8

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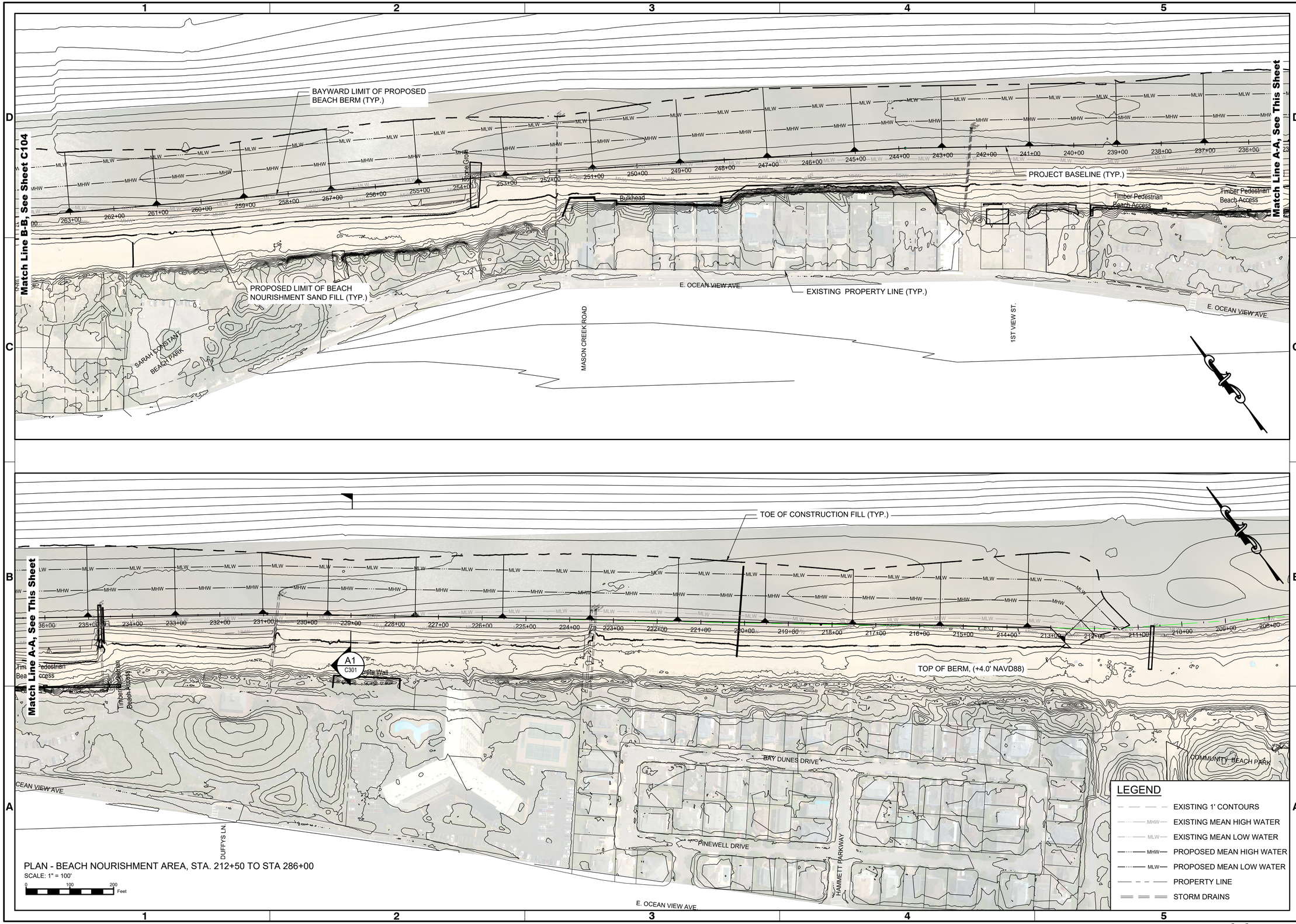

PLAN - BEACH NOURISHMENT AREA, STA. 212+50 TO STA 286+00

SCALE: 1" = 100'

0 100 200 Feet

LEGEND

- EXISTING 1' CONTOURS
- MHW — EXISTING MEAN HIGH WATER
- MLW — EXISTING MEAN LOW WATER
- MHW — PROPOSED MEAN HIGH WATER
- MLW — PROPOSED MEAN LOW WATER
- PROPERTY LINE
- STORM DRAINS

Mark	Description	Date	Appr.
	PERMIT DRAWINGS NOT TO BE USED FOR CONSTRUCTION		

OCEAN VIEW BEACH NOURISHMENT
CITY OF NORFOLK, VA

WOV PLAN - SHEET 1 OF 2

Designed by:	YC
Drawn by:	JT
Checked by:	BPJ
Reviewed by:	BPJ
Submitted by:	MOFFATT & NICHOL
Date:	NOV 2020
M&N Project No.	10390-19
Drawing code:	
Drawing Scale:	Plot scale: 1:1 (0 SHEET)
Rev.	0

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PREPARED FOR:
CITY OF NORFOLK
DEPARTMENT OF PUBLIC WORKS

SEAL

Sheet Reference No.
C103
INDEX: 5 OF 8

DRAWING SCALES SHOWN BASED ON 22"x34" DRAWING

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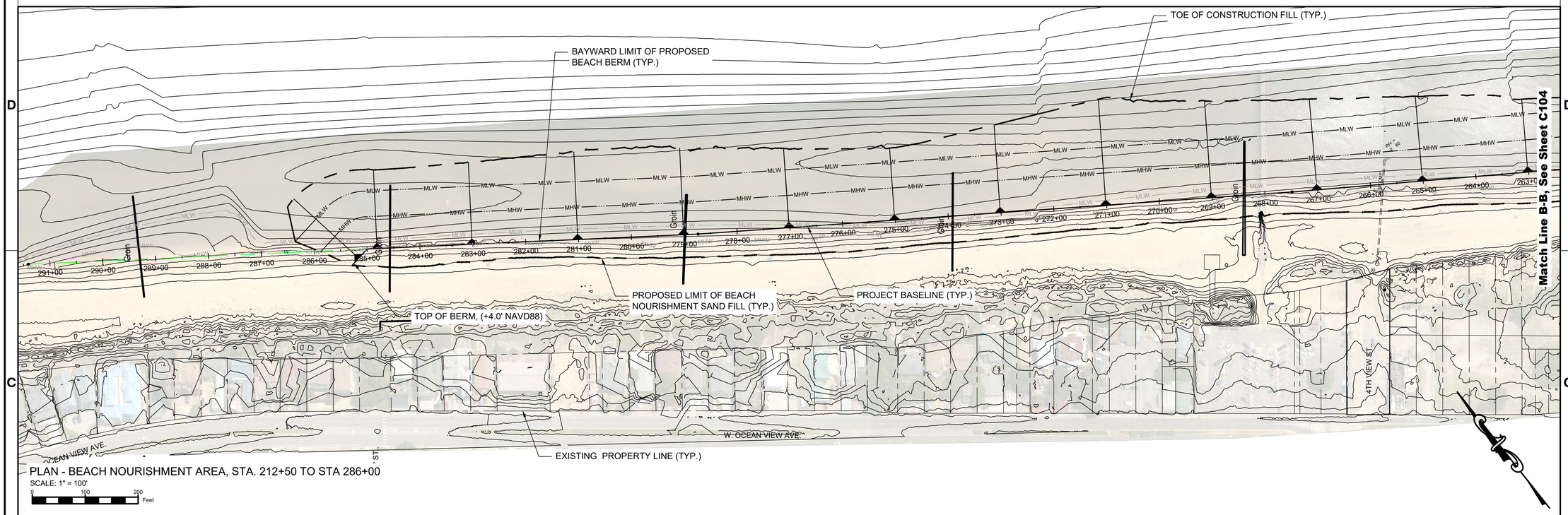

PLAN - BEACH NOURISHMENT AREA, STA. 212+50 TO STA 286+00

SCALE: 1" = 100'

0 100 200 Feet

LEGEND

- EXISTING 1' CONTOURS
- MHW — EXISTING MEAN HIGH WATER
- MLW — EXISTING MEAN LOW WATER
- MHW — PROPOSED MEAN HIGH WATER
- MLW — PROPOSED MEAN LOW WATER
- PROPERTY LINE
- STORM DRAINS

PERMIT DRAWINGS
NOT TO BE USED FOR CONSTRUCTION

Mark	Description	Date	Appr.

OCEAN VIEW BEACH NOURISHMENT
CITY OF NORFOLK, VA

WOV PLAN - SHEET 2 OF 2

Rev. 0
Date: NOV 2020
M&N Project No. 10390-19
Drawing code:
Drawing Scale:
Plot scale: 1:1 (0 SHEET)

Designed by: YC
Drawn by: JT
Chkd by: BPJ
Reviewed by: BPJ
Submitted by: MOFFATT & NICHOL

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PREPARED FOR:
CITY OF NORFOLK
DEPARTMENT OF PUBLIC WORKS

SEAL

Sheet Reference No.
C104
INDEX: 6 OF 8

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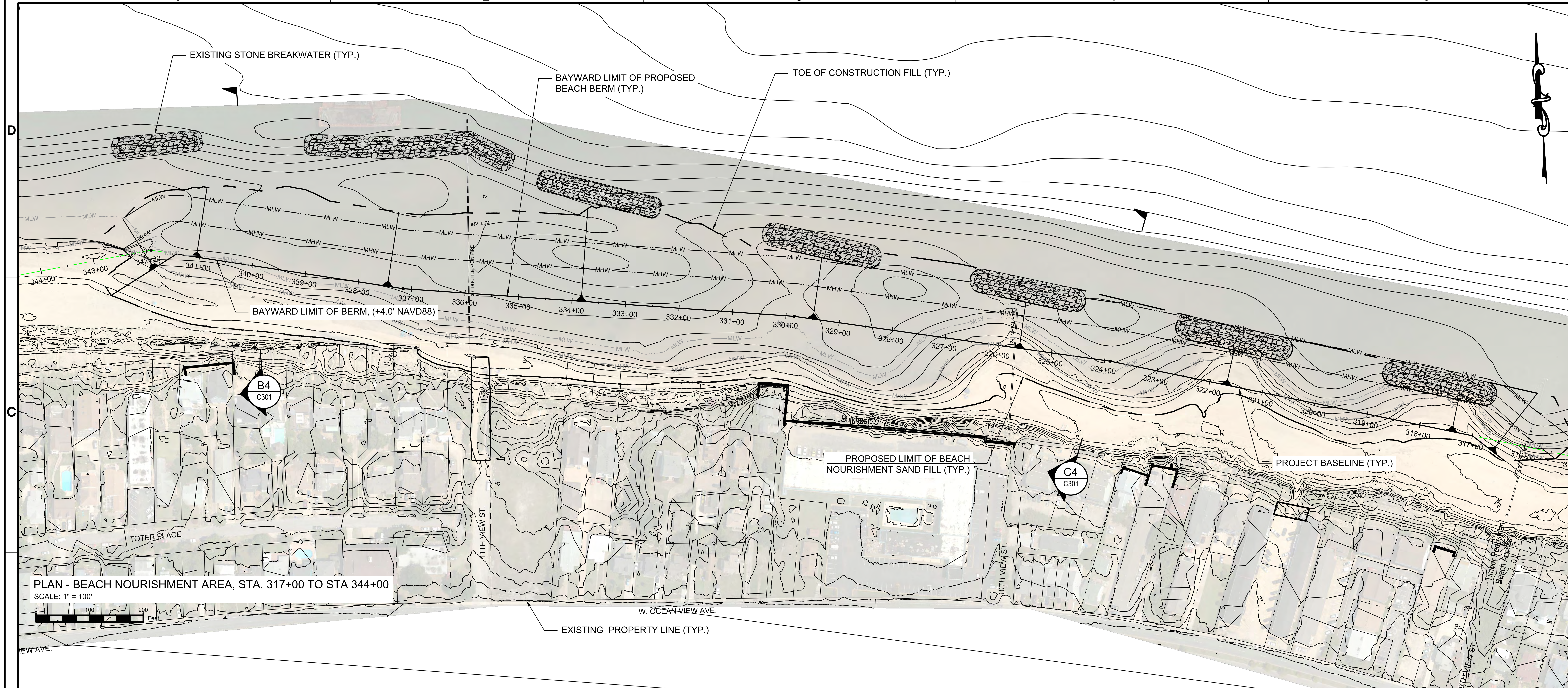
DRAWING SCALES SHOWN BASED ON 22"x34" DRAWING



PLAN - BEACH NOURISHMENT AREA, STA. 317+00 TO STA 344+00
SCALE: 1" = 100'

LEGEND

- EXISTING 1' CONTOURS
- EXISTING MEAN HIGH WATER
- EXISTING MEAN LOW WATER
- PROPOSED MEAN HIGH WATER
- PROPOSED MEAN LOW WATER
- PROPERTY LINE
- STORM DRAINS

PERMIT DRAWINGS NOT TO BE USED FOR CONSTRUCTION

Mark	Description	Date	Appr.

OCEAN VIEW BEACH NOURISHMENT
CITY OF NORFOLK, VA

TOLER PLACE PLAN

Designed by: YC	Date: NOV 2020
Dwn by: JT	Ckd by: BPJ
Rev.: 0	M&N Project No. 10390-19
Reviewed by: BPJ	Drawing code:
Submitted by: MOFFATT & NICHOL	Drawing Scale:
	Plot scale: 1:1 (D SHEET)

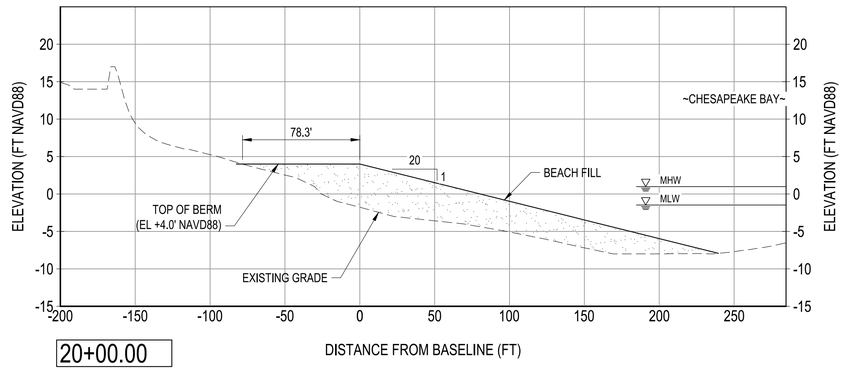
moffatt & nichol
101 W. MAIN STREET
SUITE 3000
NORFOLK, VA 23510
757-628-8222

PREPARED FOR:
CITY OF NORFOLK
DEPARTMENT OF PUBLIC WORKS

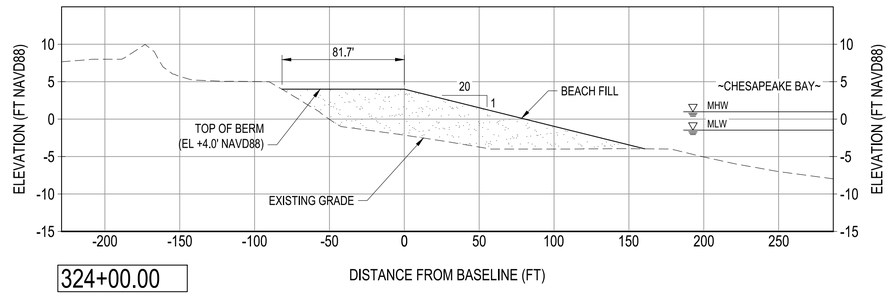
SEAL

Sheet Reference No.
C105
INDEX: 7 OF 8

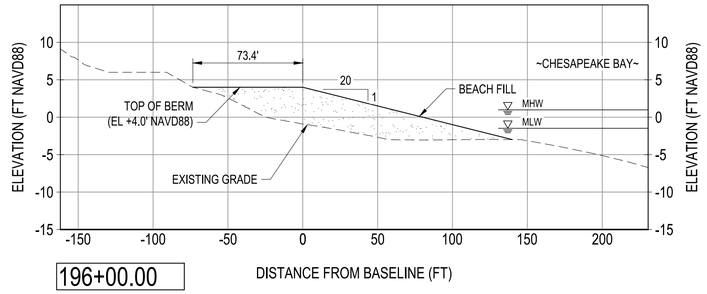
DRAWING SCALES SHOWN BASED ON 22"x34" DRAWING



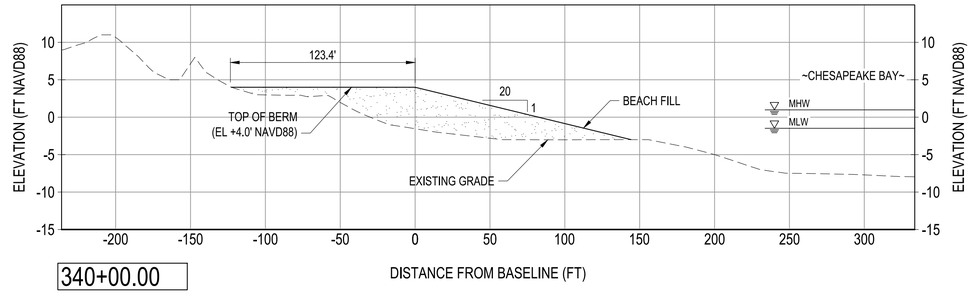
C1 C301 SECTION 1 - EOV



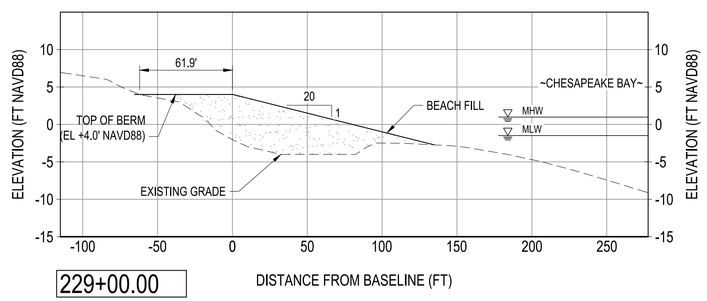
C4 C301 SECTION 4 - TOLER PLACE 1



B1 C301 SECTION 2 - COV



B4 C301 SECTION 5 - TOLER PLACE 2



A1 C301 SECTION 3 - WOV

10' 0' 10' 20'
VERTICAL SCALE: 1"=10'

50' 0' 50' 100'
HORIZONTAL SCALE: 1"=50'

PERMIT DRAWINGS
NOT TO BE USED FOR CONSTRUCTION

Mark	Description	Date	Appr

OCEAN VIEW BEACH NOURISHMENT
CITY OF NORFOLK, VA

TYPICAL BEACH SECTIONS

Designed by: YC	Dwn by: JT	Chkd by: BPJ	Reviewed by: BPJ
Date: NOV 2020	M&N Project No. 10390-19	Drawing code:	Drawing Scale: Plot scale: 1:1 (D SHEET)
Rev. 0			Submitted by: MOFFATT & NICHOL

101 W. MAIN STREET
SUITE 3000
NORFOLK, VA 23510
757-628-8222
moffatt & nichol

PREPARED FOR:
CITY OF NORFOLK
DEPARTMENT OF PUBLIC WORKS

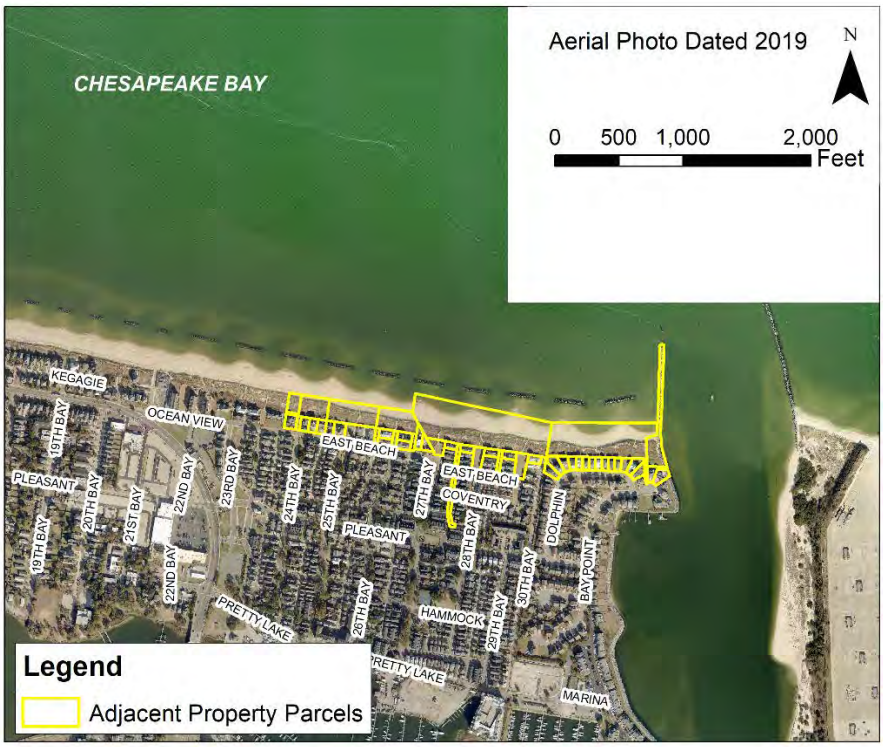
SEAL

Sheet Reference No.
C301
INDEX: 8 OF 8

DRAWING SCALES SHOWN BASED ON 22"x34" DRAWING

Attachment 3:

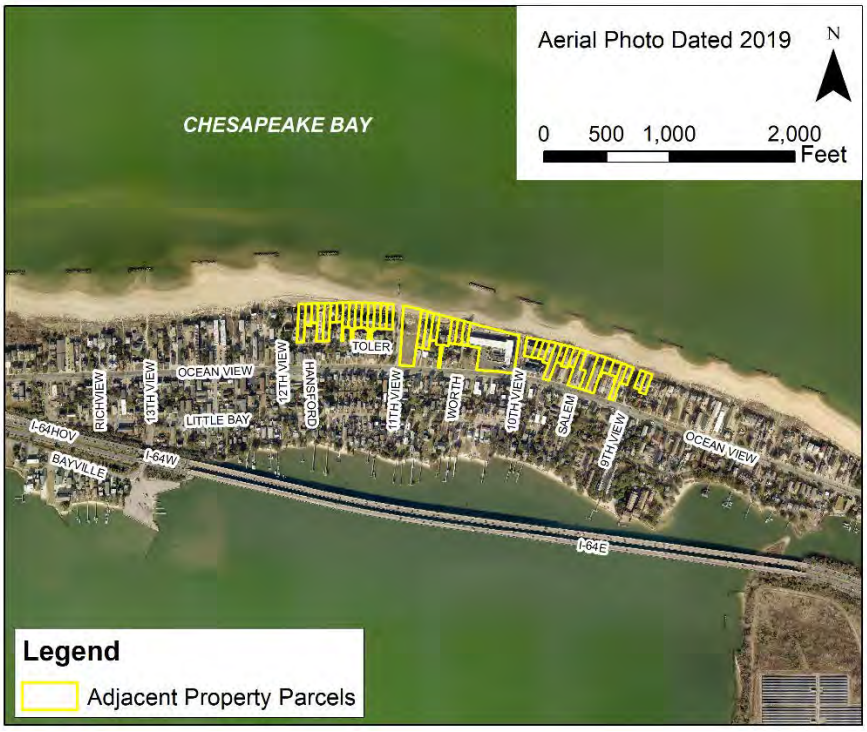
Adjacent Property Owners List



Reach 1 Adjacent Property Owner Parcels

Reach 2 Adjacent Property Owner Parcels

Reach 3 Adjacent Property Owner Parcels



Reach 4 Adjacent Property Owner Parcels

Owner_Name	Owner_St	Owner_City	Owner_State	Owner_Zip
810 INVESTMENT, LLC	7851 AZALEA GARDEN RD	NORFOLK	VA	23518-4500
A & G PROPERTIES LLC	PO BOX 12179	NEWPORT NEWS	VA	23612-2179
A & G PROPERTIES LLC	PO BOX 12179	NEWPORT NEWS	VA	23612-2179
A & G PROPERTIES LLC	PO BOX 12179	NEWPORT NEWS	VA	23612-2179
ABIOUNESS, ALFRED E & ASSOCIATES	4410 EAST BEACH AVE #110E	NORFOLK	VA	23518-6007
ALCEDO, BARBARA L ET AL	810 E OCEAN VIEW AVE UNIT 101	NORFOLK	VA	23503-1854
ALLEN, JONATHAN C & SUZANNE D	100 E OCEAN VIEW AVE UNIT 602	NORFOLK	VA	23503-1632
APOSTOLOU, STEFANOS P & EVANGELIA S	100 E OCEAN VIEW AVE UNIT 404	NORFOLK	VA	23503-1631
ARNEMANN, WALTER E & GERALDINE M	1106 TOLER PL	NORFOLK	VA	23503-1213
AUCHEY, JARED D	910 E OCEAN VIEW AVE APT 20	NORFOLK	VA	23503-2011
BAGE, LARRY K & DELFINA C	1042 W OCEAN VIEW AVE	NORFOLK	VA	23503-1322
BAKKER, ANTON	1054 W OCEAN VIEW AVE	NORFOLK	VA	23503-1322
BALINT, KAREN J	100 E OCEAN VIEW AVE UNIT 203	NORFOLK	VA	23503-1630
BANTA, DEAN J	900 E OCEAN VIEW AVE UNIT 11	NORFOLK	VA	23503-1936
BARBOUR, EILEEN P	100 E OCEAN VIEW AVE UNIT 209	NORFOLK	VA	23503-1630
BARFKNECHT, BILL	1150 TOLER PL	NORFOLK	VA	23503-1213
BARNES, CHRISTY E DONISI	810 E OCEAN VIEW AVE UNIT 107	NORFOLK	VA	23503-1855
BARRINEAU, JOHN P JR & BETTY F	100 E OCEAN VIEW AVE UNIT 1008	NORFOLK	VA	23503-1635
BAUMAN, DEBORAH B	1146 TOLER PL UNIT 5	NORFOLK	VA	23503-1258
BAY COTTAGE	5700 HUNTINGTON AVE	NEWPORT NEWS	VA	23607-2054
BEACHSIDE APARTMENTS, LLC	2000 WEST CLUB LN	RICHMOND	VA	23226-2420
BEACHSIDE APARTMENTS, LLC	2000 WEST CLUB LN	RICHMOND	VA	23226-2420
BEAUCAIRE, CHONG HWA	100 E OCEAN VIEW AVE UNIT 211	NORFOLK	VA	23503-1630
BELL, CELESTE A	265 GROVE ST	TEANECK	NJ	07666-3213
BELL-SPENCER, JULIE A	910 E OCEAN VIEW AVE UNIT 6	NORFOLK	VA	23503-1956
BENASSI, KENNETH R REVOCABLE TRS ET AL	4430 EAST BEACH DR	NORFOLK	VA	23518-6013
BENSON, LINDSAY A	PO BOX 8602	NORFOLK	VA	23503-1857
BENSON, LINDSAY S & PAULETTE	PO BOX 8602	NORFOLK	VA	23503-0602
BERNIER, KIMBERLY A	1140 TOLER PL	NORFOLK	VA	23503-1213
BEZDEK, PRISCILLA L LIVING TRUST	2716 COLT RUN RD	OAKTON	VA	22124-0000
BIECH, ELAINE	PO BOX 8249	NORFOLK	VA	23503-0249
BILODEAU, HANA L	910 E OCEAN VIEW AVE APT 12	NORFOLK	VA	23503-1956
BIRDZELL, ROY L JR ET AL	PO BOX 77404	EWING	NJ	08628-6404
BISESE, JOHN H & ANN P	632 W OCEAN VIEW AVE UNIT C	NORFOLK	VA	23503-1428
BLANKENSHIP, H WESLEY	9933 THIRD BRANCH DR	CHESTERFIELD	VA	23832
BOHNERT, JEAN P	144 TRACKER CT	GARNER	NC	27529-6629
BOLEN, RICHARD K ET ALS	958 W OCEAN VIEW AVE	NORFOLK	VA	23503-1314
BOLLING, DWIGHT & CONNIE	100 E OCEAN VIEW AVE UNIT 1112	NORFOLK	VA	23503-1629
BOONE LIVING TRUST	PO BOX 8218	NORFOLK	VA	23503-0218
BOONE LIVING TRUST	809 E OCEAN VIEW AVE	NORFOLK	VA	23503-1822
BOONE, RONALD W JR & LISA S	253 W BALVIEW AVE	NORFOLK	VA	23503-2830
BOONE, RONALD W JR & LISA S	253 W BALVIEW AVE	NORFOLK	VA	23503-2830
BOWEN, MARGARET S	100 E OCEAN VIEW AVE UNIT 606	NORFOLK	VA	23503-1632
BOWLER, PATRICIA ET AL	100 E OCEAN VIEW AVE UNIT 1102	NORFOLK	VA	23503-1635
BOYD, ERICA E & CATHERINE A	100 E OCEAN VIEW AVE UNIT 402	NORFOLK	VA	23503-1631
BREMERMAN, CHARLES V	910 E OCEAN VIEW AVE UNION 16	NORFOLK	VA	23503-1956
BRENT, KAREN	460 W OCEAN VIEW AVE	NORFOLK	VA	23503-1414
BRITT, JENNIFER	1146 TOLER PL UNIT 1	NORFOLK	VA	23503-1259
BROOKS, JACK W & DENISE J	828 E OCEAN VIEW AVE UNIT 10	NORFOLK	VA	23503-1824
BURKE, SEAN E	8155 BAYWOOD DR	NORFOLK	VA	23518-3155
BUSSA, FRANK & MARTA	6127 FOX HAVEN PL	MIDLOTHIAN	VA	23112-6544
CANNAN, RICHARD D	910 E OCEAN VIEW AVE UNIT 15	NORFOLK	VA	23503-1956
CARROW, TERRY J & WILLIAM	900 E OEAN VIEW AVE UNIT 10	NORFOLK	VA	23503-1936
CASEY, JAMES R & NINA E	9649 DOLPHIN RUN	NORFOLK	VA	23518-2050
CATHRO, JAMES & LINDSAY	910 E OCEAN VIEW AVE APT 26	NORFOLK	VA	23503-1957
CHISHOLM, PHILIP A ET AL	1138 TOLER PL	NORFOLK	VA	23503-1213
CISLO, ROBERT M ET AL	810 E OCEAN VIEW AVE UNIT 205	NORFOLK	VA	23503-1857
CITY OF NORFOLK	810 UNION ST RM 900	NORFOLK	VA	23510-2717
CITY OF NORFOLK	810 UNION ST RM 500	NORFOLK	VA	23510-2717
CITY OF NORFOLK	810 UNION ST RM 900	NORFOLK	VA	23510-2717
CITY OF NORFOLK	810 UNION STREET RM 500	NORFOLK	VA	23510-2717
CITY OF NORFOLK	810 UNION STREET RM 500	NORFOLK	VA	23510-2717
CITY OF NORFOLK	810 UNION ST ROOM 900	NORFOLK	VA	23510-2717
CITY OF NORFOLK	810 UNION STREET	NORFOLK	VA	23510-2717
CITY OF NORFOLK	810 UNION ST RM 900	NORFOLK	VA	23510-2717
CITY OF NORFOLK	810 UNION ST RM 900	NORFOLK	VA	23510-2717
CITY OF NORFOLK	810 UNION ST RM 900	NORFOLK	VA	23510-2717

Owner_Name	Owner_St	Owner_City	Owner_State	Owner_Zip
CITY OF NORFOLK	810 UNION ST RM 900	NORFOLK	VA	23510-2717
CITY OF NORFOLK	810 UNION ST RM 900	NORFOLK	VA	23510-2717
CLAIR, RICHARD L	4700 EAST BEACH DR	NORFOLK	VA	23518-6019
CLARY, BECKY PAULETTE	100 E OCEAN VIEW AVE UNIT 212	NORFOLK	VA	23503-1630
CLIFTON, MICHAEL WAYNE	936 E OCEAN VIEW AVE	NORFOLK	VA	23503-1910
COGGESHALL, JOHN A & ALEEN D	1146 TOLER PL UNIT 4	NORFOLK	VA	23503-1258
COGGESHALL, JOHN A & ALEEN D	1146 TOLER PL UNIT 9	NORFOLK	VA	23503-1258
COHEN, STEVEN G & SHELLY G ET AL	100 E OCEAN VIEW AVE UNIT 202	NORFOLK	VA	23503-1630
COKER, SHANNON G	100 E OCEAN VIEW APT 709	NORFOLK	VA	23503-1633
COLBERT, NINA A	100 E OCEAN VIEW AVE UNIT 410	NORFOLK	VA	23503-1631
COLE, CURTIS II & CAROL THOMPSON	PO BOX 11093	NORFOLK	VA	23517-0093
COLEMAN, B WAYNE & JUDITH A	4610 EAST BEACH DR	NORFOLK	VA	23518-6000
COLLIER, DORIS DOLORES GALLOWAY LIVING TRUST	100 E OCEAN VIEW AVE UNIT 1111	NORFOLK	VA	23503-1635
COLLINS, PATRICK N & ANDREA M	246 W OCEAN VIEW AVE	NORFOLK	VA	23503-1108
CONFINO-REHDER, SHIRLEY	100 E OCEAN AVE 810	NORFOLK	VA	23503-4316
COOKSIE, CAROLYN B	7805 DESIREE ST	ALEXANDRIA	VA	22315
COURNOYER, RAYMOND A & MERRILEE A	100 E OCEAN VIEW AVE UNIT 503	NORFOLK	VA	23503-1631
CRABTREE, LINDA L	9728 SHIP WATCH RD	NORFOLK	VA	23503-1774
CROCKETT, JAMES T & DEBRA DOWDEN-	9733 DOLPHIN RUN	NORFOLK	VA	23518-0000
CROSS, CATHERINE J	810 E OCEAN VIEW AVE UNIT 304	NORFOLK	VA	23503-1858
CROWDER, SANDRA B	100 E OCEAN VIEW AVE UNIT 1110	NORFOLK	VA	23503-1635
CRUTSINGER, LAURENCE F REVOCABLE LIVING TRUST ET AL	PO BOX 8514	NORFOLK	VA	23503-0514
CURRAN, DEREK P	518 W OCEAN VIEW AVE	NORFOLK	VA	23503-1416
CUVA, MARK J & MARY LOU	575 FAIRWOOD DR	TALLMADGE	OH	44278-2027
CZERWINSKI, JOSEPH R & RAMONA M	928 E OCEAN VIEW AVE	NORFOLK	VA	23503-1910
DAFFRON, JOAN D DECLARATION OF TRUST	100 E OCEAN VIEW AVE UNIT 1002	NORFOLK	VA	23503-1634
DALLY, DONALDA MARY LIVING TRUST	100 E OCEAN VIEW AVE UNIT 706	NORFOLK	VA	23503-1633
DARG, DAVID S & NAOMI J	494 W OCEAN VIEW AVE	NORFOLK	VA	23503-1414
DAVENPORT, JEAN M & KIM E	1325 RIVER RD	SUFFOLK	VA	23434-2915
DAVIS, DAVID W & SHANNON N	100 E OCEAN VIEW AVE APT 1101	NORFOLK	VA	23503-1635
DEAN, WILLIAM L & MARTHA J	4000 OWL CREEK	WILLIAMSBURG	VA	23188-1897
DECKER, PETER G JR & BESS P	109 E MAIN ST STE 200	NORFOLK	VA	23510-1647
DELONG, NATALIE Y	810 E OCEAN VIEW AVE UNIT 303	NORFOLK	VA	23503-1858
DESALVO, LAURIE L LIVING TRUST	8328 KANTER AVE	NORFOLK	VA	23518-2224
DEVINE, DORIS	752 5TH ST	IMPERIAL BEACH	CA	91932-2011
DH HOTELS, LLC	2802 ATLANTIC AVE	VIRGINIA BEACH	VA	23451
DH HOTELS, LLC	817 VIRGINIA BEACH BLVD STE 102	VIRGINIA BEACH	VA	23451-4208
DIETRICH, ANTHONY S & ANDREANNE W	7350 HERITAGE VILLAGE PLZ UNIT 102	GAINESVILLE	VA	20155
DIONISIO, DAVID S & TERESITA C REVOCABLE TRUST	116 JESSES WAY	FARMVILLE	VA	23901-2157
DIROSA, TERESA	1074 W OCEAN VIEW AVE UNIT B	NORFOLK	VA	23503-1322
DIXON, JOHN S & KAREN S	100 E OCEAN VIEW AVE APT 502	NORFOLK	VA	23503-1631
DIXON, MICHAEL W	420 BAY DUNES DR	NORFOLK	VA	23503-1769
DOBYNS, MIKE A	PO BOX 8546	NORFOLK	VA	23503-0546
DOLBY, MARY LOU	828 E OCEAN VIEW AVE UNIT 2	NORFOLK	VA	23503-1836
DONALDSON, KWAME NILES	4281 TALMADGE CIR	CAMP SPRINGS	MD	20746-4391
DOUMAR, ROBERT G & DOROTHY M	600 GRANBY ST	NORFOLK	VA	23510-1915
DOWNS, WILLIAM & DEBORAH	9065 CRUMPS MILL RD	QUINTON	VA	23141-2609
DOWNS, WILLIAM E & DEBORAH H	9065 CRUMPS MILL RD	QUINTON	VA	23141-2609
DRAPER, CHRISTOPHER	418 DUNDEE LN	CHESAPEAKE	VA	23322-7432
DUNNING ENTERPRISES LLC	1909 ROYAL OAK DR	LYNCHBURG	VA	24503-1856
EAST BEACH NEIGHBORHOOD ASSOC INC	4550 EAST BEACH DR	NORFOLK	VA	23518-6009
EAST BEACH NEIGHBORHOOD ASSOC INC	4550 E BEACH DR	NORFOLK	VA	23518-6009
EAST BEACH NEIGHBORHOOD ASSOC INC	4550 E BEACH DR	NORFOLK	VA	23518-6009
EAST BEACH NEIGHBORHOOD ASSOC INC	4550 E BEACH DR	NORFOLK	VA	23518-6009
ECK, JEFFREY A	1074 W OCEAN VIEW AVE UNIT A	NORFOLK	VA	23503-1322
ECLL, LLC	4700 EAST BEACH DR	NORFOLK	VA	23518-6019
ELLINGTON, KIMBERLY A	163 DEER RUN	MOYOCK	NC	27958-9259
ELLIOTT, RONALD D & DIANE P	PO BOX 823	BAYSE	VA	22810-0823
ELMILIGUI, ALAA	810 E OCEAN VIEW AVE APT 301	NORFOLK	VA	23503-1858
ERJ'S BAY CONDO LLC	1417 WHITTIER ST NW	WASHINGTON	DC	20012-2839
ESHELMAN, KURT D & TRISHA M	810 E OCEAN VIEW AVE UNIT 110	NORFOLK	VA	23503-1855
ESSENMACHER, ELIZABETH JAI & RICHARD JOSEPH JR	4880 EAST BEACH DR	NORFOLK	VA	23518-2067
ESTEPA, JON M ET ALS	904 REDLEAFE CIR	CHESAPEAKE	VA	23320
FATICONI, JOHN A & SHELIA B	100 E OCEAN VIEW AVE UNIT 707	NORFOLK	VA	23503-1633
FAULK, JOHN F & ELIZABETH A TRS	264 W OCEAN VIEW AVE	NORFOLK	VA	23503-1505
FEE, ERIC C	464 W OCEAN VIEW AVE	NORFOLK	VA	23503-1414
FENTRESS, B DONALD & MARLENE C	100 E OCEAN VIEW AVE UNIT 411	NORFOLK	VA	23503-1631

Owner_Name	Owner_St	Owner_City	Owner_State	Owner_Zip
FITZPATRICK, RORY D & ROBIN S	910 E OCEAN VIEW AVE UNIT 8	NORFOLK	VA	23503-1956
FORBES, JOHN F & BARBARA G	606 W OCEAN VIEW AVE UNIT A	NORFOLK	VA	23503-1418
FOREHAND, VICKI LYNN	P.O. BOX 8674	NORFOLK	VA	23503-0674
FORREST, CLIFTON T & LAURIE A	9711 CHESAPEAKE ST UNIT F	NORFOLK	VA	23503-1941
FOSTER, DAVID W & ELIZABETH A	926 W OCEAN VIEW AVE UNIT B	NORFOLK	VA	23503-1397
FOSTER, KEVIN D & ANDREA B	308 BAY DUNES DR	NORFOLK	VA	23503-1767
FOSTER, KEVIN D ET AL	100 E OCEAN VIEW AVE UNIT 703	NORFOLK	VA	23503-1633
FOSTER, MICHAEL	582 W OCEAN VIEW AVE UNIT A	NORFOLK	VA	23503-1416
FOWLER, CAROL G	1032 FAIRHAVEN RD	CHESAPEAKE	VA	23322
FREDE, PETER T & PATRICE M	260 W OCEAN VIEW AVE	NORFOLK	VA	23503-1505
GAINEY, KRISTOPHER L	910 E OCEAN VIEW AVE UNIT 11	NORFOLK	VA	23503-1956
GALLISHAW, WILLIAM	100 E OCEAN VIEW AVE UNIT 612	NORFOLK	VA	23503-1632
GARDNER, KATHERINE A ET AL	100 E OCEAN VIEW AVE UNIT 206	NORFOLK	VA	23503-1630
GARRASI, STEPHEN M	600 W OCEAN VIEW AVE UNIT B	NORFOLK	VA	23503-1490
GASPAR, JOHN W & SHELBIE T	PO BOX 3069	HAMPTON	VA	23663-0069
GATEWOOD, EDWIN E III ET AL	1110 TOLER PL	NORFOLK	VA	23503-1213
GAY, GEORGE N	1146 TOLER PL APT 6	NORFOLK	VA	23503-1250
GIBBS, DAVID W & DONNA K	100 E OCEAN VIEW AVE UNIT 301	NORFOLK	VA	23503-1630
GILLIHAN, PHILLIP M	PO BOX 809	SMITHFIELD	VA	23431-0809
GOLDMAN, CHARLES M & CAMILLA E	256 W OCEAN VIEW AVE	NORFOLK	VA	23503-1505
GONZALEZ, MISAEL	600 W OCEAN VIEW AVE UNIT A	NORFOLK	VA	23503-1490
GRAHAM, MARY BETH	810 E OCEAN VIEW AVE UNIT 103	NORFOLK	VA	23503-1854
GRAU, CHARLES V ET ALS	910 E OCEAN VIEW AVE UNIT 17	NORFOLK	VA	23503-1957
GRAY, ROBERT L JR & LOUISE LYN	910 E OCEAN VIEW AVE UNIT 18	NORFOLK	VA	23503-1925
GREIF, JEANNE R & CONRAD A	100 E OCEAN VIEW AVE UNIT 1106	NORFOLK	VA	23503-1635
GRIMES, ROBERT V & JEANNETTE J	6520 WINDHAM AVE	ALEXANDRIA	VA	22315-3419
GRIMES, ROBERT V & JEANNETTE J	6520 WINDHAM AVE	ALEXANDRIA	VA	22315-3419
GRIMES, ROBERT V & JEANNETTE J	6520 WINDHAM AVE	ALEXANDRIA	VA	22315-3419
GRIMES, ROBERT V & JEANNETTE J	6520 WINDHAM AVE	ALEXANDRIA	VA	22315-3419
GRINDROD, ANDREW W & MARGARET C	1048 W OCEAN VIEW AVE	NORFOLK	VA	23503-1322
HACKNEY, NORMA L ET AL	455 DOG WALK RD	ANNA	IL	62906-3205
HAHN, CHERYL A REHL ET AL	222 W OCEAN VIEW AVE	NORFOLK	VA	23503-1554
HAHNE, ROBERT & LINDA FAMILY TRUST	312 BAY DUNES DR	NORFOLK	VA	23503-1767
HALEY, DANIEL T	528 W OCEAN VIEW AVE	NORFOLK	VA	23503-1416
HALL, CYNTHIA L ET AL	PO BOX 8536	NORFOLK	VA	23503-0536
HALL, EDWARD ALLAN	828 E OCEAN VIEW AVE APT 1	NORFOLK	VA	23503-1836
HAMILTON, RICHARD T & MICHELLE	910 E OCEAN VIEW AVE UNIT 14	NORFOLK	VA	23503-1956
HANCOCK, FREDERICK J JR	910 E OCEAN VIEW AVE UNIT 22	NORFOLK	VA	23503-1957
HANSSEN, JOEL & DEBORAH	998 W OCEAN VIEW AVE UNIT A	NORFOLK	VA	23503-6308
HARDIN, PAULETTE J	100 E OCEAN VIEW AVE UNIT 201	NORFOLK	VA	23503-1630
HAUNGS, MICHAEL J	992 W OCEAN VIEW AVE UNIT B	NORFOLK	VA	23503-6307
HAYNIE, COLLIN M & JUSTIN F	100 E OCEAN VIEW AVE UNIT 312	NORFOLK	VA	23503-1631
HEDGEPETH, JEAN P REVOCABLE TRUST	100 E OCEAN VIEW AVE UNIT 306	NORFOLK	VA	23503-1630
HEIDE, ROBERT K & SUZANNE M	5109 STUDELEY AVE	NORFOLK	VA	23508-1742
HENDERSON, DAVID T & MARGARET	618 W OCEAN VIEW AVE	NORFOLK	VA	23503-1418
HICKS, RONALD F & CHERYL A	238 W OCEAN VIEW AVE UNIT B	NORFOLK	VA	23503-1505
HIGH, MELVIN C & BRENDA C	408 BAY DUNES DR	NORFOLK	VA	23503-1769
HOFF, KENNETH L & DOREEN A	9575 BAY POINT DR	NORFOLK	VA	23518-2033
HOLDER, FRANCOIS E ET AL	1300 BAECHER LN	NORFOLK	VA	23509-1229
HOLDREN, RICHARD J	274 W OCEAN VIEW AVE	NORFOLK	VA	23503-1505
HOLLAND, STEVEN C	46720 FLOWRS RIDGE RD UNIT 73	BUXTON	NC	27920-0073
HOLLORAN, WILLIAM J JR & THERESA W	900 E OCEAN VIEW AVE UNIT 12	NORFOLK	VA	23503-1944
HOLT FAMILY TRUST	100 E OCEAN VIEW AVE APT 1103	NORFOLK	VA	23503-1635
HONG, TOM A & CHERYL L	932 E OCEAN VIEW AVE	NORFOLK	VA	23503-1947
HOWE, LOUIS P & CHRISTINE K	9654 WELLS PKWY	NORFOLK	VA	23503-1720
HOY, THOMAS E ET AL	636 SUNRISE AVE	HARRISONBURG	VA	22801
HUBBARD, MARY Y	5276 SHENSTONE CIR	VIRGINIA BEACH	VA	23455-3214
HUBER, THOMAS F & MARCIA C REV LIV TRST	107 ALALA RD	KAILUA	HI	96734-3126
HUDGINS, SYLVIA C	910 E OCEAN VIEW AVE UNIT 24	NORFOLK	VA	23503-1957
HULL, FREIDA S ET AL	100 E OCEAN VIEW AVE UNIT 407	NORFOLK	VA	23503-1631
HUNT, CHERYL ANN	100 E OCEAN VIEW AVE UNIT 412	NORFOLK	VA	23503-1631
HUNTER, CYNTHIA A	608 W OCEAN VIEW AVE APT 2	NORFOLK	VA	23503-1418
IANNELLO, CARMEN & SHENDA L	9661 DOLPHIN RUN	NORFOLK	VA	23518-2020
INGRAM, RILEY E & MARY A	3302 OAKLAWN BLVD	HOPEWELL	VA	23860-4704
JACKSON, JOSHUA M	910 E OCEAN VIEW AVE UNIT 21	NORFOLK	VA	23503-1957
JACKSON, LOUISE K ET AL	828 E OCEAN VIEW AVE APT 5	NORFOLK	VA	23503-1825
JACOCKS, ARTHUR W & SUSAN C	3535 HEUTTE DR	NORFOLK	VA	23518

Owner_Name	Owner_St	Owner_City	Owner_State	Owner_Zip
JAMES, JOHN H JR & SHARON C	4570 EAST BEACH DR	NORFOLK	VA	23518
JARVIS, WILLIAM H & JULIE M	100 E OCEAN VIEW AVE APT 601	NORFOLK	VA	23503-1632
JENNINGS, MARY ANN	100 E OCEAN VIEW AVE APT 1005	NORFOLK	VA	23503-1635
JOHNSON, GEORGE H TRUST	100 E OCEAN AVE UNIT 308	NORFOLK	VA	23503-1629
JONES, CHARLES E & ROSE-MARIE B	810 E OCEAN VIEW AVE APT 308	NORFOLK	VA	23503-1859
KACER, PAT & CAROL	900 E OCEAN VIEW AVE APT 9	NORFOLK	VA	23503-1944
KACER, TIMOTHY R	900 E OCEAN VIEW AVE APT 1	NORFOLK	VA	23503-1947
KANTER, GERALD THEOBALD	1313 MURRAY DR	CHESAPEAKE	VA	23322-1835
KARMANNA PROPERTIES, LLC	405 WOODCLIFF ARCH	CHESAPEAKE	VA	23320-3255
KARNES, LANIS REVOCABLE LIVING TRUST	2273 N HIGHLAND AVE STE A	JACKSON	TN	38305-4909
KASPER, DAVID M & GISELE L	#16 MICAH CT	STAUNTON	VA	24401-6549
KEILTY, FREDERICK P & PATRICIA J	100 E OCEAN VIEW AVE UNIT 1009	NORFOLK	VA	23503-1635
KELLY, COLIN M & TAMMY R	9653 DOLPHIN RUN	NORFOLK	VA	23518-2050
KELLY, PENELOPE E	810 E OCEAN VIEW AVE APT 102	NORFOLK	VA	23503-1854
KENNEDY FAMILY TRUST	7703 CARLTON PL	MCLEAN	VA	22102-2150
KIM, ASA D	900 ARMY NAVY DR APT 1506	ARLINGTON	VA	22202-4933
KING, CAROLE L REVOCABLE TRUST ET AL	100 E OCEAN VIEW AVE UNIT 705	NORFOLK	VA	23503-1633
KING, GWENDOLYN C	100 E OCEAN VIEW AVE APT 307	NORFOLK	VA	23503-1630
KIRBY, MARIETTA E	626 W OCEAN VIEW AVE APT B	NORFOLK	VA	23503-1418
KIRCHNER, DONALD B & FRANCES B	9750 28TH BAY ST	NORFOLK	VA	23518-2067
KIRCHNER, MARCELLUS C & THERESA A	721 COLONIAL AVE	NORFOLK	VA	23507-1807
KIRSCH, DONNA C & CHRISTIAN W TRS	4357 N WITCHDUCK RD	VIRGINIA BEACH	VA	23455-6109
KNAPP, BARRY J II ET AL	2265 SOUVERAIN LN	VIRGINIA BEACH	VA	23454-7403
KNIGHT FAMILY REVOCABLE LIVING TRUST	100 E OCEAN VIEW AVE APT 609	NORFOLK	VA	23503-1632
KOCH, ROBERT J & JACQUELINE H	100 E OCEAN VIEW AVE APT 607	NORFOLK	VA	23503-1632
KOTARIDES, ODYSEUS P ET AL	1128 INDEPENDENCE BLVD STE 200	VIRGINIA BEACH	VA	23455-5505
KRAMER, EDWARD G ET AL	PO BOX 2179	VIRGINIA BEACH	VA	23450-2179
KRIESCH, PENNY ET AL	2702 MUSKOGEE ST	ADELPHI	MD	20783-1427
KRUMICH, ERIC C & AIMEE L	810 E OCEAN VIEW AVE APT 207	NORFOLK	VA	23503-1857
KRZYZANIAK, RAYMOND L	3740 FAIRWAY DR	CUMMING	GA	30041-6675
LALLEY, JOSEPH A & DORIS J	100 E OCEAN VIEW AVE APT 603	NORFOLK	VA	23503-1632
LAPETINA, JOANNE E	100 E OCEAN VIEW AVE UNIT 806	NORFOLK	VA	23503-1633
LAROCCA, RONALD	922 W OCEAN VIEW AVE UNIT C	NORFOLK	VA	23503-1380
LATIMER, ROBERT M & ERLE MARIE REVOC TRUST	1120 TOLER PL	NORFOLK	VA	23503-1213
LAU, LEEMAN	100 E OCEAN VIEW AVE UNIT 904	NORFOLK	VA	23503-1634
LAWS, JEREMY R & ASHLEY C	608 N JUANITA AVE	REDONDO BEACH	CA	90277-2934
LEARY, KEVIN J & BRENDA F	100 E OCEAN VIEW AVE UNIT 409	NORFOLK	VA	23503-1631
LEBON, BENNY M & DOLORES P	490 W OCEAN VIEW AVE	NORFOLK	VA	23503-1414
LEE, MILLIE	9705 DOLPHIN RUN	NORFOLK	VA	23518-2021
LEE, SOO-HOON ET AL	100 E OCEAN VIEW AVE UNIT 807	NORFOLK	VA	23503-1633
LIPSCOMB, MICHAEL & DANA	900 E OCEAN VIEW AVE UNIT 3	NORFOLK	VA	23503-1947
LLUY, MARGARET A	9251 BUCKMAN AVE	NORFOLK	VA	23503-4203
LONG, EARNEST ANDREW & TONIA L MOORE	9711 CHESAPEAKE ST APT D	NORFOLK	VA	23503-1941
LOVE, AMY L	100 E OCEAN VIEW AVE APT 310	NORFOLK	VA	23503-1631
LOVELACE LIVING TRUST ET AL	36 WARREN ST	BLOOMFIELD	NJ	07003-2718
LOWE, MARVIN D	100 E OCEAN VIEW AVE APT 1104	NORFOLK	VA	23503-1635
LOWERY, ANTHONY W & MARGUERITE S	238 W OCEAN VIEW AVE UNIT A	NORFOLK	VA	23503
LUU, TONY	910 E OCEAN VIEW AVE UNIT 2	NORFOLK	VA	23503-1956
MANHARPA, AJAY & RADHIKA A	4440 EAST BEACH DR	NORFOLK	VA	23518
MARKS, WILLIAM & SANDRA R ET ALS	86 COURT ST	WEST BABYLON	NY	11704-2124
MARTIN, SAMUEL P & SHERRY W	880 W OCEAN VIEW AVE	NORFOLK	VA	23503-1312
MARTINS, LINDA G	254 W OCEAN VIEW AVE	NORFOLK	VA	23503-1505
MC LAUGHLIN, EDWARD J & M JEAN	1621 ETON WAY	CROFTON	MD	21114-1512
MCCARTHY, ROSELLA REVOCABLE TRUST	100 E OCEAN VIEW AVE APT 508	NORFOLK	VA	23503-1632
MCCOY, CAROLE C	100 E OCEAN VIEW AVE APT 1105	NORFOLK	VA	23503-1635
MCLEAN, J RONALD III &KATHERINE R	1112 TOLER PL	NORFOLK	VA	23503-1213
MCLEAN, WILLIAM RICHARD & SALLY ANN	100 E OCEAN VIEW AVE UNIT 907	NORFOLK	VA	23503-1629
MEAD LIVING TRUST	998 W OCEAN VIEW AVE APT B	NORFOLK	VA	23503-6308
MEADE, JOY	21513 PERDUE AVE	PETERSBURG	VA	23803-0000
MEEHAN, MATHEW J & KELLY M	1326 W OCEAN VIEW AVE	NORFOLK	VA	23503-1146
MELVIN, KENNETH R & SYLVIA ET AL	14 ELEANOR CT N	PORTSMOUTH	VA	23701-3600
MEREDITH, MIRIAM B REVOCABLE LIVING	100 E OCEAN VIEW AVE APT 507	NORFOLK	VA	23503-1632
MERRELL, JOYCE B	100 E OCEAN VIEW AVE APT 712	NORFOLK	VA	23503-1633
MID-ATLANTIC PROPERTY HOLDINGS, LLC	2048 INLET POINT RD	NORFOLK	VA	23503-3245
MILLER, SCOTT & ANDREA	240 W OCEAN VIEW AVE UNIT A	NORFOLK	VA	23503
MOLSBERRY, DARRELL C & LISA G	100 E OCEAN VIEW AVE UNIT 805	NORFOLK	VA	23503-1633
MOORE, GLYNN R SR & ROSLYN F	468 W OCEAN VIEW AVE	NORFOLK	VA	23503-1414

Owner_Name	Owner_St	Owner_City	Owner_State	Owner_Zip
MOORE, NATHANIEL	404 BAY DUNES DR	NORFOLK	VA	23503-1769
MORGAN, JOSEPH N & NANCY J	100 E OCEAN VIEW AVE APT 803	NORFOLK	VA	23503-1633
MORGAN, MICHAEL J, TRUST	810 E OCEAN VIEW AVE APT 210	NORFOLK	VA	23503-1857
MORSE, JEFFREY H ET AL	5442 TIDEWATER DR	NORFOLK	VA	23509-1437
MORTON, GARLAND WAYNE REVOCABLE TRUST AGREEMENT OF 2003	1010 BATEMAN DR	ELIZABETH CITY	NC	27909-2938
MUENCH, FRANCIS	303 ELBERON CT	CHESAPEAKE	VA	23322
MULLENIX, THOMAS H JR & DONNA M	882 W OCEAN VIEW AVE	NORFOLK	VA	23503-1312
MURINIGO, LUCIA	828 E OCEAN VIEW AVE APT 7	NORFOLK	VA	23503-1825
MYERS, JONATHAN D & NANCY A	926 W OCEAN VIEW AVE UNIT A	NORFOLK	VA	23503-1397
NAIR, VASANT DAMODARAN & VASUDHA VASANT	810 E OCEAN VIEW AVE UNIT 307	NORFOLK	VA	23503-1854
NEWBY, JENNIFER T	2122 GREEN WATCH WAY UNIT 100	RESTON	VA	20191-2428
NEWTON, JOHN P JR & JENETTE JUNE	910 E OCEAN VIEW AVE UNIT 29	NORFOLK	VA	23503-1957
NO PIER PRESSURE, LLC	809 E OCEAN VIEW AV	NORFOLK	VA	23503-1822
NORTON, JAMES DAVID REVOCABLE TRUST	100 E OCEAN VIEW AVE UNIT 908	NORFOLK	VA	23503-1629
NOWLAND, FRANCIS & DORIS	100 E OCEAN VIEW AVE APT 804	NORFOLK	VA	23503-1633
NRHA	PO BOX 968	NORFOLK	VA	23501-0968
NRHA	PO BOX 968	NORFOLK	VA	23501-0968
NRHA	PO BOX 968	NORFOLK	VA	23501-0968
NRHA	PO BOX 968	NORFOLK	VA	23501-0968
NRHA	PO BOX 968	NORFOLK	VA	23501-0968
NRHA	PO BOX 968	NORFOLK	VA	23501-0968
NRHA	PO BOX 968	NORFOLK	VA	23501-0968
NRHA	PO BOX 968	NORFOLK	VA	23501-0968
NRHA	PO BOX 968	NORFOLK	VA	23501-0968
O'BRIEN, DENNIS C	810 E OCEAN VIEW AVE APT 302	NORFOLK	VA	23503-1858
OCEAN20 LLC	705 RIVERSIDE DR	NEWPORT NEWS	VA	23606-3627
OCEANSIDE BUILDERS, INC	276 W OCEAN VIEW AVE	NORFOLK	VA	23503-1505
OH, BEN ET AL	1005 BELWOOD CT	VIRGINIA BEACH	VA	23455-6639
OHAHNA SHORES, LLC	8076 LYNNBROOK DR	NORFOLK	VA	23518-3340
OLSEN, RAYMOND P	910 E OCEAN VIEW AVE UNIT 25	NORFOLK	VA	23503-1957
ORANGE, PATRICIA G	922 W OCEAN VIEW AVE APT D	NORFOLK	VA	23503-1380
OSMUNDSON, GARY & ILENE	4001 HEUTTE DR	NORFOLK	VA	23518-4628
OWEN, BETTY M	100 E OCEAN VIEW AVE UNIT 701	NORFOLK	VA	23503-1633
PAPARONE, CARRIE	9301 BANFF CT	CHESTERFIELD	VA	23838-5240
PARIS, H SCOTT & MAUREEN J	9513 9TH BAY ST	NORFOLK	VA	23518-1209
PARIS, JEFFREY C & CARRIE H	910 E OCEAN VIEW AVE UNIT 5	NORFOLK	VA	23503-1956
PARKER, HARRY E ET AL	228 W OCEAN VIEW AVE	NORFOLK	VA	23503-1505
PATTON, JOHN A ET AL	262 W OCEAN VIEW AVE	NORFOLK	VA	23503-1505
PEELE, LARRY L & SHIRLEY B	9719 BAY POINT DR	NORFOLK	VA	23518-2050
PEERY, JOHN S & BARBARA L	100 E OCEAN VIEW AVE UNIT 506	NORFOLK	VA	23503-1632
PENNY, CHRISTOPHER & LYNNE	1126 TOLER PL	NORFOLK	VA	23503-1213
PENTA, MASSIMO	828 E OCEAN VIEW AVE UNIT 8	NORFOLK	VA	23503-1825
PERKINS, FREDERICK P ET AL	PO BOX 5865	VIRGINIA BEACH	VA	23471-0865
PESCHKE, BARBARA	810 E OCEAN VIEW AVE UNIT 106	NORFOLK	VA	23503-1855
PIETROCOLA, GREGORY P & GAYE D LIVG	524 W OCEAN VIEW AVE	NORFOLK	VA	23503-1416
PILAND, ROBERT S III & CHRISTINE	100 E OCEAN VIEW AVE UNIT 408	NORFOLK	VA	23503-1631
PITTMAN, ANDREW B & JESSICA W	100 E OCEAN VIEW AVE UNIT 1109	NORFOLK	VA	23503-1635
POON, NORMAN DAVID & ANN MARIE	922 W OCEAN VIEW AVE	NORFOLK	VA	23503-1380
POSEIDON PROPERTIES, LLC	PO BOX 8099	NORFOLK	VA	23503-0099
POWELL, PETER J & DORIS M	100 E OCEAN VIEW AVE UNIT 512	NORFOLK	VA	23503-1632
PRICE, RALPH E TRUST	910 E OCEAN VIEW AVE UNIT 27	NORFOLK	VA	23503-1957
PRICE, RALPH E TRUST	910 E OCEAN VIEW AVE UNIT 27	NORFOLK	VA	23503-1957
PRIER, JEFFREY S & MARY E	526 W OCEAN VIEW AVE	NORFOLK	VA	23503-1416
PUCKETT, EDWARD L & JANET S	885 FRESHWATER COVE LN	LOVINGSTON	VA	22949-2008
PUPO, JOSEPH J & MARIE Q	100 E OCEAN VIEW AVE UNIT 906	NORFOLK	VA	23503-1634
PUTMAN, GUY H	100 E OCEAN VIEW AVE UNIT 403	NORFOLK	VA	23503-1631
QUATTRUCCI, LEE	810 E OCEAN VIEW AVE APT 203	NORFOLK	VA	23503-1856
RALPH, J ROBERT	100 E OCEAN VIEW AVE UNIT 605	NORFOLK	VA	23503-1632
RAY, JAMES C	100 E OCEAN VIEW AVE UNIT 704	NORFOLK	VA	23503-1633
RICE, PATRICIA EVELYN REVOC TRUST	100 E OCEAN VIEW AVE UNIT 808	NORFOLK	VA	23503-1633
RIGNEY, ROBERT B & DIANE C	9725 DOLPHIN RUN	NORFOLK	VA	23518-2050
RILEY, KYLE L	9629 BAY POINT DR	NORFOLK	VA	23518-2025
RIVERA, MILDRED ET AL	100 E OCEAN VIEW AVE APT 710	NORFOLK	VA	23503-1633
ROETHEL, RICHARD & PAMELA	1146 TOLER PL UNIT 8	NORFOLK	VA	23503-1258
ROHMAN, MALIK W & R JULIA	2806 N KENSINGTON ST	ARLINGTON	VA	22207
ROSS, MARY G	272 W OCEAN VIEW AVE	NORFOLK	VA	23503-1505
ROWE, DANIEL G & CATHRYNE L	1404 MARIAN WAY	MOUNT AIRY	MD	21771-5872

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RUFFINO, JEFFERY	910 E OCEAN VIEW AVE 3	NORFOLK	VA	23503-1956
SAUNDERS, JOHN III	480 W OCEAN VIEW AVE	NORFOLK	VA	23503-1414
SAVAGE, WENDY M & JAMES R	4580 EAST BEACH DR	NORFOLK	VA	23518-6009
SAYLES, SHANNON M	540 W OCEAN VIEW AVE UNIT A	NORFOLK	VA	23503-1416
SCHLITTER, JOSIE LYNN	810 E OCEAN VIEW AVE APT 201	NORFOLK	VA	23505-1854
SCHMID, RALPH J & VICTORIA A	926 W OCEAN VIEW AVE UNIT C	NORFOLK	VA	23503-1397
SCHULHOFF, GERALD & EVELYN	8903 ALENDALE RD	RICHMOND	VA	23229-7701
SEA ISLE WEST, LLC	809 E OCEAN VIEW AV	NORFOLK	VA	23503-1822
SEA MIST LLC	819 BLUECRAB RD	NEWPORT NEWS	VA	23606-4220
SELLERS, SUSAN WILSON REVOCABLE TRUST	502 W OCEAN VIEW AVE	NORFOLK	VA	23503-1416
SHACKELFORD, BRUCE C	8420 LAUREL GROVE RD	MECHANICSVILLE	VA	23116-0000
SHAILEY ENTERPRISES LC	1010 W OCEAN VIEW AVE	NORFOLK	VA	23503-1316
SHAREK, WILLIAM & ELENA	813 VINE ST	CROWNSVILLE	MD	21032-1340
SHAW, JAMES E	100 E OCEAN VIEW AVE UNIT 903	NORFOLK	VA	23503-1634
SHAW, MICHAEL H ET AL	100 E OCEAN VIEW AVE UNIT 902	NORFOLK	VA	23503-1634
SHEALEY, JOSEPH E & LYNN R	100 E OCEAN VIEW AVE UNIT 207	NORFOLK	VA	23503-1630
SILKETT, CHARLES R TR	11600 AIR VIEW LN	GREAT FALLS	VA	22066-1101
SIMON, SONJA M ET AL	504 W OCEAN VIEW AVE	NORFOLK	VA	23503-1416
SINGER, CLIFFORD S & MICHAEL ANN	14406 SAVAGE VIEW PL	MIDLOTHIAN	VA	23112-4388
SINOR, BAKHTI	590 W OCEAN VIEW AVE	NORFOLK	VA	23503-1416
SMITH, JOSCELYN E III & CHERYL A	412 BAY DUNES DR	NORFOLK	VA	23503-1769
SMITH, MICHAEL E	1132 TOLER PL	NORFOLK	VA	23503-1213
SMITH, ROY M & SHAWN L	3008 GLASGOW DR	ARLINGTON	TX	76015-2227
SMITH, VALERIE K	258 W OCEAN VIEW AVE	NORFOLK	VA	23503-1543
SPEIGHT, JEANETTE M REVOC LIVING TRUST	100 E OCEAN VIEW AVE APT 702	NORFOLK	VA	23503-1633
SPICER, TIMOTHY & PHYLLIS	320 W COUNTY DR	SOMERVILLE	NJ	08876-3760
SPINAZZOLO, DAVID & MORIN, MARY DECLARATION OF TRS	400 BAY DUNES DR	NORFOLK	VA	23503-1769
STAMBLECK, MARGO A	100 E OCEAN VIEW AVE UNIT 1011	NORFOLK	VA	23503-1635
STARKE, HORACE C & JULIE	100 E OCEAN VIEW APT 205	NORFOLK	VA	23503-1630
STEELE, CAROL BAUM IRREVOCABLE TRUST	9711 CHESAPEAKE ST UNIT A	NORFOLK	VA	23503-1941
STEELE, JOSEPH H	100 E OCEAN VIEW AVE UNIT 210	NORFOLK	VA	23503-1629
STERLING, TODD LEE	100 E OCEAN VIEW AVE APT 304	NORFOLK	VA	23503-1630
STEWART, WARREN A	100 E OCEAN VIEW AVE UNIT 604	NORFOLK	VA	23503-1632
STRATHMANN, BARRY E	4518 EAST BEACH DR	NORFOLK	VA	23518-6009
STUBBS, CAROLYN H	1611 BEAUMONT CT	NORFOLK	VA	23503
SULLIVAN, CHARLES D & VICTORIA H	13568 CHERRY CYN	HELOTES	TX	78023-2848
SURPRENANT, PETER L ET AL	5410 NW 3RD TER	BOCA RATON	FL	33487-4314
SWIDER, GREGORY & SASKIA	600 W OCEAN VIEW AVE UNIT C	NORFOLK	VA	23503-1490
TAKALLU, MOHAMMAD ET AL	PO BOX 8401	NORFOLK	VA	23503-0401
TAYLOR, CHARLES F & NATALIE A	100 E OCEAN VIEW AVE UNIT 406	NORFOLK	VA	23503-1629
TAYLOR, ROBERT L & GAYLIA F	810 E OCEAN VIEW AVE UNIT 109	NORFOLK	VA	23503-1855
TEAGUE, KENDYL ET AL	9529 4TH BAY ST	NORFOLK	VA	23518-1009
TENKEAN, ONKA	2475 VIRGINIA AVE NW # 818	WASHINGTON	DC	20037-2639
THOMAS, KATHY	PO BOX 1552	GLOUCESTER	VA	23061-1552
THOMAS, MINERVA G	900 E OCEAN VIEW UNIT 7	NORFOLK	VA	23503-1945
THOMPSON, CHRISTINE L & TERRENCE J	100 E OCEAN VIEW AVE APT 204	NORFOLK	VA	23503-1630
THOMPSON, RICHARD & KAYE	252 W OCEAN VIEW AVE	NORFOLK	VA	23503-1543
THORNTON, ALLAN F JR	9740 27TH BAY ST	NORFOLK	VA	23518-1906
THORNTON, GLORIA B	9646 GRANBY ST	NORFOLK	VA	23503-1608
THORNTON, GLORIA B	9646 GRANBY ST	NORFOLK	VA	23503-1608
TOWNSEND, GUY	100 E OCEAN VIEW AVE UNIT 405	NORFOLK	VA	23503-1629
TRAN, AN T	8300 PATTERSON AVE	RICHMOND	VA	23229-6506
TRAWEEK, DOROTHY LEIGH	100 E OCEAN VIEW AVE UNIT 1003	NORFOLK	VA	23503-1634
TRAYLOR, JAMES R & SOPHIA Z	PO BOX 283	HOPEWELL	VA	23860-0283
TROUTMAN, WILLIAM H ET AL	9713 DOLPHIN RUN	NORFOLK	VA	23518-2021
TUPPER, ROBERT D & KAREN L	632 W OCEAN VIEW AVE UNIT D	NORFOLK	VA	23503-1428
TYNES, RICHARD W JR & GAIL F	300 BAY DUNES DR	NORFOLK	VA	23503-1767
U S A	NAV FAC ENG COMM-R E DIV	NORFOLK	VA	23511-0000
UV STRATEGIES, LLC	304 BAY DUNES DR	NORFOLK	VA	23503-1767
VALLE, CHRISTOPHER R & MARY M	626 W OCEAN VIEW AVE UNIT A	NORFOLK	VA	23503-1498
VAN DAVELAAR, PETER C & RUTH A	626 W OCEAN VIEW AVE APT C	NORFOLK	VA	23503-1498
VERBA, WILLIAM S JR & ALDA D	100 E OCEAN VIEW AVE UNIT 510	NORFOLK	VA	23503-1632
VIEW VENTURES, LLC	586 W OCEAN VIEW AVE	NORFOLK	VA	23503-1416
VINCIULLA, CHARLES J JR	55 TERRY AVE	AMITYVILLE	NY	11701-3339
VOR PROPERTIES, LLC	1114 TOLER PL	NORFOLK	VA	23503-1213
WAGONER, SCOTT A & DEBORAH S	632 W OCEAN VIEW AVE UNIT B	NORFOLK	VA	23503-1428
WAGUESPACK, JEFFERY & MARIE	100 E OCEAN VIEW AVE UNIT 610	NORFOLK	VA	23503-1632

Owner_Name	Owner_St	Owner_City	Owner_State	Owner_Zip
WALDROP, BARBARA M TRUST	606 W OCEAN VIEW AVE UNIT B	NORFOLK	VA	23503-1418
WALTERS, ELIZABETH A	910 E OCEAN VIEW AVE APT 19	NORFOLK	VA	23503-1957
WARDLOW, CURTIS & JERILYN	100 E OCEAN VIEW AVE UNIT 1012	NORFOLK	VA	23503-1629
WARREN, STEVE A & JUNG O	100 E OCEAN VIEW AVE APT 911	NORFOLK	VA	23503-1634
WEAVER, BRIAN S & JESSICA R	818 E OCEAN VIEW AVE	NORFOLK	VA	23503-1823
WEIRICH, THOMAS F	100 E OCEAN VIEW AVE APT 302	NORFOLK	VA	23503-1630
WENDLING, ROBERT M & MARIANNE	6510 PARK VIEW CT	SPRINGFIELD	VA	22152-2822
WENTWORTH, JEFFREY M & HEATHER Y	332 BAY DUNES DR	NORFOLK	VA	23503-1767
WETHERINGTON, RALPH L JR & CHERYL S	9709 DOLPHIN RUN	NORFOLK	VA	23518-2050
WHITE, EDITH D ET AL	100 E OCEAN VIEW AVE UNIT 1004	NORFOLK	VA	23503-1634
WICH, ROBERT J ET AL	1114 TOLER PL	NORFOLK	VA	23503-1213
WICKER, DRU C & JOHN W	5117 PARK LAKE CT	VIRGINIA BEACH	VA	23464-7317
WILKINSON, JOSEPH E & GAIL M	7212 GALVESTON BLVD	NORFOLK	VA	23505-4254
WILLIFORD, GARY F & NONA P	2715 WYOMING AVE	NORFOLK	VA	23513-4439
WILSON, SUSANNE F REVOCABLE LIVING TRUST	5557 STEWART DR	VIRGINIA BEACH	VA	23464-7114
WILSON, VEASEY W & VALERIE SEAY REVOCABLE LIVING TRUST	9737 DOLPHIN RUN	NORFOLK	VA	23518-2050
WINGATE, CHEYENNE NICOLE	582 W OCEAN VIEW AVE UNIT B	NORFOLK	VA	23503-1515
WISNEVSKY, ALENE B TRUST	632 W OCEAN VIEW AVE APT A	NORFOLK	VA	23503-1428
WOLFF, BEVERLEY B	100 E OCEAN VIEW AVE UNIT 611	NORFOLK	VA	23503-1632
WOODRUFF, JAMES M	100 E OCEAN VIEW AVE UNIT 901	NORFOLK	VA	23503-1634
WOODY, MICHAEL A & DJARIS A	4519 BRIARWICK DR	RICHMOND	VA	23236
YECKEL, JOSEPH D	810 E OCEAN VIEW AVE UNIT 104	NORFOLK	VA	23503-1854
ZEMEDKUN, WOLDEGEBRIEL LIVING TRUST ET AL	9657 DOLPHIN RUN	NORFOLK	VA	23518-2020

Virginia Marine Resources Commission
Shellfish Management Public Comments
Application Number 2021016

Print Date: Tuesday June 17 2025 15:11

Number	Name	Received	Position
1	ROBERT S PRUHS 757-201-7130 robert.s.pruhs@usace.army.mil	03/31/2025 12:18:53 PM	OPPOSE

ON BEHALF OF THE USACE-NORFOLK DISTRICT I AM SUBMITTING COMMENT OPPOSING THE PROPOSED LEASE 2021016 . AS PROPOSED, THE LEASE WILL ALTER AND IMPAIR THE ADJACENT CONGRESSIONALLY AUTHORIZED CIVIL WORKS PROJECT, "WILLOUGHBY SPIT VICINITY BEACH RENOURISHMENT PROJECT". ANY ACTION THAT MAY "ALTER" OR "IMPAIR" THE CIVIL WORKS PROJECT MUST RECEIVE PERMISSION FROM THE USACE THROUGH SECTION 408 OF THE RIVERS AND HARBORS ACT, A USACE AUTHORITY. SPECIFICALLY, THE PROPOSED LEASE WILL IMPACT THE USACE'S ABILITY TO CONSTRUCT AND MAINTAIN THE PROJECT. BEACH NOURISHMENT PROJECTS OFTEN UTILIZE HOPPER DREDGES TO BORROW SAND FROM DISTANT SAND SOURCES AND TRANSPORT THE SANDS TO A PUMP-OUT LOCATION AND CONVEY TO THE BEACH SITE. HYDRAULIC OFFLOADING OF THE SANDS TYPICALLY REQUIRES A "SCOTT BUOY" AND SUBMERGED PIPELINES TO CONVEY SANDS FROM THE HOPPER DREDGE TO THE BEACH SITE. BEACH NOURISHMENT PROJECTS TYPICALLY REQUIRE MULTIPLE SUBLINES TO CONVEY SANDS TO BEACH SITE WITHIN PUMP LIMITATIONS. THE PROPOSED LEASE MAY HAVE ADDITIONAL IMPACTS TO THE PROJECT THAT THE USACE WILL EVALUATE AS NECESSARY. THE PROPOSED LEASE WILL CONSTRAIN THE CIVIL WORKS PROJECT AND CONFLICT WITH THE CONSTRUCTION AND MAINTENANCE OF THE AUTHORIZED PROJECT AND REQUIRES RHA SECTION 408 PERMISSION. THE USACE-NORFOLK DISTRICT RESPECTFULLY REQUESTS CONSIDERATION OF THE APPARENT IMPACTS TO THE CIVIL WORKS PROJECT.

Commonwealth of Virginia

PROTEST

Stagg, Robert <ben.stagg@mrc.virginia.gov>

Objection to oyster lease application #2021016

7 messages

Lena Lecklider <llecklider@cox.net> Mon, Aug 9, 2021 at 1:56 PM
To: ben.stagg@mrc.virginia.gov

Good Afternoon,

Meeting with neighbors this weekend I had learned about the application for an oyster lease #2021016 by Mark Johnson which would lay directly west of the Ocean View Fishing Pier and could potentially encroach to 9th view. This is concerning on multiple levels. We are a heavily occupied beachfront community. Meaning families frequent our neighborhood shore that live here and vacation here. Many of whom fish, crab, boat, sail, jet ski, paddle-board and even Navy Seals that live directly waterfront and swim/train. There is very real concern for our safety if this lease goes forward.

The amount of storms and nor'easters pose a potential danger if beds were to be disrupted and contents are blown on the shoreline. That would create a huge safety hazard to our community. The little oysters we have on the rocks of our jetties are already a danger when stepped on. I, personally, have cut my foot on oyster shells and my daughter had to go the the ER for a cut so deep she required multiple stitches and was placed on antibiotics because of the bacteria on the shell that can cause infection. We have so many children in the area that frolic these waters I would hate for our experience to become a trend.

In addition, while Norfolk is attempting, using for example AirBnB websites, to re-establish itself as a beachfront vacation destination, encumbering direct access to water activities would only significantly disrupt this effort. I cannot begin to estimate the lost tax revenue from vacationers choosing not to share water access with oyster beds. The people and investment companies that have spent time and money into the properties surrounding this potential lease had no idea this would be a possibility when investing and will be opposed to the risks that their customers would encounter when taking a swim, exercising, using personal watercraft, or even taking a stroll at sunset. There would be no way to safely navigate watercraft to our shoreline without damage to property or to person.

In early summer we have multiple fisheries that have hundreds of crab pots scattered in this small area. This would also negatively impact multiple already struggling small businesses if they no longer have access to crab.

There is a near infinite shoreline of the James River and Elizabeth River along with creeks and tributaries within Hampton Roads that would be ideal areas for oyster farming and would have zero direct impact on local and vibrant communities. This is not one of them. The direct negative impact to our tiny community would be huge if this lease is approved and therefore I can not support it and will be alerting our civic league and neighborhood forums to the issue to protest to the application. In an informal poll of neighbors up and down the beach, not one is in favor of this project and will do everything in their power to prevent its approval.

Please feel free to contact me with any developments. We are obviously very concerned on the matter.

Thank you,

Lena Lecklider
780 w Ocean View Ave
Norfolk Va 23503
(757)403-9070

Stagg, Robert <ben.stagg@mrc.virginia.gov> Tue, Aug 10, 2021 at 8:15 AM
To: Lena Lecklider <llecklider@cox.net>

Lena Lecklider:

FISHERIES MANAGEMENT DIVISION EVALUATION 6/27/2025

PUBLIC HEARING: Proposal to amend Chapter 4 VAC 20-270-10 et seq., "Pertaining to Blue Crab Fishery," to establish management measures, including season and bushel limits, for the 2025-2026 commercial blue crab fisheries and to close the 2025-2026 winter commercial crab dredge fishing season.

ISSUES AND BACKGROUND:

Management of blue crabs is updated on an annual basis, where bushel limits are effective from July 5th of one year to July 4th of the next and an evaluation of the winter dredge season is conducted annually. This allows managers to respond, if necessary, to the most recent dredge survey results, which are usually released in May.

The Bay-wide Winter Dredge Survey is the primary survey used to assess the Chesapeake Bay's blue crab population. Since 1990, the survey has been conducted annually from mid-December through mid-March at 1,500 randomly chosen sites by the Virginia Institute of Marine Science (VIMS) and Maryland Department of Natural Resources (MD DNR). During winter's cold temperatures, blue crabs bury into the muddy bottom and remain sedentary until spring. Sampling during this time allows scientists to capture crabs more efficiently and to reduce bias of crabs moving throughout the Bay to develop estimates of the number of crabs. The survey objectives are to describe the size and sex composition of the Bay-wide population, develop accurate estimates of Bay-wide blue crab abundance and harvest exploitation, and to evaluate the status of the stock on a yearly basis.

Results of the 2025-2026 Bay-wide Winter Dredge Survey, as well as harvest results from the 2024 fisheries, indicate the Chesapeake Bay blue crab stock is currently not overfished and overfishing is not occurring. However, total crab abundance declined to 238 million crabs—a decrease of 25% from the 2024 abundance. The total abundance in 2025 ranks the second lowest of the 36 years of the survey.

Of spawning age crabs, the survey estimated an abundance of 138 million crabs for 2025, a decrease of 23% from 2024. The survey further estimates the adult population by sex, as the fishery is managed by sex-specific reference points. The current estimate of spawning age (age-1+) female abundance (108 million) is 19% lower than the 2024 estimate and 8% below the long-term average of 117 million crabs. While above the minimum threshold of 72 million crabs, below which the population would be considered depleted, this still falls below the

population target of 196 million. The adult female abundance in 2024 is the 19th highest across the 35-year time series, with the lowest abundances occurring in the period prior to 2008. Management measures imposed in 2008 to reduce Bay-wide female crab harvest by 34% have promoted stock growth since that time with generally higher annual adult female crab abundance observed in the winter dredge survey with normal annual variability due to environmental conditions. Adult male crabs were estimated at 26 million, which is a decrease of 43% from the 2024 value of 46 million crabs and below the long-term average of 61 million.

Preliminary Bay-wide commercial harvest (excluding seaside areas) for 2024 was 42.5 million pounds, a 7% increase from 2023's Bay-wide harvest of 45.7 million pounds. Virginia's commercial harvest, including the seaside areas, is estimated at 15.4 million pounds, a decrease of 17% from 2023's 18.5 million pounds. Both the Bay-wide and Virginia harvest in 2024 were below ten-year averages (50 and 22 million lbs, respectively). Crab harvest is monitored for overfishing each year by comparing the number of female crabs harvested as a percentage of the total female crab population. Exploitation of female crabs was at 22% in 2024, which is below the overfishing threshold of 37% (meaning the stock is not being overfished) and below the fishing target of 28%.

In light of these results, staff recommend maintaining last year's crabbing measures for the coming year. Status quo measures for the Virginia commercial hard crab pot fishery include reduced bushel limits beginning November 1, 2025; the season ending December 16, 2025; and the season re-opening March 17, 2026, with reduced bushel limits lasting through May 15, 2026. All other commercial crab gears would have a season closing October 16, 2025, and re-opening April 15, 2026.

Since 2008, when Virginia effected a large decrease in harvest to conserve a consistently low blue crab population, the winter crab dredge fishery season has remained closed. The winter crab dredge fishery season, as described in the Code of Virginia, is from December 1 to the following March 31. During these months, most of the crabs available for harvest matured from the juvenile stage in the previous winter. The majority of the overwintering female crabs are pre-spawners, and studies have shown the dredge fishery harvested mostly (95%) female crabs. A winter dredge fishery season, especially when blue crab adult female abundance has not achieved the desired target, could negatively affect subsequent spawning events and crab pot harvest. At their August 20, 2024, meeting, the Crab Management Advisory Committee voted to revisit opening the winter crab dredge fishery after the completion of the ongoing benchmark stock

assessment for Chesapeake Bay blue crabs in 2026. For these reasons, staff recommend closing the upcoming 2025/2026 winter crab dredge fishery season.

These recommendations will be discussed at the May 29, 2025, CMAC meeting. No public comments have been received at this time.

A public notice that advertised these proposed amendments is attached to this evaluation.

STAFF RECOMMENDATION: Staff recommends the Commission amend Chapter 4 VAC 20-270-10 et seq., "Pertaining to Blue Crab Fishery," to establish management measures, including season and bushel limits, for the 2025-2026 commercial blue crab fisheries and to close the 2025-2026 winter commercial crab dredge fishing season.

COMMONWEALTH of VIRGINIA

Marine Resources Commission
Building 96
380 Fenwick Road
Fort Monroe, VA 23651

Stefanie K. Taillon
Secretary of Natural
and Historic Resources

Jamie L. Green
Commissioner

NOTICE

The Virginia Marine Resources Commission invites public comment on proposed amendments to regulations, as shown below. By June 5, 2025, the proposed draft regulations may be viewed on the VMRC web calendar at https://mrc.virginia.gov/calendar.shtm.

In accordance with Section 28.2-209 of the Code of Virginia, a public hearing on the proposed amendments to these regulations will be held on Tuesday, June 24, 2025, at the Virginia Marine Resources Commission, 380 Fenwick Road, Bldg. 96, Fort Monroe, Virginia.

Written public comments on the proposals below or on items not on the agenda must be provided by 11:59 p.m., Thursday, June 19, 2025. Comments should be made at the following link: https://webapps.mrc.virginia.gov/public/fisheries/search_publiccomments.php or addressed to Public Comments, 380 Fenwick Road, Bldg. 96, Fort Monroe, Virginia 23651.

The Commission may review Fisheries Management Division items as early as 9:30 a.m.

I. Chapter 4VAC20-270-10 et seq., "Pertaining to Blue Crab Fishery"

The Commission proposes to amend Chapter 4VAC20-270-10 et seq., "Pertaining to Blue Crab Fishery," to establish management measures, including season and bushel limits, for the 2025-2026 commercial blue crab fisheries and to close the 2025-2026 winter commercial crab dredge fishing season.

The purpose of these amendments is to promote the blue crab fishery and conserve the blue crab resource.

VMRC DOES NOT DISCRIMINATE AGAINST INDIVIDUALS WITH DISABILITIES; THEREFORE, IF YOU ARE IN NEED OF REASONABLE ACCOMMODATIONS BECAUSE OF A DISABILITY, PLEASE ADVISE MICHELE GUILFORD (757-247-2206) NO LATER THAN FIVE WORK DAYS PRIOR TO THE MEETING DATE AND IDENTIFY YOUR NEEDS.

"PERTAINING TO BLUE CRAB FISHERY"

CHAPTER 4 VAC 20-270-10 ET SEQ.

PREAMBLE

This chapter establishes daily individual, vessel and harvest and possession limits, time limits, season limits, peeler pot limits, and peeler and softshell crab minimum size limits for the commercial blue crab fishery in Virginia and the daily recreational blue crab harvest and possession limit. This chapter is promulgated pursuant to authority contained in §§ 28.2-101, 28.2-201 and 28.2-700 et seq. of the Code of Virginia. This chapter repeals any other chapters that pertain to crab pot bushel limits. This chapter amends and re-adopts, as amended, previous Chapter 4VAC 20-270-10 et seq., which was promulgated ~~June 25, 2024~~, October 28, 2024, and made effective on ~~July 5, 2024~~ November 1, 2024. The effective date of this chapter, as amended, is ~~November 1, 2024~~ July 5, 2025.

4 VAC 20-270-10. Purpose.

The purpose of this chapter is to allow for the conservation and rebuilding of the crab resource and to improve the enforceability of other laws pertaining to crabbing.

4 VAC 20-270-15. Definitions.

The following word or term when used in this chapter shall have the following meaning unless the context indicates otherwise:

"Crab" as described in this chapter refers solely to the crustacean Callinectes sapidus.

4 VAC 20-270-20. Sunday prohibition and limited exception for possession of male hard crabs.

It shall be unlawful to take or harvest crabs for commercial purposes on Sunday. This section shall not apply to baiting and setting any hard crab pot or peeler pot, the harvest of peeler crabs by crab traps or peeler pots, or to the working of floats, pens, or onshore facilities for soft crab shedding operations. Any person licensed to harvest peeler crabs by peeler pot may harvest one bushel of male crabs from his peeler pots on Sunday strictly for the purpose of baiting his peeler pots, and such crabs may not be sold.

4 VAC 20-270-25. Lawful commercial harvest gears.

It shall be unlawful to possess or sell crabs harvested for commercial purposes by any means other than by hard crab pot, peeler pot, dip net, ordinary or patent trotline, crab dredge, crab scrape, or crab trap or pound.

4 VAC 20-270-30. Daily time limits for commercial harvest.

A. It shall be unlawful for any person licensed to catch and sell crabs taken by hard crab pot or peeler pot to take and harvest crabs from any hard crab pot or peeler pot, or to retrieve, bait, or set any hard crab

pot or peeler pot, except between 3 a.m. to 5 p.m. during the lawful season, as described in 4VAC20-270-40 A.

B. The lawful daily time periods for the commercial harvest of crabs by hard crab pot or peeler pot may be rescinded by the Commissioner of Marine Resources when the commissioner determines that a pending weather event is sufficient cause for the removal of hard crab pots from the tidal waters of the Commonwealth.

4 VAC 20-270-40. Season limits.

A. In ~~2024~~2025, the lawful season for the commercial harvest of crabs by hard crab pot shall be March 17 through December 16. In ~~2025~~2026, the lawful season for the commercial harvest of crabs by hard crab pot shall be March 17 through November 30. For all other lawful commercial gear used to harvest crabs, as described in 4 VAC 20-1040, the lawful seasons for the harvest of crabs shall be April 15 through October 15.

B. It shall be unlawful for any person to harvest crabs or to possess crabs on board a vessel, except during the lawful season, as described in subsection A of this section.

C. It shall be unlawful for any person knowingly to place, set, fish or leave any hard crab pot in any tidal waters of Virginia from December 17, ~~2024~~2025, through March 16, ~~2025~~2026. It shall be unlawful for any person to knowingly place, set, fish, or leave any lawful commercial gear used to harvest crabs, except any hard crab pot or any gear as described in 4 VAC 20-460-25, in any tidal waters of Virginia from October 16, ~~2024~~2025, through April 14, ~~2025~~2026.

D. It shall be unlawful for any person to place, set, or fish any number of fish pots in excess of 10% of the amount allowed by the gear license limit, up to a maximum of 30 fish pots per vessel, when any person on that vessel has set any crab pots.

1. This subsection shall not apply to fish pots set in those Virginia waters located upriver of the following boundary lines:

a. In the James River the boundary shall be a line connecting Hog Point and the downstream point at the mouth of College Creek.

b. In the York River the boundary lines shall be the Route 33 bridges at West Point.

c. In the Rappahannock River the boundary line shall be the Route 360 bridge at Tappahannock.

2. This subsection shall not apply to legally licensed eel pots as described in 4VAC20-500.

3. This subsection shall not apply to fish pots constructed of a mesh less than one-inch square or hexagonal mesh.

4 VAC 20-270-50. Peeler crab pot and hard crab pot limits.

A. It shall be unlawful for any person to place, set or fish or attempt to place, set or fish more than 210 peeler crab pots in Virginia tidal waters.

B. The lawful hard crab pot license categories and hard crab pot limits are as follows:

1. up to 85 crab pots.
2. up to 127 crab pots.
3. up to 170 crab pots.
4. up to 255 crab pots.
5. up to 425 crab pots.

C. It shall be unlawful for any person to knowingly place, set or fish any amount of crab pots that exceeds that person's crab pot limit, as described in subsection B of this section.

4 VAC 20-270-51. Daily commercial harvester, vessel, and harvest and possession limits.

A. Any barrel used by a harvester to contain or possess any amount of crabs will be equivalent in volume to no more than three bushels of crabs.

B. From July 5, ~~2024~~2025, through October 31, ~~2024~~2025, and May 16, ~~2025~~2026, through July 4, ~~2025~~2026, any commercial fisherman registration licensee legally licensed for any hard crab pot license, as described in 4VAC20-270-50 B, shall be limited to the following maximum daily harvest and possession limits for any of the following hard crab pot license categories:

1. 10 bushels, or three barrels and one bushel, of crabs, if licensed for up to 85 crab pots.
2. 14 bushels, or four barrels and two bushels, of crabs, if licensed for up to 127 crab pots.
3. 18 bushels, or six barrels, of crabs, if licensed for up to 170 crab pots.
4. 29 bushels, or nine barrels and two bushels, of crabs, if licensed for up to 255 crab pots
5. 47 bushels, or 15 barrels and two bushels, of crabs, if licensed for up to 425 crab pots.

C. From November 1, ~~2024~~2025, through December 16, ~~2024~~2025, and March 17, ~~2025~~2026, through May 15, ~~2025~~2026, any commercial fisherman registration licensee legally licensed for any hard crab pot license, as described in 4VAC20-270-50 B, shall be limited to the following maximum daily harvest and possession limits, for any of the following crab pot license categories:

1. Eight bushels, or two barrels and two bushels, of crabs, if licensed for up to 85 crab pots.
2. 11 bushels, or three barrels and two bushels, of crabs, if licensed for up to 127 crab pots.
3. 14 bushels, or four barrels and two bushels, of crabs, if licensed for up to 170 crab pots.
4. 22 bushels, or seven barrels and one bushel of crabs, if licensed for up to 255 crab pots.
5. 36 bushels, or 12 barrels of crabs, if licensed for up to 425 crab pots.

D. When a single harvester or multiple harvesters are on board any vessel, that vessel's daily harvest and possession limit shall be equal to only one daily harvest and possession limit, as described in subsections B and C of this section, and that daily limit shall correspond to the highest harvest and possession limit of only one licensee on board that vessel.

E. When transporting or selling one or more legal crab pot licensee's crab harvest in bushels or barrels, any agent shall possess either the crab pot license of that one or more crab pot licensees or a bill of lading indicating each crab pot licensee's name, address, commercial fisherman registration license number, date, and amount of bushels or barrels of crabs to be sold.

F. If any police officer finds crabs in excess of any lawful daily bushel, barrel, or vessel limit, as described in this section, that excess quantity of crabs shall be returned immediately to the water by the licensee who possess that excess over lawful daily harvest or possession limit. The refusal to return crabs, in excess of any lawful daily harvest or possession limit, to the water shall constitute a separate violation of this chapter.

G. When any person on board any boat or vessel possesses a crab pot license, it shall be unlawful for that person or any other person aboard that boat or vessel to possess a Seafood Buyers Boat License and buy any crabs on any day.

4 VAC 20-270-52. Area Restriction.

A. It shall be unlawful for any person to use any gear, except hard crab pots or peeler pots, to harvest crabs from the waters of Back Bay and North Landing River or within the jurisdiction of the Albemarle and Currituck watersheds as described in § 28.2-101 of the Code of Virginia.

B. It shall be unlawful to possess, sell, or offer for sale crabs taken by any means other than hard crab pot or peeler pot from the waters described in this section.

4 VAC 20-270-55. Minimum size limits.

A. From the beginning of the season as described in 4VAC20-270-40 through July 15, it shall be unlawful for any person to harvest, possess, sell or offer for sale more than 10 peeler crabs, per United States standard bushel, or 5.0% of peeler crabs in any other container, that measure less than 3-¼ inches across the shell from tip to tip of the longest spikes. From July 16 through the end of the season as described in 4VAC20-270-40, it shall be unlawful for any person to harvest, possess, sell or offer for sale more than 10 peeler crabs, per United States standard bushel, or 5.0% of peeler crabs in any other container, that measure less than 3-½ inches across the shell from tip to tip of the longest spikes, except as described in subsections B and C of this section.

B. From July 16 through the end of the season as described in 4VAC20-270-40, it shall be unlawful for any person to harvest, possess, sell or offer for sale more than 10 peeler crabs, per United States standard bushel, or 5.0% of peeler crabs in any other container, that are harvested from waters on the ocean side of Accomack and Northampton counties and measure less than 3-¼ inches across the shell from tip to tip of the longest spikes, except as described in subsection C of this section.

C. In the enforcement of these peeler crab minimum size limits aboard a vessel, the marine police officer shall select a single container of peeler crabs of his choosing to determine if the contents of that container violate the minimum size and tolerance described in this section. If the officer determines the contents of the container are in violation, then the officer shall return all peeler crabs on board the vessel to the water alive.

D. It shall be unlawful for any person to take, catch, harvest, possess, sell or offer for sale, or to destroy in any manner, any soft crab that measures less than 3-½ inches across the shell from tip to tip of the longest spikes.

4 VAC 20-270-56. Daily Recreational harvest and possession limit.

It shall be unlawful to take by using an unlicensed dip net or hand line, or two crab pots, or to harvest or possess for personal use aboard any vessel, more than one bushel of hard crabs or two dozen peeler crabs per day.

4 VAC 20-270-57. Crab dredge fishery.

In accordance with the provisions of Section 28.2-707 of the Code of Virginia, the crab dredging season of December 1, ~~2024~~2025, through March 31, ~~2025~~2026, is closed, and it shall be unlawful to use a dredge for catching crabs from the waters of the Commonwealth during that season.

4 VAC 20-270-58. Repealed.

4 VAC 20-270-60. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

* * * * * * * *

This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Marine Resources Commission, pursuant to authority vested in the Commission by § 28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Hampton, Virginia on June 24, 2025.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

By: _____

Jamie L. Green
Commissioner

Subscribed and sworn to before me this ____ day of _____ 2025.

_____

Notary Public