

Virginia Marine Resources Commission

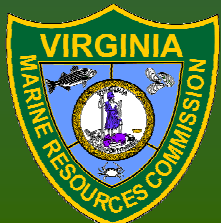
2600 Washington Avenue, Third Floor
Newport News, Virginia 23607

www.mrc.virginia.gov

WHY ARE WE HERE?

User conflicts involving the leasing of oyster planting grounds, the marking of such grounds, aquaculture structures and the marking of areas where such structures are deployed prompted recent legislative proposals seeking to address some of these issues.

Specifically, at the 2016 General Assembly session a number of bills were introduced concerning these issues. In light of those bills, the Commission voted, in January of 2016, to place a moratorium on the assignment of any new oyster planting ground leases within the Lynnhaven River system for a seven month period. At that time the Commission also voted to create a workgroup to study such issues within the Lynnhaven River area and that a work group be created to discuss these user conflicts and to provide possible solutions to address these issues.



– Private Oyster Ground
Leasing/Mapping/Surveying (lease and
application information)

- 122,692 acres, 5,517 leases by 2,566 leaseholders
- Applications received:
 - 2010 - 155
 - 2011 - 118
 - 2012 - 150
 - 2013 - 182
 - 2014 – 338
 - 2015 – 315
 - 2016 YTD - 97



Current shellfish lease/permit information

- Receive up to 330 new lease applications yearly
- Received 7 new Joint Permit Applications for commercial float/cage shellfish propagation in 2015 (two have been approved, none in the Lynnhaven River system)
- Approved 9 cage permits for structures greater than 12 inches above the substrate, since 2008 (the most recent being in 2012, and none are in the Lynnhaven River system)
- Current backlog of lease applications = 402 (350 regular leases, 50 riparians, 1 Bay ground, 1 bathing)
- Of the current 402, 75 are protested (19%).



Activities allowed on leased grounds

Both regular and riparian leases can be used commercially for shellfish propagation

Traditional use of leases was to plant shell, cultch, or seed oysters or wait for natural strike and then harvest when market size ready

In recent years the move has been to cage and float aquaculture methods. Cages up to 12-inches in height are allowed (by regulation since 1997) on leases. Any structure above the 12-inch height and/or floats require additional authorizations



Other authorizations required for aquaculture activity

For cages greater than 12-inches, a permit is required through our Fisheries Management Division (if on a lease)

For floating aquaculture apparatus a permit is required through the Joint Permit Application process and is issued through our Habitat Management Division

Any cage apparatus on non-leased bottomlands, or any water column apparatus request also requires the Joint Permit Application process



Shellfish application information

- Any Virginia resident can apply for an oyster ground lease (or a 60% VA owned corporation)
- Application fee is \$25.00
- Maximum acreage per application is 250 acres
- Code of VA requires public notices be posted in the area of the application (two sites), at the local courthouse, and in a local paper once a week for four consecutive weeks, the cost of the notice is paid by the applicant (except for riparian lease applications). The agency also now posts all applications on the agency website
- After the public notice period, grounds are surveyed at a cost of \$675 if performed by Commission Surveyor



Shellfish application information (cont'd)

- If a protest is received at any time during the public interest review, or if after being surveyed and the protest cannot be resolved, a public hearing at a regular Commission meeting is required for final action on the lease application request
- Commission action is based upon a staff report and recommendation and any comments previously received or those provided at the hearing
- Commission actions are appealable to Circuit Court in the locality where the application is located



Evolution of aquaculture management

In 1994 and 1995 the General Assembly requested VMRC conduct an analysis of its organic statutes and regulations to identify those that might inhibit the development and operation of shellfish aquaculture operations

One of the request from the General Assembly included the following goal, “...lowering (of) legal, regulatory and financial barriers to aquaculture,”

The appointed advisory committee provided a number of recommendations, one of which was that the Commission consider a water column type lease, which resulted in the 1997 cage/lease regulation



Lynnhaven River system background information:

- Historically, the Lynnhaven River system has been a productive oyster tributary.
- There were 986 acres of Public (Baylor) Grounds within the Lynnhaven River until 1936 when all such grounds were removed by the General Assembly.
- Since that time active leasing within the Lynnhaven River has been the norm.



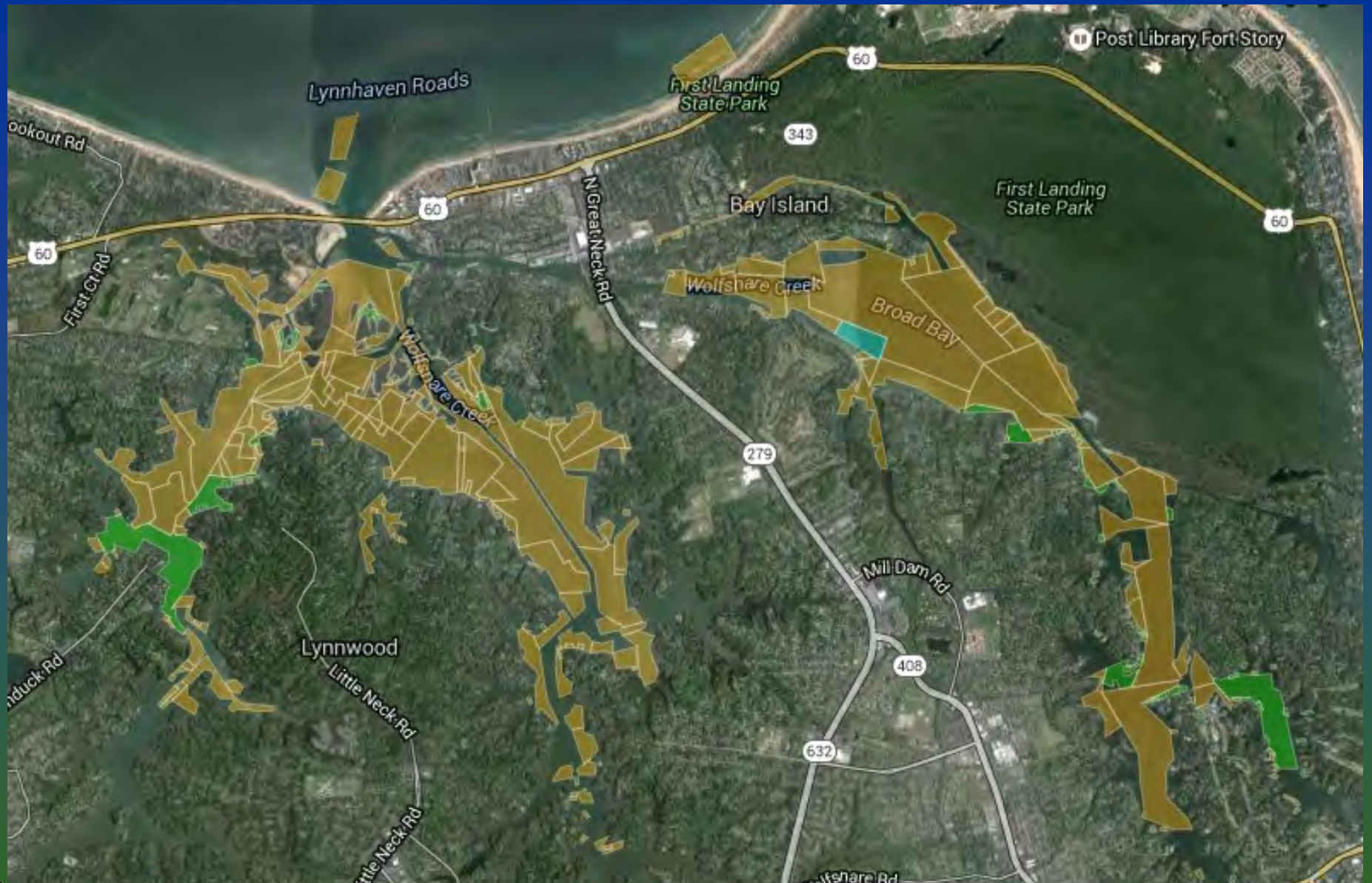
Virginia Beach current lease information

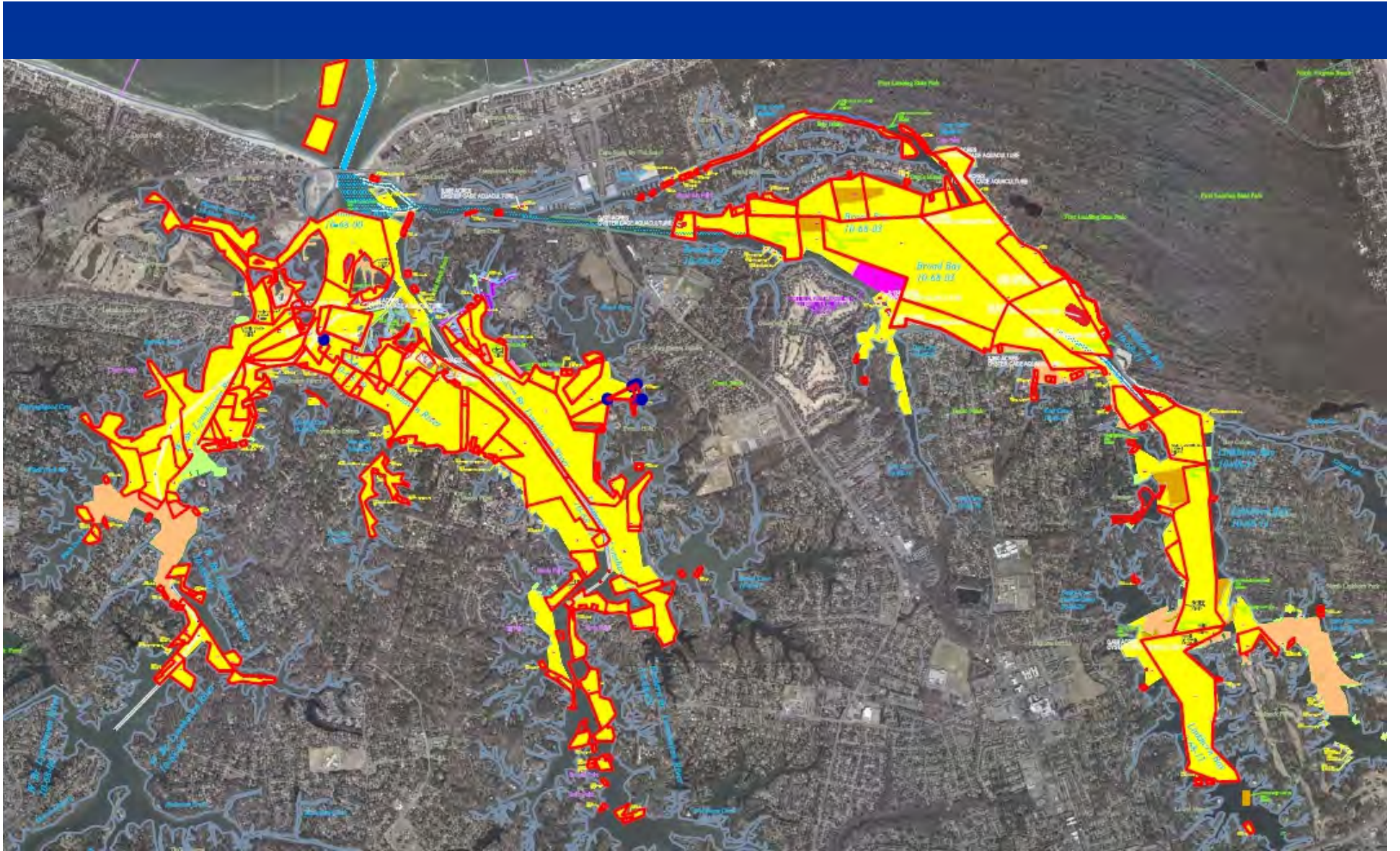
There are 68 riparian leases within the Lynnhaven River system comprising 33 acres

There are 165 regular leases comprising 2,397 acres in the Lynnhaven River system held by 55 individual leaseholders

There are 22 pending riparian applications and 21 pending regular applications. Of the 21 regular applications, 14 are currently protested (66%)



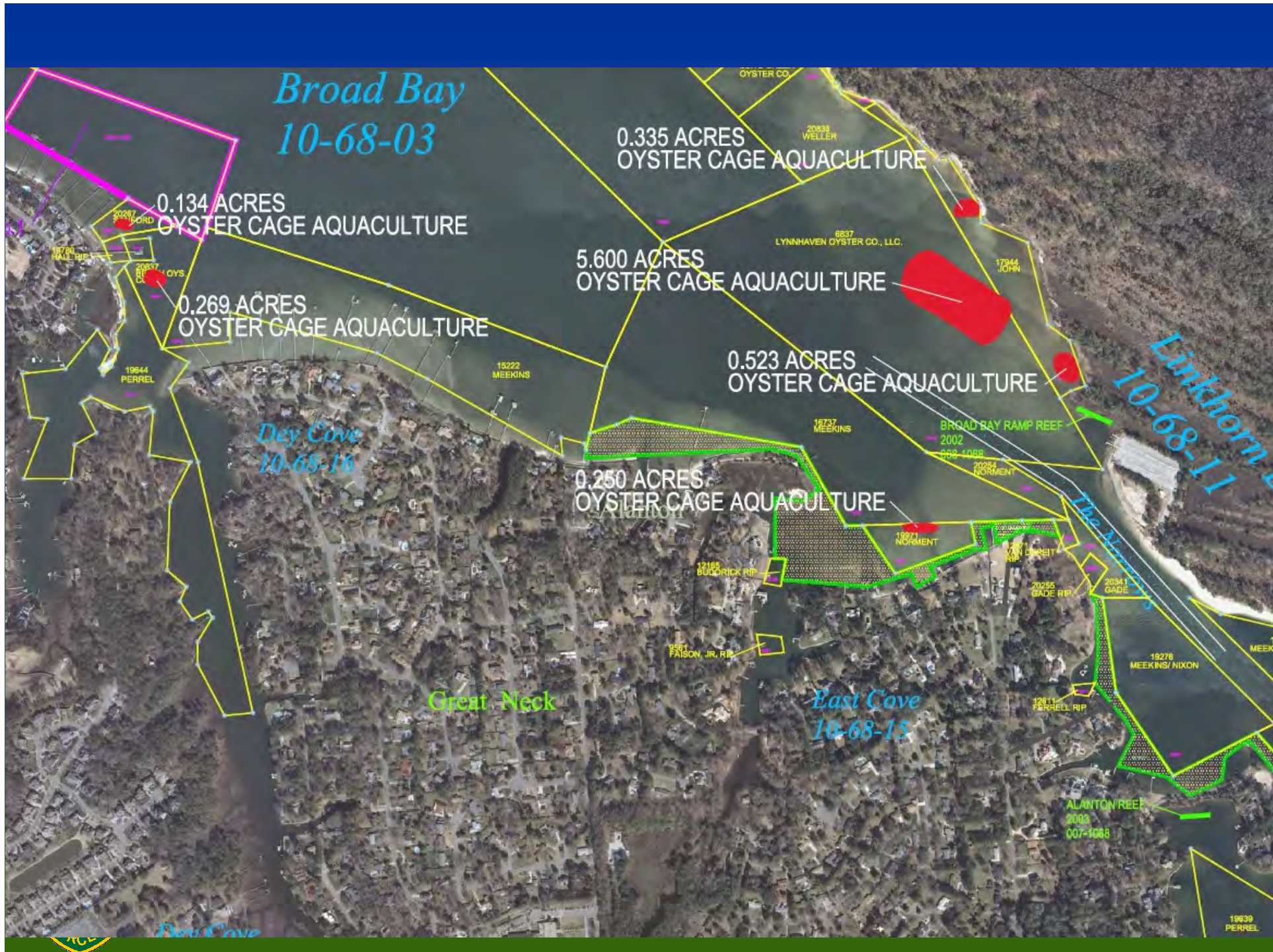


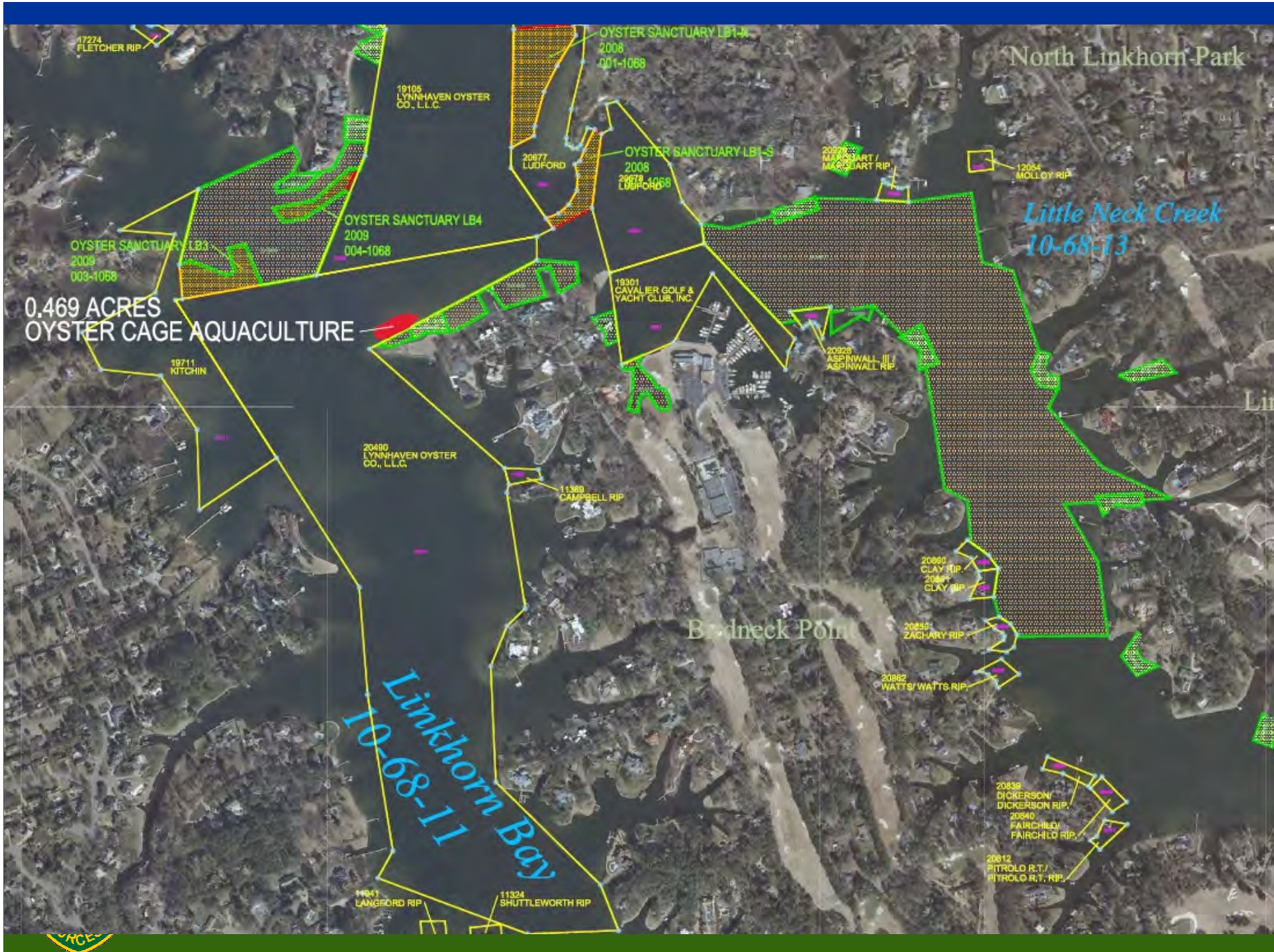




First Landing State Park









Approved VMRC Aquaculture Structure Danger Signs

Option A



Option B



Option C



Lynnhaven River system lease information

Approximate area currently being used for on
bottom cage aquaculture structures is 9.93 acres
out of a total regular lease area of 2,400 acres

Percentage of leased grounds that contain on
bottom cage aquaculture structures = 0.004%
the total regular lease area

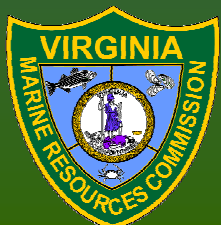


User Conflicts

Increasingly we observe user conflicts related to shellfish leasing and permit activities.

Such conflicts include, other uses of waterways including recreational boating, fishing, swimming, etc. Conflicts with on-bottom cages, surface floats, and lease corner markers have been identified. Highland property owners cite noise, aesthetics and possible adverse impacts to property values due to commercial shellfish husbandry and harvest activities in waters adjacent to residentially zoned upland areas.

Channel dredging request can sometime conflict with shellfish lease areas.



Oyster Workgroup Considerations

It should be noted that most of the implementation of the leasing program is controlled by the Code of Virginia and requires General Assembly action to be changed. (28.2-600 et.seq.)

Areas over which the Commission has direct control include the cost of the survey, the placement of cages on leases and the marking of such leases and structures (through regulations). The agency also approves the licensing/permitting of aquaculture activities to individuals and companies over other non-leased State-owned tidal subaqueous bottomlands .



Questions ?



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