

AGENDA
MARINE RESOURCES COMMISSION
OCTOBER 28, 2024

**** 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. GPYC HOLDINGS LLC, VMRC #24-1880**
requests authorization to install a series of 8-foot wide floating docks to the existing private use Gatling Pointe Yacht Club marina, adjacent to 903 Gatling Pointe Parkway, situated along the Pagan River in Isle of Wight County. Five (5) transient boat slips will be established per the proposed expansion. The project is protested by an adjacent property owner.
- 6. RAPPAHANNOCK RIVER YACHT CLUB, INC., #24-1858**
requests authorization to extend an existing pier to accommodate an additional ten (10) slips at the Rappahannock River Yacht Club adjacent to 100 Rappahannock Road along Carter Creek in Lancaster County. This project is protested.
- 7. SHELLFISH**
Lynnhaven River Now, Oyster Planting Ground Application #2021-050
Requests authorization to lease approximately 5 acres of oyster planting ground in the Lynnhaven River in the City of Virginia Beach
- 8. PUBLIC COMMENTS**
- 9. PUBLIC HEARING**
Proposal to amend Chapter 4VAC20-1250-10 et seq., "Pertaining to the Tagging of Shellfish" to modify the method of identifying harvested shellfish.
- 10. PUBLIC HEARING**
Proposal to amend Chapter 4VAC20-270, "Pertaining to Blue Crab Fishery" to close the 2024/2025 winter crab dredge fishery and consider extending the commercial crab pot fishery season.

AGENDA

PAGE 2 ITEMS

A. RIVER PORT, LLC, #24-1263

requests authorization to mechanically or hydraulically dredge up to 131,400 cubic yards of state-owned submerged lands to depths of minus 44 feet mean low water around Pier 14, minus 38 feet mean low water around Pier 15, and minus 61 feet mean low water within the dry dock between Pier 14 and Pier 15, with future maintenance dredging cycles as-needed with disposal at the Craney Island or an approved upland facility; and to install two (2) mooring dolphins at the commercial facility located along the James River at 1201 Terminal Ave in the City of Newport News. Recommend approval with a dredging royalty of \$78,840.00 for the new dredging of 131,400 cubic yards of new material. This project requires a VMRC Subaqueous permit.

B. MIDDLESEX COUNTY, #24-1778

requests authorization to mechanically or hydraulically dredge up to 123,550 cubic yards of state-owned submerged lands to maximum depths of minus 10 feet mean low water, including future maintenance cycles as necessary, from the Broad Creek Federal Channel with disposal at a previously approved upland facility in Middlesex County. Recommend approval contingent on separation of the silty dredge material, situated adjacent to the existing marina, from the balance of the sandy dredge material. This project requires a VMRC Subaqueous permit.

C. NORFOLK NAVAL SHIPYARD, #24-1932

requests authorization to construct 180 linear feet of temporary steel cofferdam, 180 linear feet of temporary turbidity curtain, and a 180-foot by 8-foot permanent concrete tremie seal slab at -46 feet mean low water, all placed channelward of the existing infrastructure to support a broader reconstruction of Dry Dock 3, serving the Norfolk Naval Shipyard, situated adjacent to the Southern Branch Elizabeth River in the City of Portsmouth.

MINUTES

COMMISSION MEETING

September 24, 2024

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 |
| A.J. Erskine | |
| William Bransom | |
| Jeremy Headley | Associate Members |
| Jeanette Edwards | |
| Thomas Preston | |
| Kelci Block | Assistant Attorney General Via phone |
| Jamie Hogge | Recording Secretary |
| Rachael Peabody | Director of Environmental Policy |
| Gerald Pitt | 1 st . Sgt., Marine Police |
| Zach Widgeon | Director of Communications |
| Pat Geer | Chief, Fisheries Management |
| Randy Owen | Chief, Habitat Management |
| Adam Kenyon | Chief, Shellfish Management |

Virginia Institute of Marine Science (VIMS):

| | | |
|--------------|-----------|-------------|
| Lyle Varnell | Alex Sabo | Rom Lipcius |
|--------------|-----------|-------------|

Others present:

| | | |
|-----------------|--------------|-----------------|
| Nathan Reynolds | James Smith | Roger Evans |
| Marshall Cox | Albert Clark | Julie Kacmarcik |

Jackie Shannon Tim Wivell Ed Tankard
Chris Moore and others.

* * * * *

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

Pat Geer, Chief, Fisheries Mgmt., requested to present Agenda #8 before Agenda #7 because the Chairman of CMAC, Ed Tankard was present but had another engagement that he needed to attend.

Associate Member Headley moved to approve the agenda amended. Associate Member Bransom seconded the motion. The motion carried, 5-0.

* * * * *

MINUTES: Commissioner Green asked if there were any changes or corrections to be made to the August 27, 2024, Commission Meeting minutes.

Associate Member Erskine moved to approve the minutes as presented. Associate Member Bransom seconded the motion. The motion carried, 5-0.

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

* * * * *

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

There were no Page 2 items presented.

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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. **ROGER EVANS, JR. #24-1089**

Requests authorization to construct a 30-foot long by 14-foot wide open-sided single slip boathouse over an existing boat lift, adjacent to property situated along Cod Creek at 485 Clarke Lane in Northumberland County. This project is protested by an 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.

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 the project as presented. Associate Member Headley seconded the motion. The motion carried, 5-0.

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6. **PUBLIC COMMENT:**

Eddie Smith:

Mr. Eddie Smith, waterman, asked for return of his Commercial Fishermen's Registration License. Mr. Smith transferred it to a family member in 2014 and the family member has not renewed it. Commissioner Green advised Mr. Smith to talk to the Chief of Fisheries and Shellfish about the delayed entry process and how to enter fisheries. His comments are part of the verbatim record.

Julie Kacmarcik:

Ms. Julie Kacmarcik, Virginia resident, spoke about the link between menhaden and osprey populations. Her comments are part of the verbatim record.

* * * * *

Presented as Agenda Item #8

7. PUBLIC HEARING

Proposal to amend Chapter 4VAC20-740-10 et seq., "Pertaining to Snagging or Towing of Fish" to allow recreational anglers to snag Atlantic menhaden and mullet species in the Mugel genus (white mullet, striped mullet, and flathead grey mullet).

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

Debbie Cambell, Silver Lakes Beach, was sworn in and spoke in opposition to the regulation change due to the lack of Menhaden. Her comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member Bransom made a motion to amend Chapter 4 VAC 20-740-10 et seq., "Pertaining to the Snagging or Towing of Fish" to allow recreational anglers to snag Atlantic menhaden and mullet species in the Mugel genus. Associate Member Erskine seconded the motion. The motion carried, 5-0.

* * * * *

Presented as Agenda Item #7

8. REQUEST FOR PUBLIC HEARING

Staff presentation, public comment opportunity, and Commission discussion to guide the October Commission decision regarding potential regulatory amendments for the winter crab fishery.

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

Rom Lipcius, VIMS, provided further information regarding conservation equivalency measures for extending the crab pot season. His comments are a part of the verbatim record.

Ed Tankard spoke about Crab Advisory Committee Members. He stated that they prefer the fall crab season as well as the crabbers that may not wish to participate in the crab dredge fishery. His comments are a part of the verbatim record.

Chris Moore, Chesapeake Bay Foundation, further explained the votes of the past meetings. He also stated that the facilitated process helped the meeting. He also stated that he is not in favor of opening the Crab Dredge fishery season for this upcoming season. His comments are a part of the verbatim record.

Mark Sanford spoke in opposition of opening the Crab Dredge Fishery season this year. His comments are a part of the verbatim record.

Nathan Reynold was spoke in support of the crab pot season extension. His comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member Erskine made a motion to advertise for an October public hearing to amend Chapter 4VAC20-270 "Pertaining to Blue Crab Fishery," to close the 2024-25 crab dredge fishery and to extend the crab pot season, while staff continues working toward a framework for a crab dredge fishery. Associate Member Bransom seconded the motion. The motion carried, 4-1. Associate Member Headley voted no.

* * * * *

- 9. DISCUSSION:** Recommendations from the Recreational Fishing Advisory Board.

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

No one spoke in support or opposition of the funding request.

The matter was before the Commission for discussion and action.

Associate Member Headley made a motion to recommend funding 17 of the 18 proposed projects in addition to the Saltwater Tournament and Tagging Program interim staffing needs, totaling \$1,110,556 from the Virginia Saltwater Recreational Fishing Development Fund. Associate Member Edwards seconded the motion. The motion carried, 5-0. Associate Member seconded the motion. The motion carried, -0.

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There being no further business, the meeting is adjourned at 11:22 a.m. The next Commission meeting will be meeting on Monday, October 28, 2024.

Jamie L. Green, Commissioner

Jamie Hogge, Recording Secretary

GPYC Holdings LLC, VMRC
#24-1880

1. Habitat Management Evaluation dated October 28, 2024
(Pages 1-2)
2. Application drawings dated-received August 6, 2024 and September 3, 2024
(Pages 3-8)
3. Adjacent Property Owner Protest letter dated-received September 23, 2024
(Pages 9-10)
4. Neighborhood Resident Protest dated-received October 22, 2024 *received after
evaluation finalized
(Page 11)
5. Comments of Support dated-received September 11, 2024
(Page 12)
6. Virginia Department of Health approvals dated September 5, 2024 and
October 15, 2024
(Pages 13-17)
7. Isle of Wight County Wetlands Board exemption dated August 20, 2024
(Page 18)
8. Oyster Ground Leaseholder approval dated August 12, 2024
(Page 19)
9. Army Corps of Engineers approval dated April 25, 2024
(Page 20-22)
10. VMRC #87-1083 permit issued to Tidewater Brandermill Associates dated
August 22, 1988
(Page 23-33)

October 28, 2024

HABITAT MANAGEMENT DIVISION EVALUATION

GPYC HOLDINGS LLC, VMRC #24-1880, requests authorization to install a series of 8-foot wide floating docks to the existing private use Gatling Pointe Yacht Club marina, adjacent to 903 Gatling Pointe Parkway, situated along the Pagan River in Isle of Wight County. Five (5) transient boat slips will be established per the proposed expansion. The project is protested by an adjacent property owner.

Narrative

The Gatling Pointe Yacht Club (GPYC) Marina was originally permitted and constructed under the developer's name of Tidewater Brandermill Associates – VMRC #1987-1083. It is a 70-slip private use marina located at the beginning of Pagan River just west of its confluence with the James River.

The applicant is requesting to install a series of floating docks on the interior of the marina's main pier head to provide additional water access for activities such as canoeing, kayaking, paddleboarding, and youth and member sailing lessons. Five (5) transient boat slips for marina members and/or their guests are also requested along the interior of the proposed floating docks.

Issues

As part of our public interest review, staff notified the adjacent property owners and initiated an advertisement in the local newspaper. One protest was received from the adjacent property owner immediately to the west, Mr. Carrol Keen, Jr. Mr. Keen owns three consecutive residential lots; one is his residential property, and two are vacant. Mr. Keen does not support the proposal and has concerns related to additional noise from boats and late-night activities on the docks. He ultimately feels the proposed expansion would adversely impact the existing neighborhood and his private property value. Mr. Keen also suggested that the proposal should be shifted to the eastern side of the existing marina walkway, farther away from his properties.

Mr. Keen also questioned if the proposal is permitted, would it limit his ability to construct future private piers from his private properties. *It is worth noting that the original permit for the marina (VMRC #1987-1083) includes a special permit condition that required conformance with a Court recorded deed restriction for Gatling Pointe properties in which *no docks/piers shall be constructed adjacent to neighborhood properties*, other than for the GPYC property.

One letter of support was received from Mrs. Deborah Holloway, stating that the GPYC members and the youth summer programs would benefit greatly from this project.

Staff met with both the applicant and the protestant on multiple occasions to review the proposal and discuss the concerns. Ultimately the applicant decided not to relocate the proposal due to concerns about the fetch and exposure on the eastern side of the marina, facing the mouth of the Pagan River as it enters the James River.

Issues (cont'd)

A portion of the proposal is located within an existing oyster lease (Lease # 10961) belonging to Battery Park Fish and Oyster Company. The leaseholder has provided written correspondence supporting the proposal.

Both the Virginia Department of Health - Marina Program and the Division of Shellfish Sanitation have determined that the proposal is acceptable for permitting. Isle of Wight County determined that no Wetlands Board permit was necessary. The Army Corps of Engineers indicated that the proposal qualifies for their State Programmatic General Permit.

Summary/Recommendations

The proposed floating dock additions appear to be a reasonable expansion to the existing marina facility, especially to grant additional floating dock access for youth sailing/boating training and to offer easier recreational access. The proposed five (5) transient slips appear to be a minimal footprint addition to the overall existing marina's current authorized use. Had the proposal not been protested by the neighboring property, staff would have administratively issued a permit to the applicant. While staff is sensitive to the protestant's concerns, specifically given his proximity to the marina, we don't feel that the additional use of the waterway or impact is unreasonable. The proposal appears to be within the riparian area of the GPYC, and the navigational access to the new floating docks will be no different than the current access to the existing interior slips located along the facility's main pier head. Furthermore, staff does agree with the applicant that placement of the floats on the eastern side of the main pier walkway will expose the proposal to increased energy and fetch from the mouth of the Pagan as it opens to the James River.

Therefore, after evaluating the merits of the project, and after considering all of the factors contained in §28.2-1205 of the Code of Virginia, staff recommends approval of the project as submitted. Such approval should include a royalty of \$5,064.00 for the total encroachment over 3,376 square feet (the proposed floating docks and the transient boat slip area) at rate of \$1.50 per square foot, and a permit condition that no overnight mooring be allowed in the transient slip area.

GATLING POINT YACHT CLUB

GYPE FLOATING DOCK

ISLE OF WIGHT, SMITHFIELD, VA

FLDATING DOCK OPTION

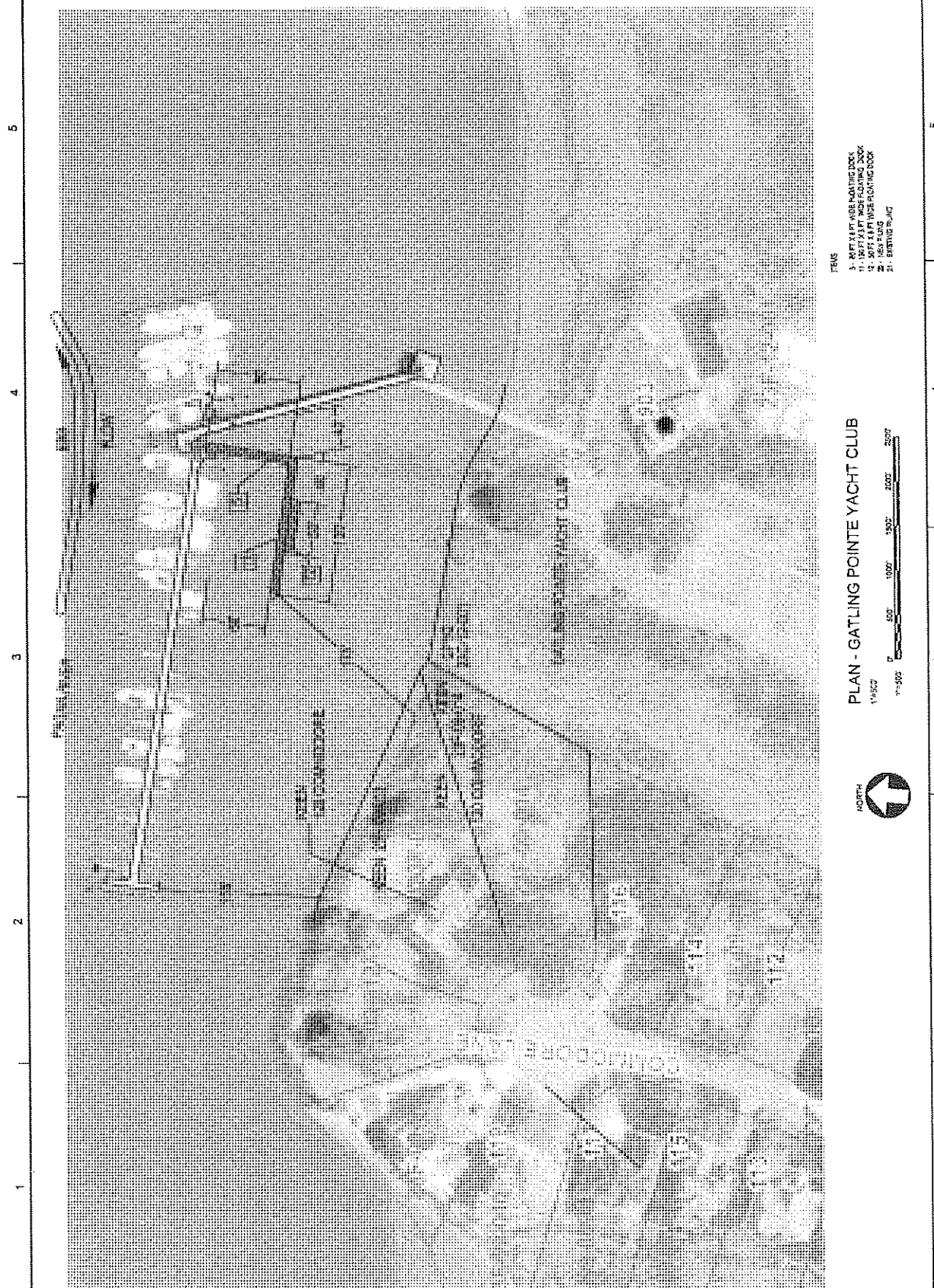
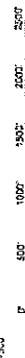
DATE RECEIVED
2007-11-14
STATE OF NEW YORK
ALBANY COUNTY
JUDICIAL DEPARTMENT

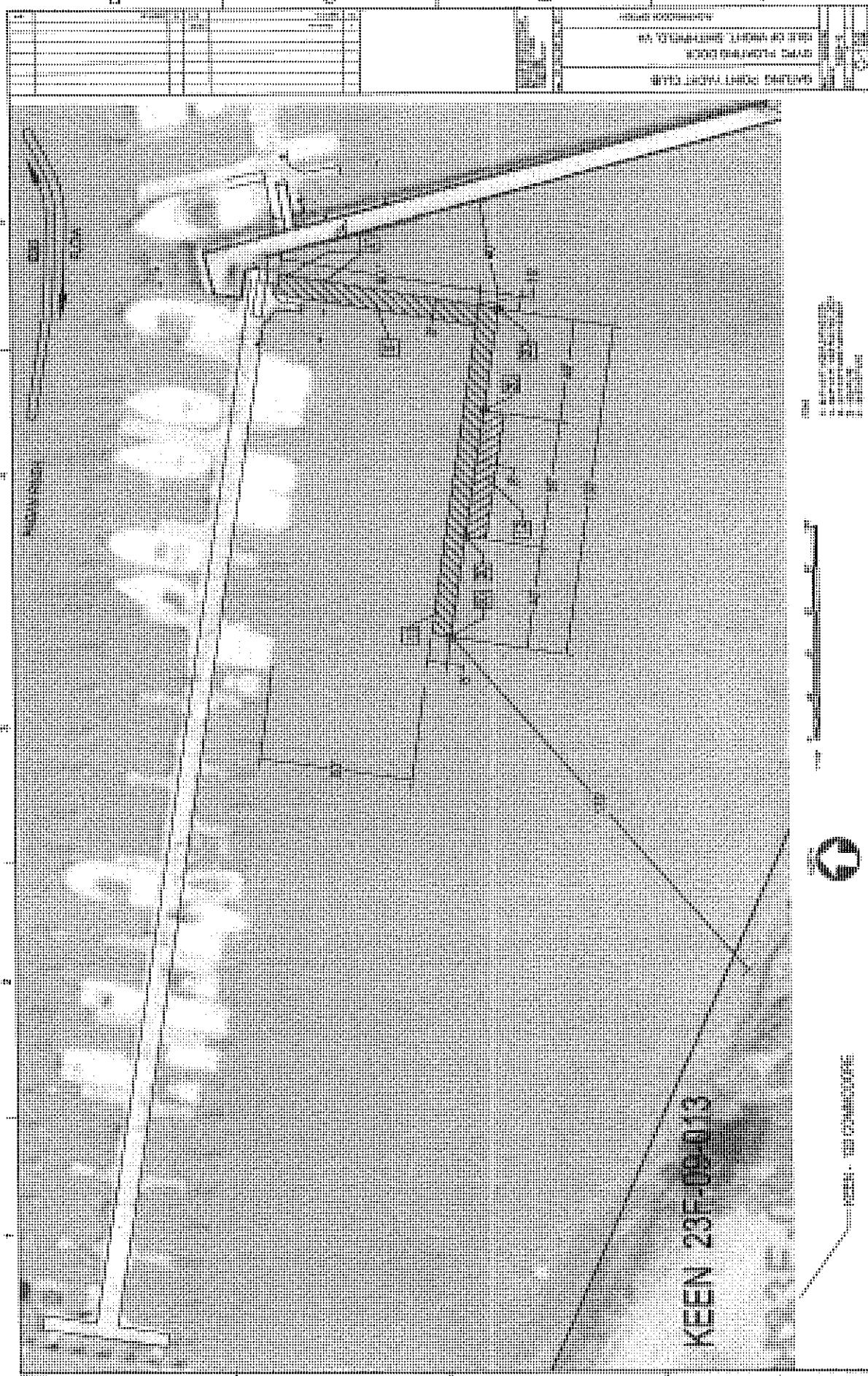
2142-

5. 20 FT X 8 FT WIDE FLOATING DOCK
11. 120 FT X 3 FT WIDE FLOATING DOCK
12. 50 FT X 8 FT WIDE FLOATING DOCK
22. 165X #10G
23. EXISTING PILING

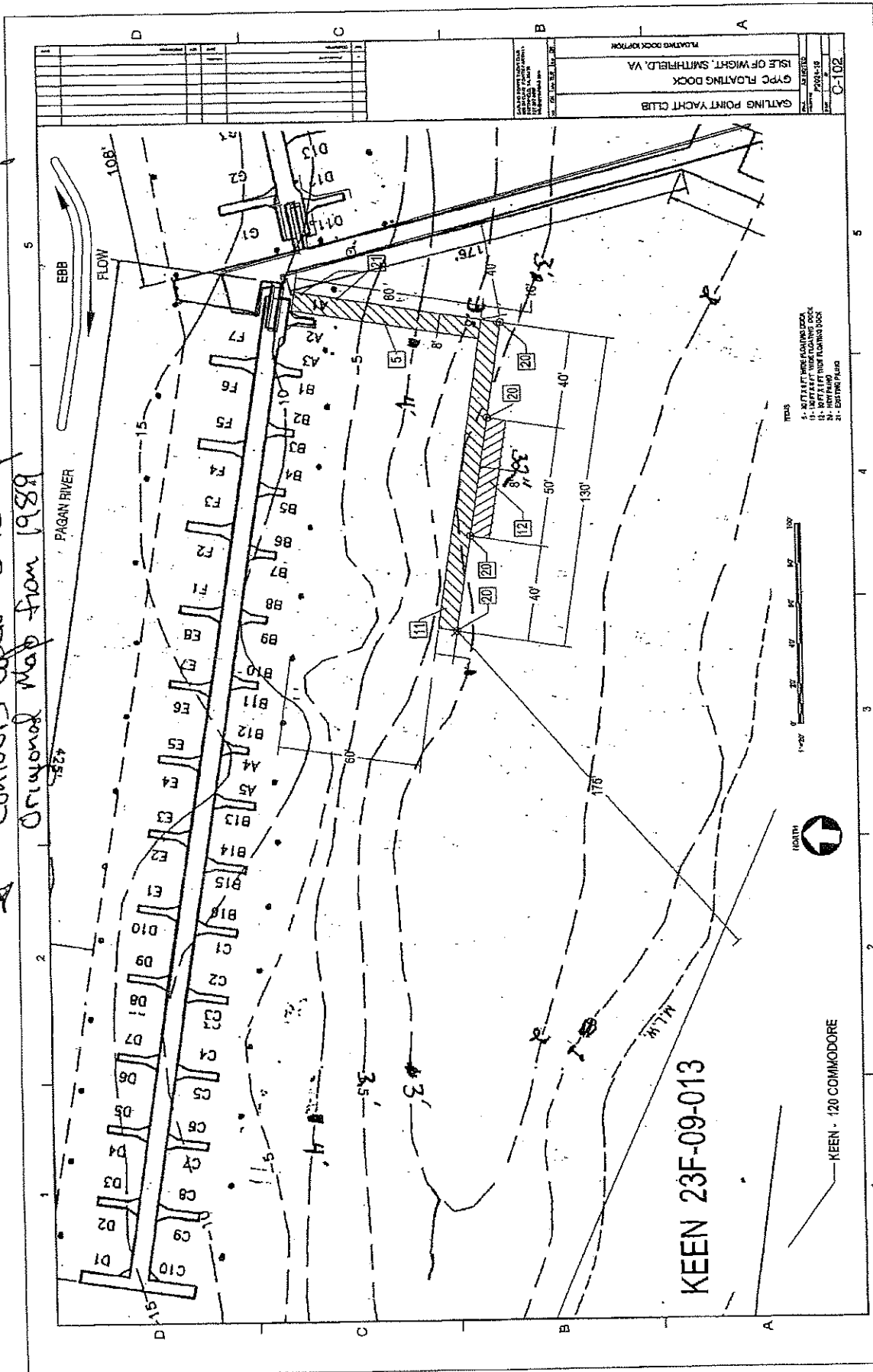
PLAN - GATLING POINTE YACHT CLUB

10-11-12





* - contours updated to reflect current readings
 Original map from 1989



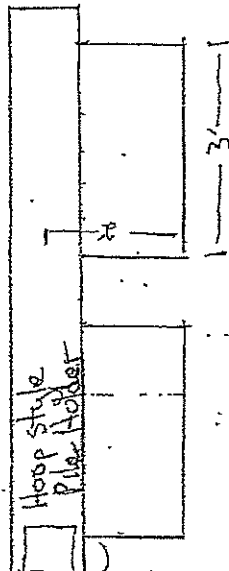
N →

Cross Section View
Gottling Point Yacht Club
Flooding Dock

← Flood
← Ebb

← 40' Pile →

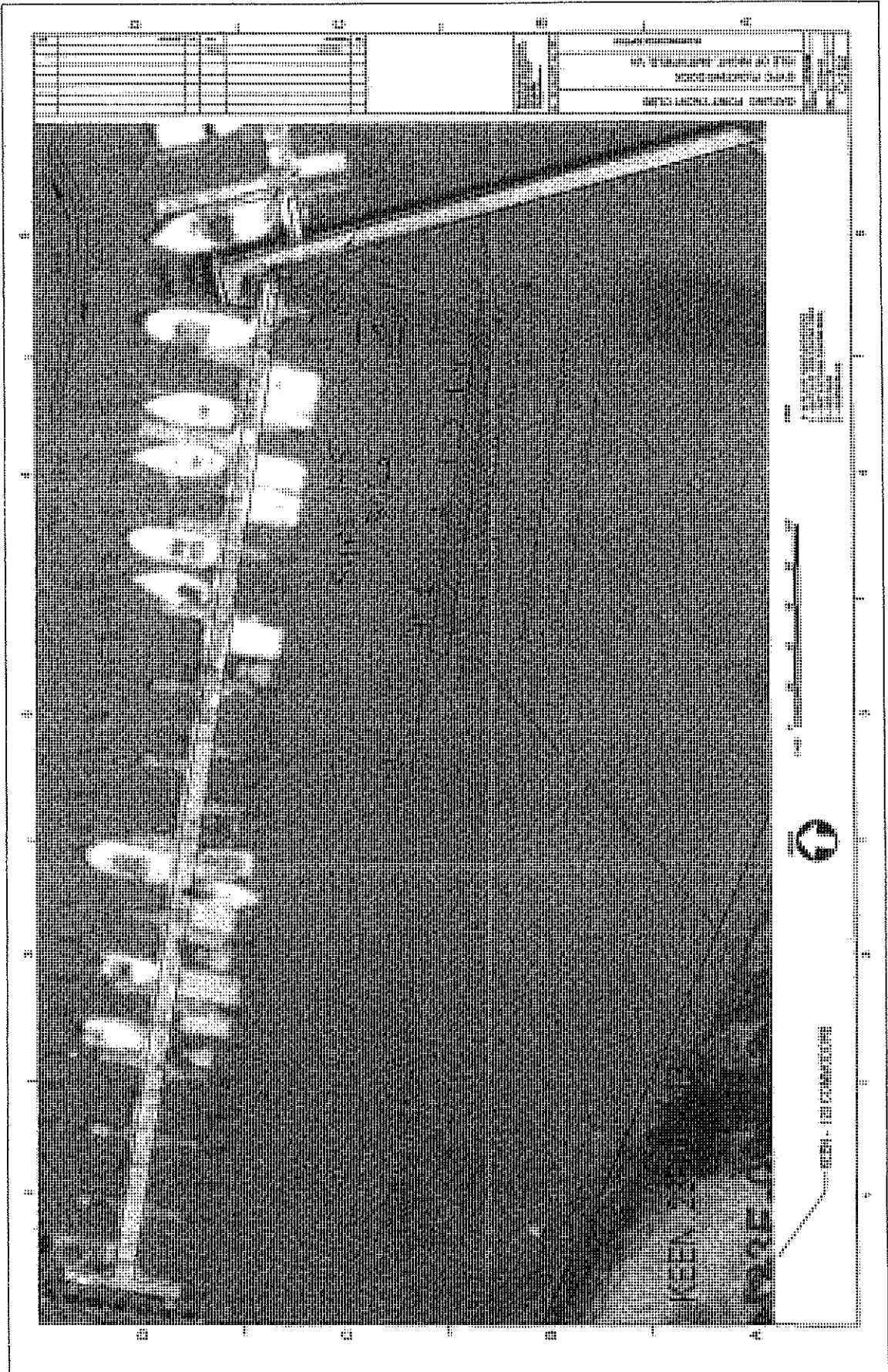
12" Band
3'W x 2' x 2' Floats



Bottom

NLW
2.5' - 4.5'
NLW

Scale 1"=1'-1
Pagan River
8/5/2024



Carroll E. Keen, Jr.
120 Commodore Lane
Smithfield, VA. 23430

September 19, 2024

Mr. Justin D. Worrell
Environmental Engineer
Marine Resources Commission
Building 96
380 Fenwick Rd.
Fort Monroe, VA 23651

Dear Mr. Worrell:

In reply to your letter of September 3, 2024, regarding the new application submitted by GPYC Holdings, LLC, concerning floating docks to be added to the current marina, this letter will serve as our opposition to this application.

We own three pieces of property on Commodore Lane. These properties overlook the marina at Gatling Pointe Yacht Club, and our home is located on the center lot. I have lived here for over 30 years.

Previously, the GPYC applicant had submitted plans for new docks to be built on the opposite side of the marina, and we were not in opposition to that application. New docks on that side, to our knowledge, would not have an impact on any homeowner's property.

Our reasons for opposing this new application are as follows:

- 1.) It is a concern to us that some of the boats coming in to dock in the transient slips will likely have loud exhausts. Boats using these proposed docks would be within approximately 100 feet of our yard. This would not be as much of an issue if the docks were on the other side of the marina.

2.) If these transient slips are available to boaters coming to the Yacht Club restaurant, there would likely be some late night departures, and noise associated with that (again, within 100 feet of our yard). The restaurant is open til 9 pm four nights each week, and til 10 pm on Fridays. Also, there's the possibility of boaters partying on the dock late into the evening.

3.) At times, vulgar language from the boaters at the marina is easily heard from our yard. That's also the case with the lyrics of some of the music. And we've observed on more than one occasion, men urinating off the dock. We've been tolerant of all these situations in the past, although it's embarrassing if we have guests visiting when these occur.

4.) We were advised that it was undesirable to have these new slips on the other side of the marina, because they would be unprotected. Our thoughts are: boaters aren't usually out on the water during inclement weather. It seems that an occasional (and unlikely) inconvenience for boaters is of more concern than what could possibly be a frequent inconvenience for us here at our home.

5.) We feel strongly that the five transient slips would be an issue because of how close to our property the boats would need to be in order to access those slips. This would also hinder our ability to build a private dock on either of our three properties. In the event we did build docks on any of our properties, it would be difficult for boats to access these proposed slips at the marina.

6.) The marina began as a small, neighborhood entity, and now it appears to be developing into a large commercial operation.

7.) With the proximity of the proposed slips to the three lots that we own, as well as the additional boat traffic, we feel that it would greatly reduce our property values.

Sincerely,

Carroll E. and Dianna M. Keen

**Virginia Marine Resources Commission
Habitat Management Public Comments
Application Number 20241880**

Print Date: Wednesday October 23 2024 09:07

| Number | Name | Received | Position |
|--------|--------------|------------------------|----------|
| 10 | THOMAS ADAMS | 10/22/2024 15:25:21 PM | OPPOSE |

AS A RESIDENT OF GATLING POINTE NORTH , THERE IS ALREADY TOO MUCH TRAFFIC ON ACCOUNT OF THE APPLICANT GPYC HOLDINGS LLC . THIS CLUB WAS TO BE PRIVATE AND FOR MEMBERSâ€™ USE ONLY, BUT THE GPYC IS ESSENTIALLY OPEN TO ANYONE WITH NO REQUIRED MEMBERSHIP. IF APPROVED, THERE WOULD BE EVEN MORE TRAFFIC AND THE OWNERS WOULD BE OPERATING EVEN MORE IN VIOLATION OF THEIR ABC LIQUOR LICENSE AND ORGANIZATIONAL ANNOUNCEMENT TO THE GP COMMUNITY AND AGREEMENTS/UNDERSTANDINGS WITH EAST WEST COMMUNITIES

**Virginia Marine Resources Commission
Habitat Management Public Comments
Application Number 20241880**

Print Date: Tuesday October 22 2024 15:08

| Number | Name | Received | Position |
|--------|--------------------|------------------------|----------|
| 7 | DEBORAH B HOLLOWAY | 09/11/2024 08:28:32 AM | FAVOR |

GPYC HAD A VERY STRONG CAMP PROGRAM THIS PAST SUMMER WITH AN INTRODUCTORY SUCCESSFUL SUMMER IN 2023 INCLUDING SAILING, BOATING, KAYAKING, CANOEING AND PADDLE BOARDING WATER SPORTS TO NAME A FEW OF THE ACTIVITIES. IT WAS VERY DIFFICULT TO HAUL THE BOATS AND EQUIPMENT UP AND DOWN THE DOCK AREAS AS THERE IS LIMITED SPACE TO STORE THE EQUIPMENT CLOSE TO THE AREA TO LAUNCH. THE BOATS GET EASILY DAMAGED IF THEY ARE NOT HANDLED CORRECTLY. THIS AREA OF FLOATING DOCK WILL SUPPORT OUR GROWING YOUTH WATER SPORTS PROGRAM ALLOWING ADDITIONAL SPACE TO STORE EQUIPMENT, PROVIDE INSTRUCTION TO THE CHILDREN, AND A LAUNCH AREA THAT IS CONDUCIVE TO MAINTAINING QUALITY EQUIPMENT.

WE SURVEYED OUR CAMP ATTENDEES PARENTS TO GET FEEDBACK FOR CONSTRUCTIVE IMPROVEMENT OF OUR PROGRAMS. THESE SURVEYS CONFIRMED THE PROGRAMS ARE A COMMUNITY ASSET FOR OUR YOUTH AND POTENTIALLY ADULTS AND TO CONTINUE MAKING DEVELOPMENTAL PROGRAM IMPROVEMENTS FOR THE FUTURE. "HOPE TO SEE SAILING CAMPS AGAIN! I WOULD LOVE AN OPPORTUNITY TO LEARN TO SAIL A SMALL CRAFT AS AN ADULT. MAYBE WEEKEND FAMILY OR ADULT CAMPS?"

SAILING IS A LIFE SKILL THAT MANY OF OUR MEMBERS ARE THRILLED TO SEE BACK IN ACTION AT GPYC! THE GROWTH OF ATTENDEES YOY FOR OUR OUTDOOR ACTIVITIES CAMPS HAS GROWN 75% AND WE LOOK FOR THIS TO CONTINUE IT'S UPWARD TRAJECTORY.

WE ARE PASSIONATE ABOUT THESE PROGRAMS AND THE ADDED BENEFIT THAT THE FLOATING DOCKS WILL ADD TO OUR PROGRAMS' SUCCESS!

Attachments:

Submitted photos for this comment will begin on next page.

From: Worrell, Justin (MRC)
To: MRC - JPA Permits
Subject: FW: JPA: 20241880 in Isle of Wight, Applicant: GPYC Holdings LLC
Date: Thursday, September 5, 2024 12:09:25 PM
Attachments: Outlook-ut4c5aba.png
Outlook-ut32zaso.png
DSS_20240905_20241880_CommentsMemo.pdf

Please process as agency comments. Thanks.

From: Wood, Adam (VDH) <Adam.Wood@vdh.virginia.gov>
Sent: Thursday, September 5, 2024 12:00 PM
To: Worrell, Justin (MRC) <justin.worrell@mrc.virginia.gov>
Subject: Re: JPA: 20241880 in Isle of Wight, Applicant: GPYC Holdings LLC

Good Morning,

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

Applicant: GPYC Holdings LLC
Locality: Isle of Wight
Project Description: Floating Docks @ Gatling Pointe Yacht Club
Date Received: August 6, 2024
Engineer: Justin Worrell

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 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? NO

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: Worrell, Justin (MRC) <justin.worrell@mrc.virginia.gov>

Sent: Tuesday, September 3, 2024 8:36 AM

To: Smigo, Margaret (VDH) <Margaret.smigo@vdh.virginia.gov>; Wood, Adam (VDH) <Adam.wood@vdh.virginia.gov>; srobinso@isleofwightus.net <srobinso@isleofwightus.net>; planreview@iwus.net <planreview@iwus.net>; sbeussink@isleofwightus.net <sbeussink@isleofwightus.net>

Subject: JPA: 20241880 in Isle of Wight, Applicant: GPYC Holdings 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 September 24, 2024. 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



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: 9/5/2024
TO: Justin D. Worrell
Virginia Marine Resources Commission
FROM: Adam Wood, Growing Area Manager
Division of Shellfish Safety Waterborne Hazards Control
SUBJECT: GPYC HOLDINGS LLC

City / County: Isle of Wight

Waterbody: Pagan River

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

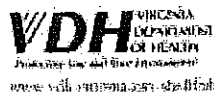
Application / Permit Number: 20241880

- ☐ 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 #: 046

ACW



Received by VMRC September 5, 2024 /blh

[] THERE ARE ASPECTS THAT ARE OBJECTIONABLE AND, IN OUR OPINION, NOT RECONCILABLE; THEREFORE, THE PROJECT IS UNACCEPTABLE. (THIS IS CONSIDERED AN AGENCY OBJECTION 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: 10/105/24

NAME OF INVESTIGATOR: Margaret Smigo

COMMENTS: _____

[illegible]

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



**Office of Environmental
Health Services**

Division of Shellfish Safety and Waterborne Hazards

From: Worrell, Justin (MRC) <Justin.Worrell@mrc.virginia.gov>



Local Roots, Global Reach

ISLE OF WIGHT COUNTY, VIRGINIA

DEPARTMENT OF COMMUNITY DEVELOPMENT

August 20, 2024

GPYC Holdings LLC
223 S. Church Street
Smithfield, Va 23430

Dear Sir:

*- per IOW County
also applic for #24-1880
JMW - VMRC*

Your joint permit application (**JPA#24-0585**) to add a floating dock attached to the existing floating structure extending south parallel to the fixed section and an additional floating dock off in a westerly direction as indicated in the drawings at 903 Gatling Pointe Parkway, Smithfield, along the Pagan River, has been reviewed by this office.

Please be advised that the project is exempt from the local County Wetlands Board approval since this project does not impact vegetated or non-vegetated tidal wetlands, therefore, no Wetlands Board action is required.

Sincerely,

S

Sandra W. Robinson, Secretary
Isle of Wight County
Wetlands Board

cc: justin.worrell@mrc.virginia.gov
ghollo160@gmail.com

P.O. Box 80
17140 Monument Circle
Isle of Wight, VA 23397
(757) 357-9206
www.co.isle-of-wight.va.us



GATLING POINTE

YACHT CLUB

Battery Park Fish and Oyster Co., Inc.

August 12, 2024

P.O. Box 57

Battery Park, Virginia 23304

Lease # 10961

Growing area: 061

Platt # 15688

To Battery Park Fish and Oyster,

The intent of this letter is to seek permission to make improvements to the floating dock structure at Gatling Point per permit application # 24-1880. The improvements consist of adding additional floating docks which may impact on the oyster lease held by Battery Park Fish and Oyster Co.

Battery Park Fish and Oyster Co., Inc. hereby gives permission for Gatling Point Yacht Club to proceed with the application and intent to add floating docks adjacent to and or over the oyster lease # 10961.

Name: *D. A. Spady*

Signature: *[Handwritten Signature]*

Date: *8/12/2024*



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

April 25, 2024

Eastern Virginia Regulatory Section
NAO-2024-00737 / VMRC# 24-V0585 (Pagan River)

GPYC Holdings LLC
223 S. Church Street
Smithfield, VA 23430

Dear GPYC Holdings LLC:

This is in reference to the Department of the Army application (NAO-2024-00737 / VMRC# 24-V0585) you submitted to install an additional 8' x 270' and 8' x 80' floating finger piers with five wet slips, landward of existing floating pier. All work will be performed at 903 Gatling Point Pkwy along the Pagan River in Isle of Wight County, Virginia. Your proposed project as described above and depicted on attached drawings entitled "GPYC Floating Dock," dated March 7, 2024 and stamped as received by our office on March 11, 2024 satisfies the terms and conditions of Norfolk District's State Programmatic General Permit for piers, aquaculture, shoreline, dredging, and other activities (23-SPGP-PASDO), **Category B**. For Category B, permittees must also obtain authorization from the Virginia Marine Resources Commission (VMRC), Virginia Department of Environmental Quality (VDEQ), and/or a Local Wetlands Board by permit, rule, or regulation prior to commencing work in Waters of the U.S. Private piers for noncommercial purposes that qualify for the statutory authorization found in Section 28.2-1203(A)5 of the Code of Virginia (no permit required from the VMRC) are covered under **Category B**. Provided that you follow the general and permit specific conditions of the 23-SPGP-PASDO and any additional special conditions that have been included below, no further authorization will be required from the Corps.

IF THE STATE OR LOCAL WETLAND BOARD DOES NOT AUTHORIZE THE PROPOSED ACTIVITY THIS IS A PROVISIONAL NOTIFICATION THAT A 23-SPGP-PASDO CATEGORY C AUTHORIZATION IS REQUIRED and you (the applicant) must certify that federally licensed or permitted activities affecting Virginia's coastal uses or resources will be conducted in a manner consistent with the Virginias' coastal zone management program (Virginia CZM program) and obtain concurrence from the DEQ, office of environmental impact review (OEIR). It is YOUR responsibility to submit a consistency certification to the OEIR for concurrence or objection, and proof of concurrence must be submitted to the Corps prior to final permit authorization. A template federal consistency certification can be found in the Federal Consistency Manual here: <https://www.deq.virginia.gov/our-programs/environmental-impact-review/federal-consistency>. For more information or to obtain a list of the enforceable policies of the Virginia CZM Program, contact the DEQ-OEIR at (804) 659-1915 or e-mail: bettina.rayfield@deq.virginia.gov.

The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the-navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

If you suspect that your project may result in purposeful take of migratory birds, contact the U.S. Fish and Wildlife Service Migratory Bird Program at PermitsR5MB@fws.gov. If you are interested in voluntarily reducing impacts to migratory birds and their habitats, please consult <https://fws.gov/birds/managment/project-assessment-tools-and-guidance/conservation-measures.php> for conservation measures.

Please note that you should either obtain a U.S. Fish and Wildlife Service (FWS) bald eagle take permit or a letter of concurrence from FWS indicating that a permit is not necessary prior to initiating construction activities. You should contact Thomas Wittig concerning this matter at 413-253-8577 or Thomas.wittig@fws.gov.

Enclosed is a "compliance certification" form, which must be signed and returned within 30 days of completion of the project. Your signature on this form certifies that you have completed the work in accordance with the regional permit terms and conditions.

Unless suspended or revoked, the 23-SPGP-PASDO will be in effect until September 4, 2028. Activities which have commenced (i.e., are under construction) or are under contract to commence construction in reliance upon 23-SPGP-PASDO will remain authorized provided the activity is completed within 12 months of the date of this 23-SPGP-PASDO's expiration of September 4, 2028, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.7(a-e). Activities qualifying for this extension that are not complete by September 4, 2029, must apply for new general and/or individual Corps permit authorization. Activities which have NOT commenced and are NOT under contract to commence construction by the September 4, 2028, expiration require a new general and/or individual Corps permit authorization.

The State Water Control Board provided unconditional §401 Water Quality Certification (WQC) for this 23-SPGP-PASDO. Therefore, the activities that qualify for this 23-SPGP-PASDO meet the requirements of the VDEQ Virginia Water Protection Permit Regulation, provided that you abide by the conditions of this 23-SPGP-PASDO. You will not be required to obtain a separate §401 WQC from VDEQ. This authorization does not relieve your responsibility to comply with local requirements pursuant to the

Chesapeake Bay Preservation Act (CBPA), nor does it supersede local government authority and responsibilities pursuant to the Act. You should contact your local government before you begin work to find out how the CBPA applies to your project.

Pursuant to the Coastal Zone Management Act (CZMA) of 1972, the VDEQ Virginia Coastal Zone Management Program (VCP) completed its review of the Federal Consistency Determination (FCD) for this SPGP-PASDO on June 6, 2023 and provided conditional concurrence that Category B authorizations under the 23-SPGP-PASDO are consistent with the VCP. Authorizations under this 23-SPGP-PASDO do not supersede State or local government authority or responsibilities pursuant to any State or local laws or regulations.

In granting an authorization pursuant to this permit, the Norfolk District has relied on the information and data provided by the permittee. If, subsequent to notification by the Corps that a project qualifies for this permit, such information and data prove to be materially false or materially incomplete, the authorization may be suspended or revoked, in whole or in part, and/or the Government may institute appropriate legal proceedings. Please note that you should obtain all required State and local authorizations before you proceed with the project.

If you have any questions and/or concerns about this permit authorization, please contact Tamberlain Jacobs via telephone at (757) 585-8928 or via email at Tamberlain.Jacobs@usace.army.mil.

Sincerely,

KUBE.PETER.R.1
228832908

Digitally signed by
KUBE.PETER.R.1228832908
Date: 2024.04.26 13:47:45
+04'00'

Pete Kube
Chief, Eastern Virginia
Regulatory Section

Enclosure(s)

Cc:

Virginia Marine Resources Commission
Isle of Wight Wetlands Board
Department of Environmental Quality



WILLIAM A. PRUITT
Commissioner
ROBERT D. CRAFT
Chief, Administration and Finance
NORMAN E. LARSEN
Chief, Habitat Management
ROBERT J. MARKLAND
Chief, Law Enforcement
JACK G. TRAVELSTEAD
Chief, Fisheries Management

COMMONWEALTH of VIRGINIA

Marine Resources Commission

P. O. Box 756
2401 West Avenue
Newport News, Virginia 23607-0756
Telephone: (804) 247-2200
August 22, 1988

ASSOCIATE MEMBERS

RICHARD S. BRAY
Portsmouth, Virginia
R. WAYNE BROWNING
Davis Wharf, Virginia
GEORGE S. FORREST
Poquoson, Virginia
JOHN W. FREEMAN, SR.
Hampton, Virginia
TIMOTHY G. HAYES
Richmond, Virginia
WILLIAM A. HUDNALL
Heathsville, Virginia
JANE C. WEBB
Newport News, Virginia
TED J. WOOL
Virginia Beach, Virginia

Tidewater Brandermill Associates
Attn: Mr. Branch Lawson
c/o Talbot and Associates, Ltd.
739 Thimble Shoals Boulevard, Suite 1006
Newport News, Virginia 23606

RE: VMRC #87-1083-4

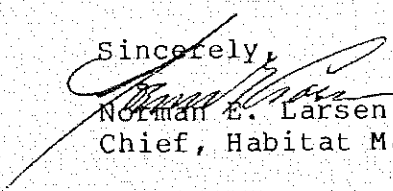
Dear Mr. Lawson;

Enclosed is the Marine Resources Commission permit for your proposal to construct a community marina facility consisting of an open-pile timber pier 450' long by 8' wide with a 519' long by 8' wide T-head, 40 floating finger piers, 72 associated mooring piles, a 110 linear foot timber ice break on the up river side and a 90' linear foot timber wave break on the down river side and a sewage off-loading station. The facility will provide a total of 70 slips to be assigned to property owners of the proposed "Gatling Pointe" subdivision adjacent to the Pagan River in Isle of Wight County, Virginia.

The work authorized by this permit is to be completed by July 31, 1991. All other conditions of the permit will remain in effect. Please notify this office just prior to commencing work on this project by returning the enclosed ORANGE card at that time. The card requires current U. S. Postage and will not be delivered without proper postage.

Please also be advised that you must await issuance of a U. S. Army Corps of Engineers permit before you begin work on this project.

Sincerely,


Norman E. Larsen
Chief, Habitat Management

NEL/ppk
Enclosure

cc: U. S. Army Corps of Engineers, Norfolk District
Tidewater Brandermill Associates, Inc., Applicant
Isle of Wight County Wetlands Board
Mr. William K. Blanks, Marine Patrol Officer

VMRC # 87-1083-4
 APPLICANT: TIDEWATER
BRANDERMILL ASSOC., INC.

COMMONWEALTH OF VIRGINIA
 MARINE RESOURCES COMMISSION
 PERMIT

The Commonwealth of Virginia, Marine Resources Commission, hereinafter referred to as the Commission, on this 7TH day of JULY 19 88, hereby grants unto TIDEWATER BRANDERMILL ASSOCIATES, INC., c/o MR. BRANCH LAWSON, POST OFFICE BOX 389, SMITHFIELD, VIRGINIA 23430

hereinafter referred to as the Permittee, permission to:

- ☒ Encroach in, on or over State-owned subaqueous bottoms pursuant to Section 62.1-3 of the Code of Virginia.
- ☐ Use or develop tidal wetlands pursuant to Chapter 2.1 of Title 62.1 of the Code of Virginia.

Permittee is hereby authorized to: construct a community marina facility consisting of an open-pile timber pier 450' long by 8' wide with a 519' long by 8' wide T-head, 40 floating finger piers, 72 associated mooring piles, a 110 linear foot timber ice break on the up river side and a 90 linear foot timber wave break on the down river side and a sewage off-loading station. The facility will provide a total of 70 slips to be assigned to property owners of the proposed "Gatling Pointe" subdivision adjacent to the Pagan River in Isle of Wight County, Virginia. All activities authorized herein shall be conducted

in conformance with the revised plans and drawings dated received 07-22-88 attached hereto and made a part of this permit.

which are

This permit is granted subject to the following standard conditions:

- (1) The work authorized by this permit shall be completed by JULY 31, 1991. The Permittee shall notify the Commission when the project has been 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 unless 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 purposes of inspecting the work being done pursuant to this permit.
- (4) The Permittee shall comply with the water quality standards as established by the Virginia Water Control Board 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 project.
- (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 areas 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 which 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 Virginia Division of Historic Landmarks. 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.

PERMITTEE—WHITE COPY
 COMMISSION—YELLOW COPY
 CORPS OF ENGINEERS—PINK COPY

The following special conditions are imposed on this permit:

16. This permit includes an assessment of a royalty of \$3,210.00 under paragraph five of Section 62.1-3 of the Code of Virginia. However, because the legality of this charge for private uses of State-owned submerged land is under review by the Virginia legislature, this assessment is not now payable. In the event the legislature determines that no such charge is assessable, this assessment shall be deemed null and void. In the event the legislature determines that such charge is assessable or the legislature fails to determine the issue at its 1989 session, the assessment shall be due and payable by July 1, 1989.
17. The Permittee agrees to conform to, and abide by, the terms and conditions contained in the "First Supplemental Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to all Property in Gatling Pointe", as recorded June 20, 1988 in Deed Book 342, page 520 residing with the Clerk of Court in Isle of Wight County, Virginia. The above-referenced document has been attached hereto and made a part of this permit as evidence of the restrictions contained herein.

A permit issuing fee of \$100.00

and a royalty of \$3,210.00

for the encroachment over 10,700 square feet of State-owned subaqueous bottom at a rate of \$0.30 per square foot.

for a total of \$3,310.00
ten (10) sheets

is due and payable upon return of this document signed by the Permittee. This permit consists of

PERMITTEE

Permittee's signature is affixed hereto as evidence of acceptance of all of the terms and conditions herein.

In cases where the Permittee is a corporation, agency or political jurisdiction, please assure that the individual who signs for the Permittee has proper authorization to bind the organization to the financial and performance obligations which result from activity authorized by this permit.

PERMITTEE

Accepted for TIDEWATER BRANDERMILL ASSOCIATES, INC.

day of _____, 19

By [Signature] PRESIDENT
(Name) (Title)

State of Virginia

City (or County) of Isle of Wight, to-wit:

I, Carol J. Whitley

a Notary Public in and for said City (or County) and State hereby certify that

Branch P. Lawson

Permittee, whose name is signed to the foregoing, has acknowledged the same

before me in my City (or County) and State aforesaid.

Given under my hand this 10th day of August, 19 88

Notary Public

Carol J. Whitley

My commission expires on the 15th day of JULY

19 91

COMMISSION

IN WITNESS WHEREOF, the Commonwealth of Virginia, Marine Resources Commission has caused these presents to be executed in its behalf by

Norman E. Larsen, Chief, Habitat Management

(Name)

(Title)

MARINE RESOURCES COMMISSION

22nd day of AUGUST, 19 88

By

Norman E. Larsen, Chief, Habitat Management

State of Virginia

City of Newport News

, to-wit:

I, Peggy P. Kruse

a Notary public within and for said City, State of Virginia, hereby certify that

Norman E. Larsen

whose name is signed to the foregoing, bearing the 7th day of JULY, 19 88 has

acknowledged the same before me in my City aforesaid.

Given under my hand this 22nd day of AUGUST, 19 88

Notary Public

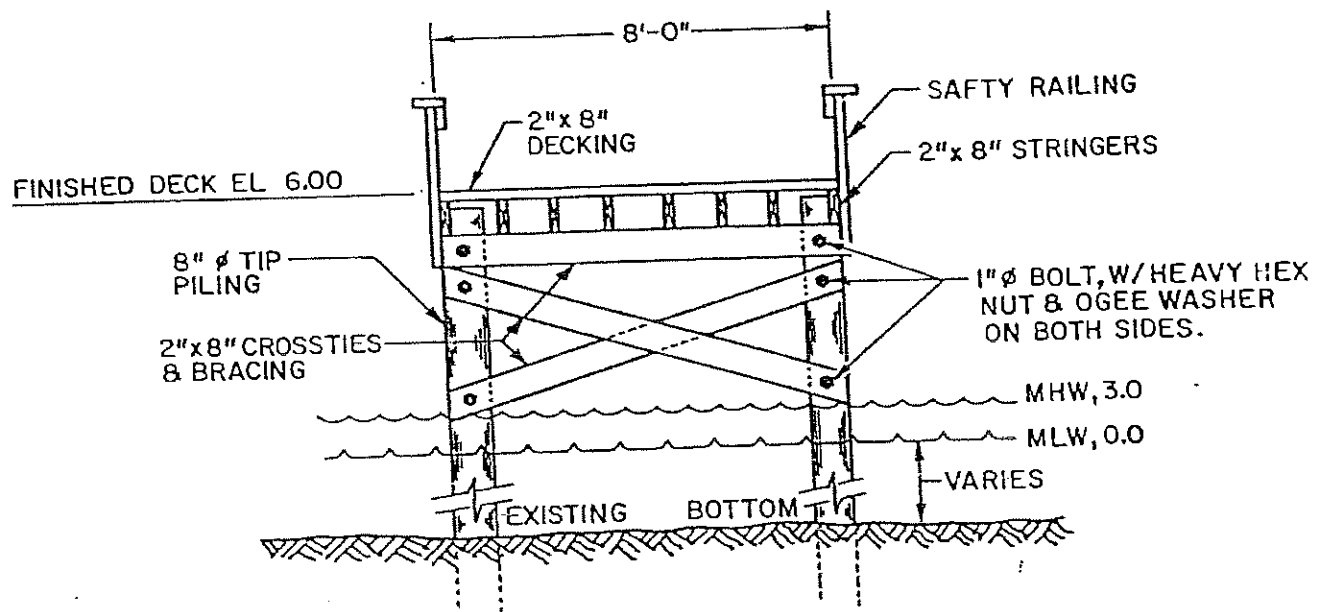
Peggy P. Kruse

My commission expires on the 1st day of MARCH, 19 92

PERMITTEE—WHITE COPY

COMMISSION—YELLOW COPY

CORPS OF ENGINEERS—PINK COPY



NOTES

1. ALL HARDWARE IS TO BE HOT DIP GALVANIZED.
2. NAILS: 12d FOR $1\frac{1}{2}$ " THICK LUMBER.
16d FOR THICKER THAN $1\frac{1}{2}$ " LUMBER.
3. DRIVE ALL PILES BUTT DOWN

SECTION A-A FIXED PIER SCALE: NONE

REVISION - 6/20/88

PURPOSE: REPLACEMENT &
ADDITION OF EXIST.
PIER

DATUM: M.L.W.

ADJACENT PROPERTY OWNERS:

- ① B.E. JAMSON
- ② OBED A. SPADY

MARINE RESOURCES COMMISSION

RECEIVED
JUL 23 1988
RECEIVED

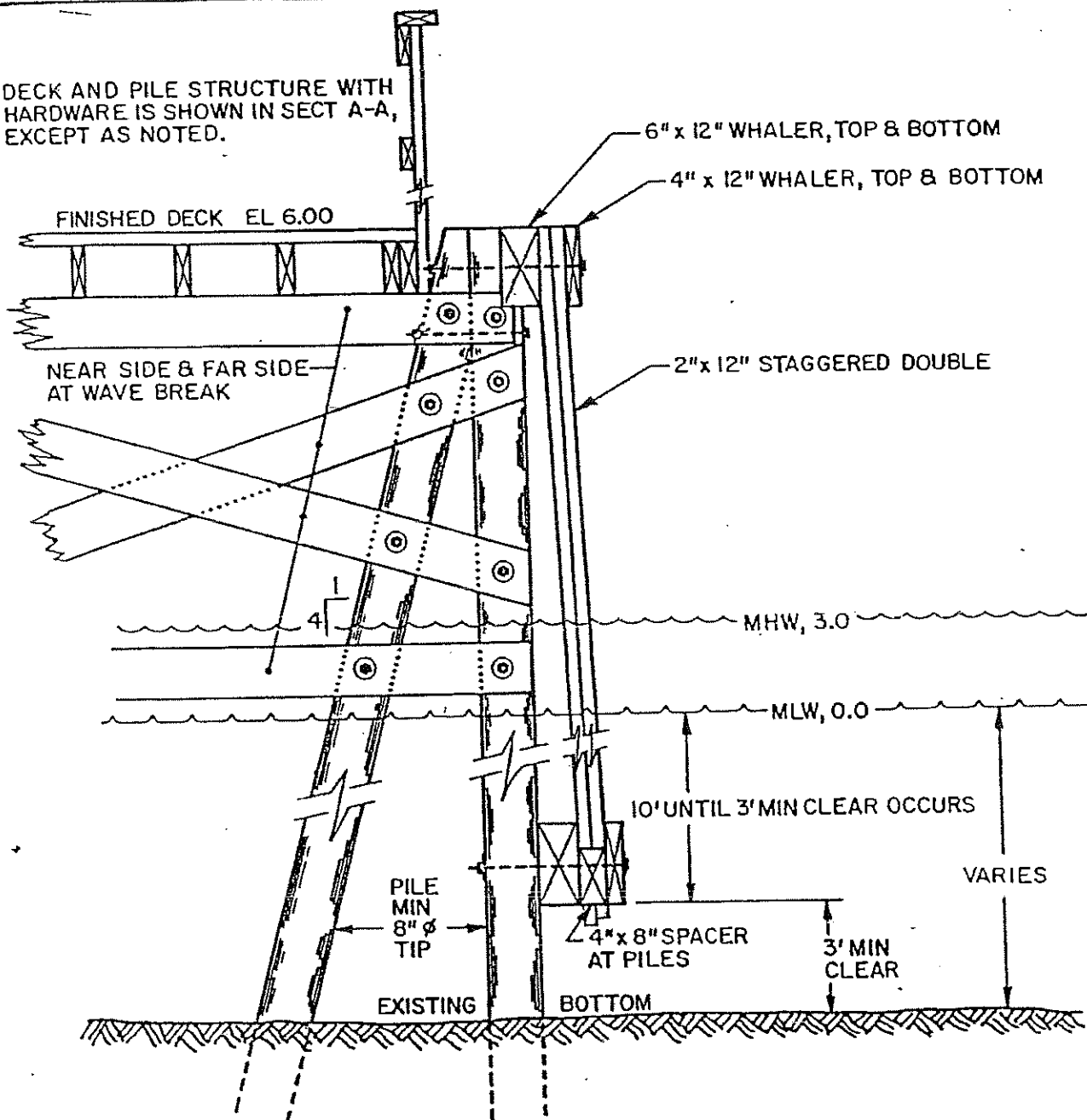
BY

PROPOSED PIER, PILING

IN PAGAN RIVER
AT GATLING POINTE

COUNTY: ISLE OF WIGHT STATE: VA.
APPLICATION BY: TALBOT & ASSOC
SHT 2 of 4 DATE: / /88

DECK AND PILE STRUCTURE WITH
HARDWARE IS SHOWN IN SECT A-A,
EXCEPT AS NOTED.



SECTION B-B

WAVE BREAK

SCALE: NONE

REVISION - 6.1.0/88

PURPOSE: REPLACEMENT &
ADDITION OF EXIST.
PIER

DATUM: M.L.W.

ADJACENT PROPERTY OWNERS:

① B.E. JAMSON

② OBED A. SPADY

MARINE RESOURCES COMMISSION

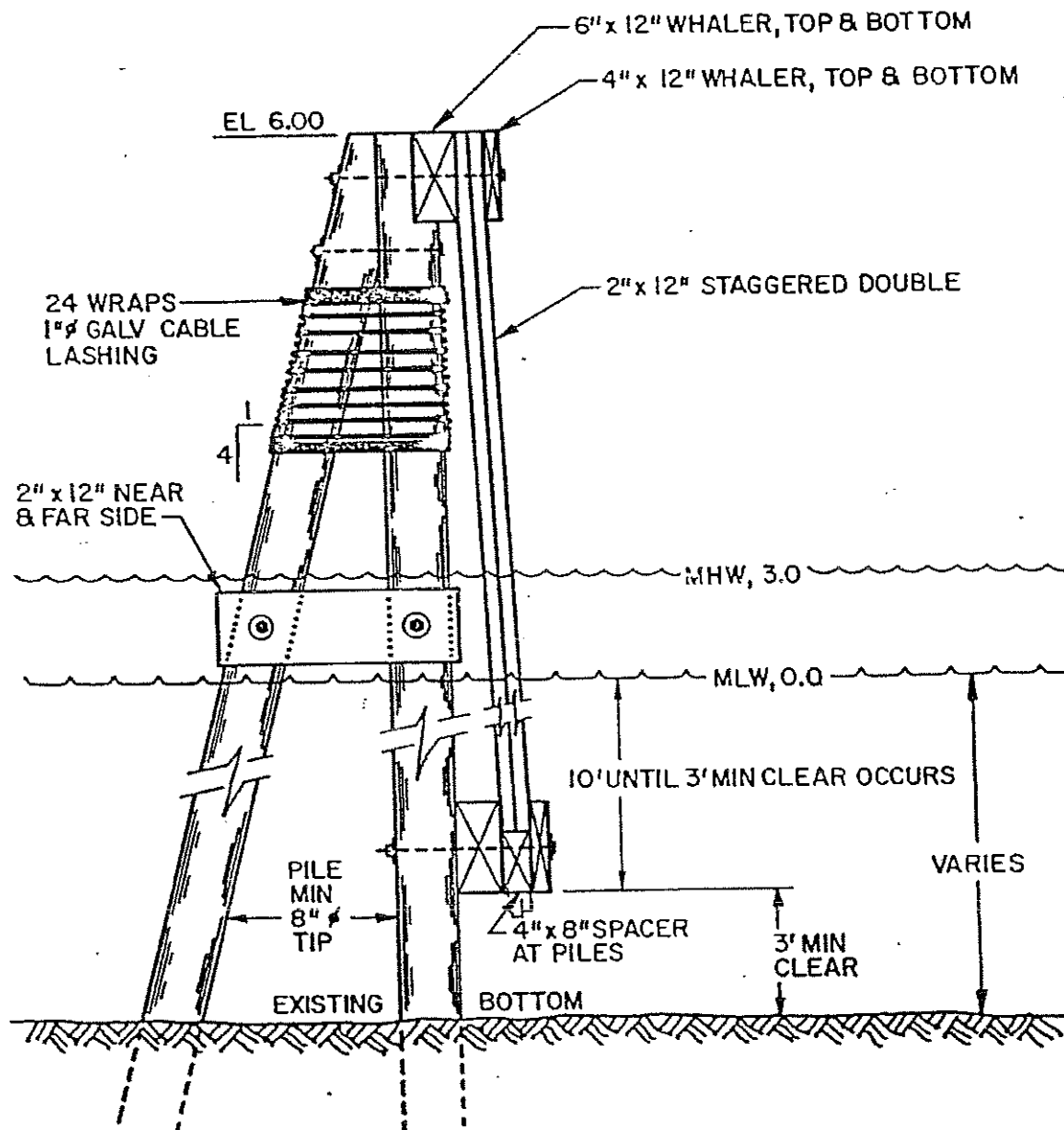
RECEIVED
JUL 22 1988
RECEIVED

BY

PROPOSED PIER, PILING

IN PAGAN RIVER
AT GATLING POINTE

COUNTY: ISLE OF WIGHT STATE: VA.
APPLICATION BY: TALBOT & ASSOC.
SHT 3 of 4 DATE: / /88



SECTION C-C

ICE BREAK
SCALE: NONE

REVISION - 6/20/88

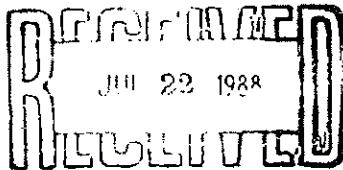
PURPOSE: REPLACEMENT &
ADDITION OF EXIST.
PIER

DATUM: M.L.W.

ADJACENT PROPERTY OWNERS:

- ① B.E. JAMSON
- ② OBED A. SPADY

MARINE RESOURCES COMMISSION



BY _____

PROPOSED PIER, FILING

IN PAGAN RIVER
AT GATLING POINTE

COUNTY: ISLE OF WIGHT STATE: VA.
APPLICATION BY: TALBOT & ASSOC.
SHT 4 of 4 DATE: / /88

RECEIVED

JUL 1 1988

Office of the Attorney General

FIRST SUPPLEMENTAL DECLARATION OF RIGHTS, RESTRICTIONS,
AFFIRMATIVE OBLIGATIONS AND CONDITIONS APPLICABLE TO ALL
PROPERTY IN GATLING POINTE

THIS First Supplemental Declaration of Rights, Restrictions,
Affirmative Obligations and Conditions Applicable to All Property
in Gatling Pointe ("Supplemental Declaration"), dated as of June
17, 1988, by TIDEWATER BRANDERMILL ASSOCIATES (the "Company"),

WITNESSETH:

WHEREAS, by Declaration of Rights, Restrictions, Affirmative
Obligations and Conditions Applicable to All Property in Gatling
Pointe (the "Declaration") dated June 9, 1988, recorded June 9,
1988 in the Clerk's Office of the Circuit Court of Isle of Wight
County, Virginia ("Clerk's Office") in Deed Book 342, at Page
139, the Company, as owner of the property more particularly
described in Exhibit "A" attached to this Supplemental
Declaration (the "Property"), did impose certain restrictive
covenants on the Property; and

WHEREAS, no portion of the Property has been conveyed to the
Association or to any other third party; and

WHEREAS, pursuant to the provisions of Part IV Paragraph 6
of the Declaration, the Company desires to add additional
restrictive covenants affecting the Property;

NOW, THEREFORE, the Company does hereby declare that the
following covenant shall supplement the covenants contained in
the Declaration, and shall be a covenant running with the land
and shall apply to the lands described in Exhibit "A" to this
Declaration and such additions thereto as may hereinafter be made
pursuant to Paragraph 10 of Part IV of the Declaration:

"Docks. No dock, pier or other structure, or
any portion thereof, shall be constructed
below or channelward of the high-water mark
of any water course within or adjoining the
Property or any portion thereof by the Owner
of any Residential Lot or the Tenant of any
such Owner or by the owner of all or any
portion of the Common Property. The only
such structures permitted within the Property
shall be in connection with the improvements
to be known as the "Gatling Pointe Yacht
Club" and to be constructed pursuant to a
permit granted by the Virginia Marine
Resources Commission in the area designated
as "Yacht Club/Recreation Area" on the Master
Plan."

Unless such terms are given separate meanings in this

Supplemental Declaration, all capitalized terms in this Supplemental Declaration shall have the definitions given to them in the Declaration. For all purposes under the Declaration, the foregoing covenant shall be deemed to be part of the General Property Covenants. The provisions of Part IV, Paragraphs 7 through 15 of the Declaration are incorporated herein by reference, with the same force and effect as had they been restated herein verbatim.

Except as provided below, the covenant set forth in this Supplemental Declaration shall be perpetual. Such covenant shall terminate if, at any time within one (1) year from the date hereof, the Company files a notice of termination among the land records in the Clerk's Office stating that it has been unable to obtain all permits, consents and approvals required for the construction and operation of the proposed Gatling Pointe Yacht Club. The Company has agreed not to terminate the covenant set forth in this Supplemental Declaration unless it first surrenders any permits related to the proposed Gatling Pointe Yacht Club issued to it by the Virginia Marine Resources Commission.

WITNESS the following signature pursuant to due authority.

Tidewater Brandermill Associates, a
Virginia general partnership

By: Branch P. Lawson
Branch P. Lawson
Managing General Partner

STATE OF VIRGINIA
CITY/COUNTY OF Chesterfield, to-wit:

Acknowledged before me by Branch P. Lawson, as Managing General Partner of Tidewater Brandermill Associates, a Virginia general partnership, on behalf of the partnership, this 17th day of June, 1988.

My commission expires: 3/24/92

Thomas E. Can
Notary Public

Exhibit AParcel 1:

All of that certain tract, piece or parcel of land situate, lying and being near the Village of Battery Park, in Newport Magisterial District, Isle of Wight County, Virginia, known as "Oyster Shell Neck", containing 215.36 acres as more particularly shown on that certain plat entitled "Plat Showing Lands of Margaret G. Amory, Edwin G. Gatling & W. Meade Gatling, et al", made by Talbot & Associates, Ltd. dated February 12, 1987, recorded with that certain Deed of Correction dated April 10, 1987, by and between Margaret G. Amory and Charles R. Amory, Sr., her husband, Edwin G. Gatling and Dorothy S. Gatling, his wife, and W. Meade Gatling and Jo Ann L. Gatling, his wife, and Tidewater Brandermill Associates, a Virginia general partnership, in the Clerk's Office of the Circuit Court of Isle of Wight County, Virginia, in Deed Book 326 at Page 675.

Parcel 2:

All that certain tract, piece or parcel of land situate, lying and being near the Village of Battery Park, in Newport Magisterial District, Isle of Wight County, Virginia, containing 1.52 acres and designated on the foregoing Plat "Edward G. Gatling".

VIRGINIA: Clerk's Office of the Circuit Court of the County of Isle of Wight,

June 20, 1988, at 10:10 o'clock A. M., this Supplemental Restrictions was received and with the certificate annexed, admitted to record.

TESTE: W. E. Laine, Jr., CLERK, By: Kathryn P. Phillips, D.C.

Verified and mailed to

R. J. Deek Jr.

this day of , 19

October 28, 2024

RAPPAHANNOCK RIVER YACHT CLUB INC.
VMRC #24-1858

1. Habitat Management Division Evaluation dated October 28, 2024. (p
(pages 1 and 2)
2. Application drawings dated-received August 5, 2024, September 24, 2024, and October
23, 2024. (pages 3 -5)
3. Letter of Opposition from Kevin Fay opposing the project dated September 13, 2024.
(pages 6 and 7)
4. Virginia Department of Health approvals dated September 3, 2024, and October 17,
2024.(pages 8-15)
5. Lancaster County Wetlands Board exemption dated August 5, 2024.
(pages 16-18)
6. Oyster Ground Leaseholder approval dated October 17, 2024.
(pages 19-23)
7. Coast Guard approval dated October 9, 2024.
(pages 24-26)

October 28, 2024

HABITAT MANAGEMENT DIVISION EVALUATION

RAPPAHANNOCK RIVER YACHT CLUB INC., #24-1858, requests authorization to extend an existing pier to accommodate an additional ten (10) slips at the Rappahannock River Yacht Club adjacent to 100 Rappahannock Road along Carter Creek in Lancaster County. The project is protested by a nearby property owner.

Narrative

The project site is located in the Town of Irvington on Carter Creek, approximately 2,000 feet north of the confluence with the Rappahannock River. The area is a mix of commercial and residential properties, and the Rappahannock River Yacht Club (RRYC) property sits between Sanders Yacht Yard to the north and the residential properties to the south. The RRYC was founded in 1936 as a private-use facility and currently has over 150 members. The facility consists of a fixed, single T-head main pier with 32 wet slips and a boat ramp including a floating 60-foot long tending pier - all previously permitted. The shoreline has been armored with riprap, and there are associated upland amenities, including a clubhouse, swimming pool, pool house, and parking area for vehicles and dinghy storage.

On August 5, 2024, VMRC received an application requesting authorization to install additional docking channelward of the existing T-head main pier for transient and member-owned boats.

Issues

VMRC staff conducted a standard public interest review for this proposal. Adjacent property owners and adjacent oyster leaseholders were notified, and a public notice was placed in The Rappahannock Record.

The project is protested by a nearby property owner, Mr. Kevin Fay. As a frequent boater through the area where the RRYC is located along Carter Creek, Mr. Fay believes that increasing the existing pier structure will impede boat traffic. Additionally, Mr. Fay indicated that during the RRYC's special events, the use of the transient boat slips will increase the footprint of the overall pier structure, therefore increasing the risk of collision with passing boaters in the area.

The proposed project design will encroach into the oyster lease (Lease #21395) owned and operated by Mr. W. Ellery Kellum. On August 22, 2024, Mr. Kellum and RRYC signed an agreement which granted RRYC the right to build a pier extension that extends no more than 50 feet eastward from the existing T-head into Mr. Kellum's oyster lease.

The pier is exempt from the local wetlands board and has been authorized by the U.S. Army Corps of Engineers. No comments have been received from the adjacent property owners nor from the adjacent oyster lease owner Ms. Mary Barrack (Lease #17414).

Issue (cont'd)

The Department of Environmental Quality will not require a permit for this work. The U.S. Coast Guard had no objection to the proposal. The Virginia Department of Health Division of Shellfish Safety and Waterborne Hazards determined that the project is acceptable and will not cause any change in shellfish classification areas.

Summary/Recommendations

Rappahannock River Yacht Club Inc. has worked diligently with the Commission to maintain facility compliance and acquire the necessary permits dating back to 1979.

Staff does not believe the expansion of the existing T-head pier structure will result in any adverse impacts to the marine environment, nor do we feel that it will cause any negative impacts to navigation around the facility or in the creek.

Accordingly, after evaluating the merits of the project and after considering all of the factors contained in §28.2-1205(A) of the Code of Virginia, staff finds the proposal to be a reasonable and permissible use of state-owned submerged bottom and recommends approval to extend the existing pier to accommodate an additional ten (10) slips with a royalty in the amount of \$12,264.00 for the encroachment over 8,176 square feet of state-owned submerged bottom at the standard rate of \$1.50 per square foot for the private yacht club.

Pile Schedule

TRANSIENT
40' x 18'

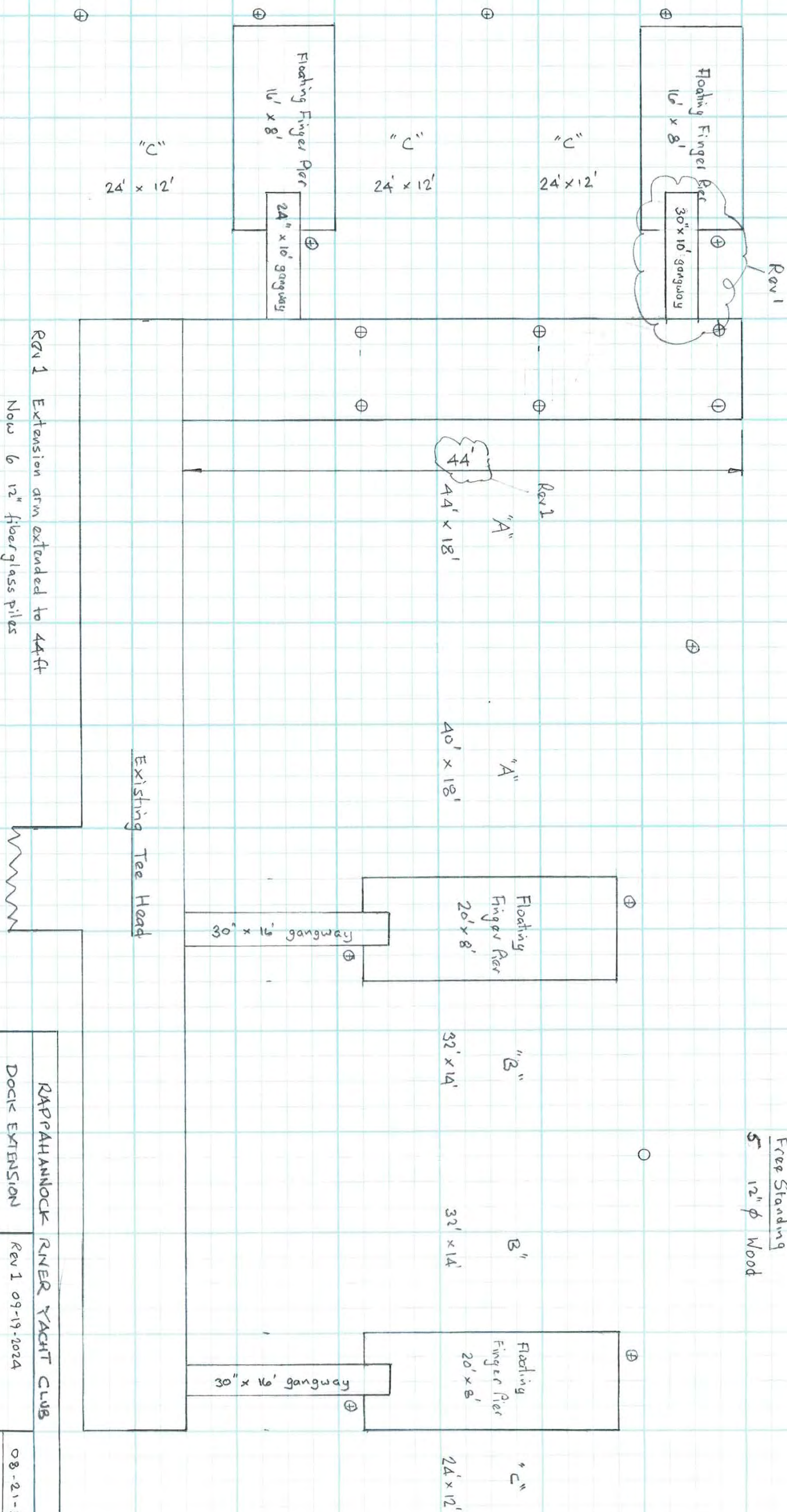
Rev 1 Main Arm
6 12" ϕ fiberglass

Finger Piers

8 12" ϕ PVC

Free Standing

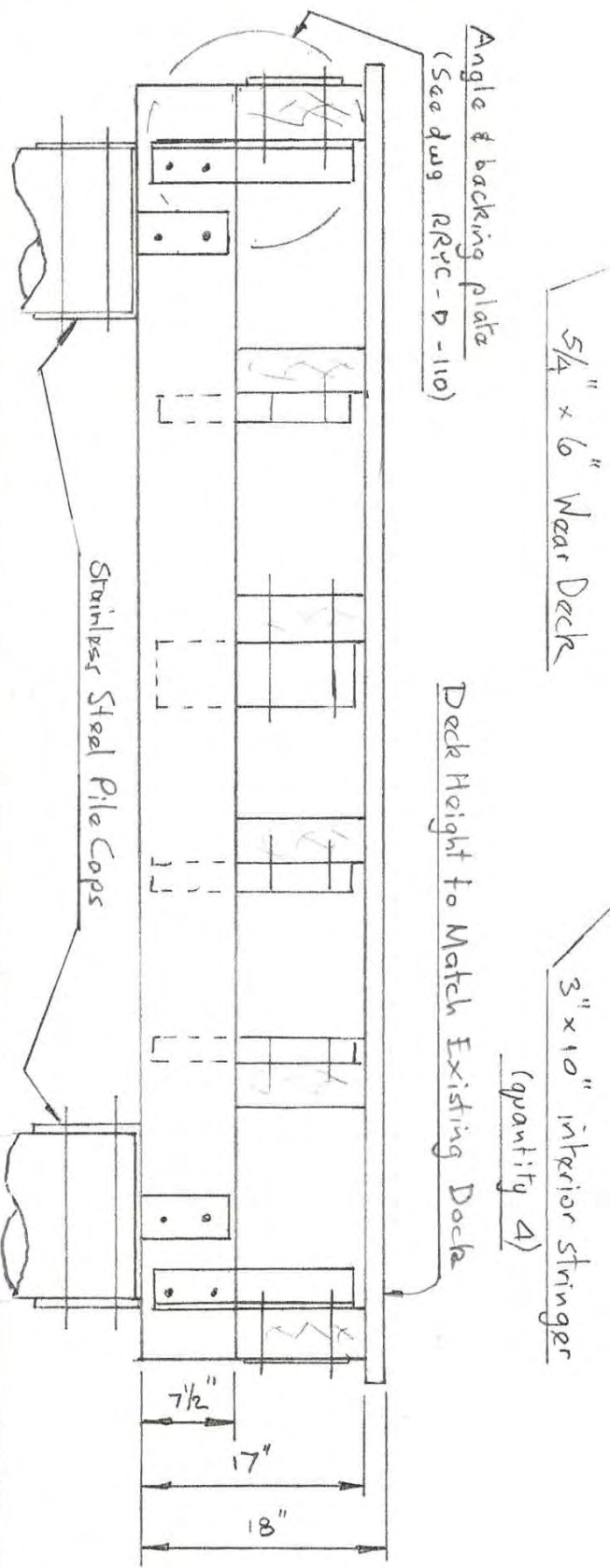
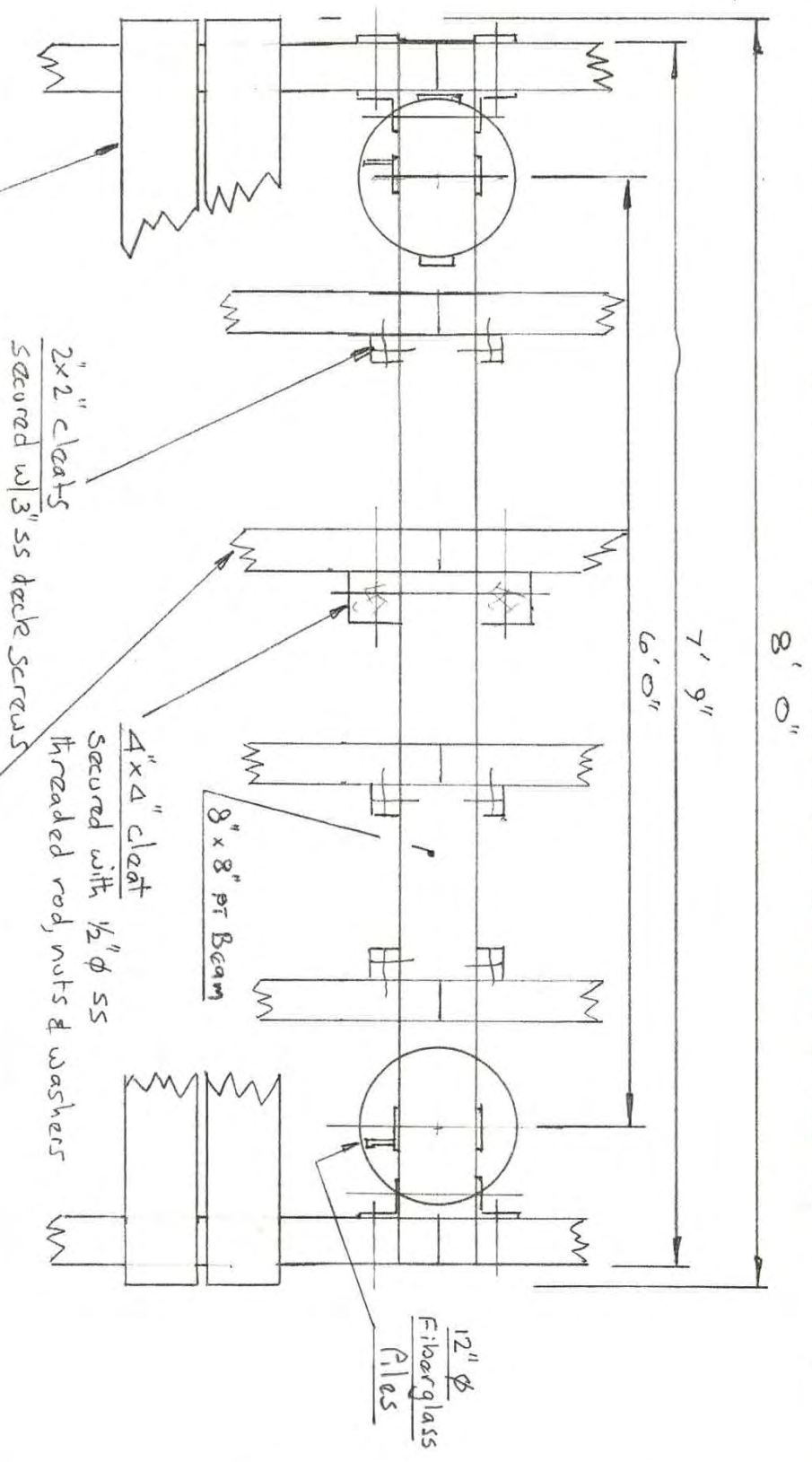
5 12" ϕ Wood



Rev 1 Extension arm extended to 44ft
Now 6 12" fiberglass piles

Existing Tee Head

| | | |
|-------------------------------|------------------|------------|
| RAPPAHANNOCK RIVER YACHT CLUB | | |
| DOCK EXTENSION | Rev 1 09-19-2024 | 08-21-2024 |
| DWG: RRYC-D201 | Scale 1/8" = 1' | CNS |



NOTES
1. All fasteners

| | | | |
|---|--------------|---|-------|
| PROPOSED DOCK EXTENSION | | STRUCTURAL DETAILS | |
| RAPPAHANNOCK RIVER YACHT CLUB, INC. POST OFFICE BOX 55 IRVINGTON VA 22480 | | LOCATION: RAPPAHANNOCK RIVER YACHT CLUB TAX MAP 33 PARCEL 25B TOWN OF IRVINGTON WHITE STONE DISTRICT LANCASTER CO, VIRGINIA | |
| DWG No: RRYC-24-002 | Sheet 4 of 4 | 6-6-2024 | Scale |
| | | | CNS |

Virginia Marine Resources Commission Habitat Management Public Comments Application Number 20241858

Print Date: Tuesday October 22 2024 19:53

| Number | Name | Received | Position |
|--------|-------------|------------------------|----------|
| 1 | KEVIN K FAY | 09/13/2024 07:51:10 AM | OPPOSE |

AS A BOATER WHO PASSES THROUGH THIS AREA OF CARTER'S CREEK QUITE OFTEN, I FEEL THAT ANY EXTENSION TO THE EXISTING PIER WILL IMPEDE BOAT TRAFFIC. IN THE ATTACHED PHOTO, IT IS OBVIOUS THAT THE CURRENT PIER EXTENDS BEYOND THE DISTANCE OF THE NEIGHBORING PIERS. DURING SPECIAL CLUB EVENTS, BOATS MOOR ON THE END OF THE EXISTING TEE HEAD OF THE PIER, ADDING UP TO 14' OF DISTANCE.

THE APPLICATION SHOWS A DRAWING WITH A 40' FLOATING PIER ATTACHED TO THE EXISTING TEE HEAD, AND A SECOND 8' WIDE FLOATING DOCK MARKED "TRANSIENT" ATTACHED TO THIS PIER. IF A 14' WIDE BOAT WERE ATTACHED TO THE PIER MARKED AS "TRANSIENT", THE TOTAL DISTANCE FROM THE EXISTING TEE HEAD WOULD BECOME 54' FROM THE CURRENT ENDING LOCATION OF THE PIER. TO EXTEND THE PIER FURTHER WOULD INCREASE THE RISK OF COLLISION TO PASSING BOATERS IN A HIGH TRAFFIC AREA.

Attachments:

Submitted photos for this comment will begin on next page.

Virginia Marine Resources Commission Habitat Management Public Comments Application Number 20241858

Print Date: Tuesday October 22 2024 19:53

1726228754.jpg



1726228754.jpg



From: [Payne, Khadijah \(MRC\)](#)
To: [MRC - jpa Permits](#)
Subject: Fw: JPA: 20241858 in Lancaster, Applicant: Rappahannock River Yacht Club, Inc.
Date: Tuesday, September 3, 2024 9:20:20 AM
Attachments: [Outlook vs. Outlook.png](#)
[Outlook vs. Outlook.png](#)
[DSS_20240907-2024-1858-CommentsMemo.pdf](#)

Hi!

Please upload VDH's response to VMRC# 24-1858.

Thank you,
Khadijah

Khadijah Payne

Environmental Engineer
Habitat Management Division
Virginia Marine Resources Commission

757.247.8028
khadijah.payne@mrc.virginia.gov

From: Payne, Khadijah (MRC) <Khadijah.Payne@mrc.virginia.gov>
Sent: Wednesday, August 7, 2024 5:46 PM
To: MRC - jpa Permits <jpa.permits@mrc.virginia.gov>
Subject: Fwd: JPA: 20241858 in Lancaster, Applicant: Rappahannock River Yacht Club, Inc.

Hi!

Please upload VDH's response to VMRC# 24-1858.

Thank you,
Khadijah

Get [Outlook for iOS](#)

From: Wood, Adam (VDH) <Adam.Wood@vdh.virginia.gov>
Sent: Wednesday, August 7, 2024 3:26 PM
To: Payne, Khadijah (MRC) <Khadijah.Payne@mrc.virginia.gov>
Subject: Re: JPA: 20241858 in Lancaster, Applicant: Rappahannock River Yacht Club, Inc.

Good Afternoon,

This project will not cause any change in shellfish classification areas. Please accept the

attached memo as VDH/DSS's response.

Applicant: Rappahannock River Yacht Club, Inc.

Locality: Lancaster

Project Description: Community Pier Extension

Date Received: August 5, 2024

Engineer: Khadijah Payne

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 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? NO

Very Respectfully

Adam Wood

Growing Area Manager
Virginia Department of Health
Division of Shellfish Safety
Cell: (804) 839-2809

www.vdh.virginia.gov/shellfish



From: Payne, Khadijah (MRC) <Khadijah.Payne@mrc.virginia.gov>
Sent: Monday, August 5, 2024 3:53 PM
To: Layman, Charles (VDH) <Charles.d.Layman@vdh.virginia.gov>; Wood, Adam (VDH) <Adam.wood@vdh.virginia.gov>
Subject: JPA: 20241858 in Lancaster, Applicant: Rappahannock River Yacht Club, Inc.

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 August 26, 2024. 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: 20241858](#)

Applicant: Rappahannock River Yacht Club, Inc.
Locality: Lancaster
Project Description: Community Pier Extension
Date Received: August 5, 2024
Engineer: Khadijah Payne

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.)

THE CODE OF VIRGINIA, MUST BE FULLY COMPLETED 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) 247-8028 or Khadijah.Payne@mrc.virginia.gov

Khadijah Payne

Environmental Engineer

Virginia Marine Resources Commission

Phone: (757) 247-8028

Email: Khadijah.Payne@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: 8/7/2024
TO: Khadijah Payne
Virginia Marine Resources Commission
FROM: Adam Wood, Growing Area Manager
Division of Shellfish Safety Waterborne Hazards Contro
SUBJECT: RAPPAHANNOCK RIVER YACHT CLUB, INC.

City / County: Lancaster

Waterbody: Carter Creek

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

Application / Permit Number: 20241858

- ☐ 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 #: 020

ACW



From: [Payne, Khadijah \(MRC\)](#)
To: [MRC - jpa Permits](#)
Subject: Fw: Approved: RE: VMRC #24-1858 (Rappahannock River Yacht Club, Inc.) VDH Comments
Date: Thursday, October 17, 2024 1:15:47 PM

Hi!

Please upload VDH's response to VMRC #24-1858.

Thank you,
Khadijah

Khadijah Payne

Environmental Engineer
Habitat Management Division
Virginia Marine Resources Commission

757.247.8028
khadijah.payne@mrc.virginia.gov

From: Smigo, Margaret (VDH) <Margaret.Smigo@vdh.virginia.gov>
Sent: Wednesday, October 16, 2024 3:47 PM
To: Payne, Khadijah (MRC) <Khadijah.Payne@mrc.virginia.gov>
Subject: Approved: RE: VMRC #24-1858 (Rappahannock River Yacht Club, Inc.) VDH Comments

Apologies on the delay Ms. Payne, approval below...

Applicant: Rappahannock River Yacht Club, Inc
Locality: Northampton
Project Description: Community Pier Extension
Date Received: August 5, 2024
Engineer: Khadijah Payne

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 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: 10/16/24

Name of Investigator: Margaret Smigo

Comments: District staff approve, septic system is adequate for 9 slip expansion

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



**Office of Environmental
Health Services**

Division of Shellfish Safety
and Waterborne Hazards

From: Payne, Khadijah (MRC) <Khadijah.Payne@mrc.virginia.gov>

Sent: Wednesday, October 16, 2024 2:56 PM

To: Smigo, Margaret (VDH) <Margaret.Smigo@vdh.virginia.gov>

Subject: VMRC #24-1858 (Rappahannock River Yacht Club, Inc.) VDH Comments

Hi Margaret,

I hope you are doing well! If possible, could you provide your timeline for reviewing VMRC #24-1858 and providing comments? This information will help determine if this project can be heard at our October Commission meeting.

Thanks,
Khadijah

Khadijah Payne

Environmental Engineer
Habitat Management Division
Virginia Marine Resources Commission

757.247.8028
khadijah.payne@mrc.virginia.gov

From: [Kelsey English](#)
To: [Howell, Beth \(MRC\)](#); ohall@lancova.com; cnspringett@gmail.com; clubmanager@rryc.org; [MRC - jpa Permits](#)
Subject: Re: JPA: 20241858 in Lancaster, Applicant: Rappahannock River Yacht Club, Inc.
Date: Monday, August 5, 2024 4:03:17 PM
Attachments: [33-250-133-2-RR.pdf](#)

Good afternoon,

The Lancaster County Wetlands Board does not review pier permitting, therefore, no permit will be required by the Lancaster County Wetlands Board. Please obtain a zoning review from the Town of Irvington and building permit from Lancaster County Building Department located at 8311 Mary Ball Road, Lancaster VA 22503. Your NPR letter for the Wetlands Board is attached.

Best,

--

Kelsey English
Codes Compliance Officer
804-462-5256
lancova.com

On 8/5/2024 12:21 PM, VMRC JPA wrote:

New Joint Permit Application Notice

Virginia Marine Resources Commission, Habitat Management Division, would like to notify you the following new permit application:

Please click the link below for full application details.

[Application: 20241858](#)

Applicant: Rappahannock River Yacht Club, Inc.

Locality: Lancaster

Project Description: Community Pier Extension

Date Received: August 5, 2024

Engineer: Khadijah Payne

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

☒ Does not involve wetlands. A letter will be forwarded to the applicant advising that no permit will be required from this Board.

☐ Does involve wetlands and a permit will be required. A public hearing has

been tentatively scheduled for _____ at _____.

☐ Does involve wetlands but a permit will not be required because _____

☐ Site inspection conducted on _____.

☒ No site inspection conducted.

Should you have any questions regarding this permit application, please do not hesitate to contact Khadijah Payne at (757) 247-8028 or Khadijah.Payne@mrc.virginia.gov

Beth Howell
Virginia Marine Resources Commission
Phone: (757) 247-2252
Email: beth.howell@mrc.virginia.gov

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

--
Kelsey English
Codes Compliance Officer
804-462-5256
lancova.com



Don G. Gill
County Administrator

COUNTY OF LANCASTER

FOUNDED 1651 IN VIRGINIA

LANCASTER COURTHOUSE
8311 MARY BALL ROAD
LANCASTER, VIRGINIA 22503

804-462-5129
804-462-0031 (FAX)
www.lancova.com

BOARD OF SUPERVISORS
Craig H. Giese, 1st District
Ernest W. Palin, Jr., 2nd District
Jason D. Bellows, 3rd District
William R. Lee, 4th District
William C. Smith, 5th District

August 5, 2024

Rappahannock River Yacht Club
c/o Charles Springett
P.O. Box 55
Irvington, VA 22480

Re: Tax Map#33-258, VMRC application #2024-1858

Dear Rappahannock River Yacht Club, Inc.,

County staff reviewed your permit request referenced above and deemed it complete for a determination.

This project VMRC# 24-1858, will not require authorization from the Lancaster County Wetlands Board, provided the project remains within the scope and position as submitted in the associated application. No county hearing shall be scheduled, at this time. You may require authorization from the Virginia Marine Resources Commission, Army Corps of Engineers, and/or other relevant agencies regarding this project.

A zoning review from the Town of Irvington and building review from the Lancaster County Building Department **will be required** prior to commencement of work. The owner or owner's contractor will need to contact our office to obtain these reviews and permits. It is recommended that you apply for these permits once you have received approval from VMRC and the ACOE.

If you have any questions, or if I may assist you in other matters, please contact me at (804) 462-5256.

Sincerely,

Kelsey English

Kelsey English
Codes Compliance Officer

cc: VMRC, Jay Woodward
Army Corps of Engineers, ACOE

From: [Payne, Khadijah \(MRC\)](#)
To: [MRC - jpa Permits](#)
Subject: Fw: RRYC Dock Extension
Date: Thursday, October 17, 2024 1:13:23 PM
Attachments: [Kellum Agreement.pdf](#)
[Irvington Zoning Permit.pdf](#)

Hi!

Please upload the attached signed OPG letter and local government permit to VMRC #24-1858.

Thank you,
Khadijah

Khadijah Payne

Environmental Engineer
Habitat Management Division
Virginia Marine Resources Commission

757.247.8028
khadijah.payne@mrc.virginia.gov

From: Charles Springett <cnspringett@gmail.com>
Sent: Tuesday, September 3, 2024 10:48 AM
To: Payne, Khadijah (MRC) <Khadijah.Payne@mrc.virginia.gov>
Subject: RRYC Dock Extension

Khadijah,

I am on a roll this morning. I have attached a copy of the agreement between WE Kellum and RRYC in which Kellum approves the construction of our dock extension. Do you want me to mail an original or is this scanned copy sufficient?

I have also attached a copy of the zoning approval from the Town of Irvington.

With the VDH approval I think this is everything that is outstanding. I cannot get the building permit from Lancaster County until VMRC actually issues their permit.

Please let me know if you need anything else and if you now have everything, when do you think VMRC will be in a position to approve the permit?

Thanks,

Charles Springett
RRYC

--
Charles Springett
gmail

Town of Irvington, Virginia
Zoning Permit Application (\$100 Filing Fee)

8.12.24 Date

Application is hereby made for a Zoning Permit in accordance with the description and for the purpose hereinafter set forth. This application is made subject to all local and state laws and ordinances with which applicant agrees to comply, and which shall be deemed a condition unto the exercise of this permit. Application must be made in duplicate with two (2) copies of drawing; showing lot size and location of structure with side yards and front and rear setbacks.

CHARLES SPRINGER RAPPANNOCK RIVER YC INC.
Applicant Name Name of Property Owner (if different)

100 RAPPANNOCK RD.
Property Location

N/A 804.761.6389
Applicant Contact Information Email Home Phone Mobile Phone

DOCKS OF THE BAY 804.929.2453
Contractor Contact Information Email Home Phone Mobile Phone
33 258

Tax Map Parcel Number Zoning Classification

NEW DOCK PER PLANS 350
Nature of Construction Approximate # of Feet

END OF EXISTING
Site Location(s)

☐ N ☐ E ☐ S ☐ W Side of State Road # (i.e. Route 200) Nearest Cross Street

☐ I, or, we, hereby covenant to restore any and all damages to sidewalks, streets, alleys, sewers, gas mains, water mains, electric installation and adjoining property which may result. I hereby certify I have the authority to make the foregoing application, that the information given is correct and that the construction will conform with the regulations in the Virginia Building Code, Zoning Ordinances, and private building restrictions if any, which may be imposed upon the above property by deed.

[Signature]
Applicant (s) Signature

| | | | |
|--|--------------------------------------|---|------------------------------|
| <input checked="" type="checkbox"/> Approved | <input type="checkbox"/> Disapproved | For Office Use Only | <u>2024-16</u> Permit Number |
| <input type="checkbox"/> \$100 Fee Collected | | <input type="checkbox"/> Yes <input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> No Fee Collected | |
| <u>[Signature]</u> Conditions | | <u>8.12.24</u> Date | |
| Zoning Administrator | | | |

This permit must be issued before starting construction and is invalid if a building permit is not obtained from Lancaster County and construction is not started within two (2) years of issuance of this permit.

Telephone (804) 438-6230
4203 Irvington Road Post Office Box 174 Irvington, Virginia 22480
* lbrown@town.irvington.va.us *
www.town.irvington.va.us

**Agreement Between W. ELLERY KELLUM, INC (Kellum) and Rappahannock River
Yacht Club Inc. (RRYC)**

August 22nd 2024

Whereas:

- Kellum is the owner and operator of Oyster Lease 21395 in Carters Creek, Lancaster County Virginia.
- RRYC is the owner of the property at 100 Rappahannock Road East of the Kellum lease. The property includes a dock (the club's marina) that extends 248 feet into Carters Creek and terminates about 15 feet from the edge of the subject oyster lease.
- RRYC has a waiting list of 20 members wishing to keep their boats on the dock and to accommodate some of that list RRYC would like to extend the dock a further 40 feet westward into the creek which will accommodate eight additional boat slips and a transient boat slip.
- RRYC has applied to Virginia Marine Resources Commission (VMRC) for a permit to construct the dock extension. VMRC has advised RRYC that written permission must be granted by the oyster lease holder before VMRC can issue a permit.
- RRYC has approached Kellum and requested that permission.

It is agreed between Kellum and RRYC that:

1. Kellum grants RRYC the right to build a dock extension that extends no more than 50 feet eastward from the existing tee head into the existing lease between the riparian lines as shown on the attached survey drawing. This drawing is incorporated into and is a part of this agreement.
2. RRYC agrees that it will not start construction activity until December 1st 2024 at the earliest.
3. RRYC and its contractor Docks of the Bay (DOB) will use their best efforts during construction to avoid disturbing the seabed adjacent to the dock extension boundaries.
4. RRYC agrees that Kellum has every right to pursue oyster lease activities at all times in his oyster lease outside the area occupied by the RRYC dock and slips.

5. Neither RRYC nor any member of the club shall raise objections to such activities either publicly or with any of the regulatory bodies involved.

Signed: Thos. E. Kellum Date: 8/26/2024

Name: THOS E KELLUM, Pres.

W. Ellery Kellum Inc.

Signed: William T. Brown Date: 9/3/24

Name: Bill Brown
RRYC Rear Commodore

Nathaniel Busells



From: [Payne, Khadijah \(MRC\)](#)
To: [MRC - jpa Permits](#)
Subject: Fw: [Non-DoD Source] JPA: 20241858 in Lancaster, Applicant: Rappahannock River Yacht Club, Inc.
Date: Wednesday, October 9, 2024 8:55:18 AM

Hi!

Please upload the attached response from the Coast Guard to VMRC #24-1858.

Thank you,
Khadijah

Khadijah Payne
Environmental Engineer
Habitat Management Division
Virginia Marine Resources Commission

757.247.8028
khadijah.payne@mrc.virginia.gov

From: Doody, Ryan P CIV USCG D5 (USA) <Ryan.P.Doody2@uscg.mil>
Sent: Wednesday, October 9, 2024 8:29 AM
To: Payne, Khadijah (MRC) <Khadijah.Payne@mrc.virginia.gov>
Subject: RE: [Non-DoD Source] JPA: 20241858 in Lancaster, Applicant: Rappahannock River Yacht Club, Inc.

Khadijah,

Good morning, the Coast Guard finds this project Acceptable. Thank you

V/r

Ryan

From: VMRC JPA <Khadijah.Payne@mrc.virginia.gov>
Sent: Monday, October 7, 2024 4:38 PM
To: Doody, Ryan P CIV USCG D5 (USA) <Ryan.P.Doody2@uscg.mil>
Subject: [Non-DoD Source] JPA: 20241858 in Lancaster, Applicant: Rappahannock River Yacht Club, Inc.

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 October 21, 2024. 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: 20241858](#)

Applicant: Rappahannock River Yacht Club, Inc.

Locality: Lancaster

Project Description: Community Pier Extension

Date Received: August 5, 2024

Engineer: Khadijah Payne

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 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) 247-8028 or Khadijah.Payne@mrc.virginia.gov
Khadijah Payne
Environmental Engineer

Virginia Marine Resources Commission
Phone: (757) 247-8028
Email: Khadijah.Payne@mrc.virginia.gov

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

SHELLFISH MANAGEMENT DIVISION EVALUATION

LYNNHAVEN RIVER NOW

Oyster Planting Ground Application #2021-050

Requests authorization to lease approximately 5 acres of oyster planting ground in the Lynnhaven River in the City of Virginia Beach

NARRATIVE

Staff received an Oyster Planting Ground Application from Lynnhaven River Now on September 7, 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 was able to mitigate user conflict and resolve three of the four written comments objecting to the lease request. The remaining protestor did not state their reason for the protest, however, did request a public hearing.

Staff sent a letter to approve the application as applied for on August 19, 2024. The applicant has paid the required application fee, newspaper and advertisement fees, as well as the surveying fee. The protestant has appealed that decision to assign the lease and requested a public hearing for Commission consideration.

Staff cannot ascertain any specific rationale to not support the request to lease the area, as surveyed, as any shellfish growing activity proposed would be similar to the same type of activity currently allowed on the adjoining lease held by the protestant. There are no private piers, navigation channels, or submerged aquatic vegetation in this area that would be impacted by the assignment of a lease at this location.

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 has approved the application based upon consideration of the objections raised by local residents, comments concerning support of the request, and consideration of the public trust doctrine. The protestant has appealed the decision and requested a hearing in front of the Commission to reverse the decision.

MAP





VIRGINIA
MARINE RESOURCES
COMMISSION
ENGINEERING / SURVEYING DEPARTMENT

APPLICATION NO. 2021050

DISTRICT NO. 22

MAP NO. 23_1489

SHEET NO.

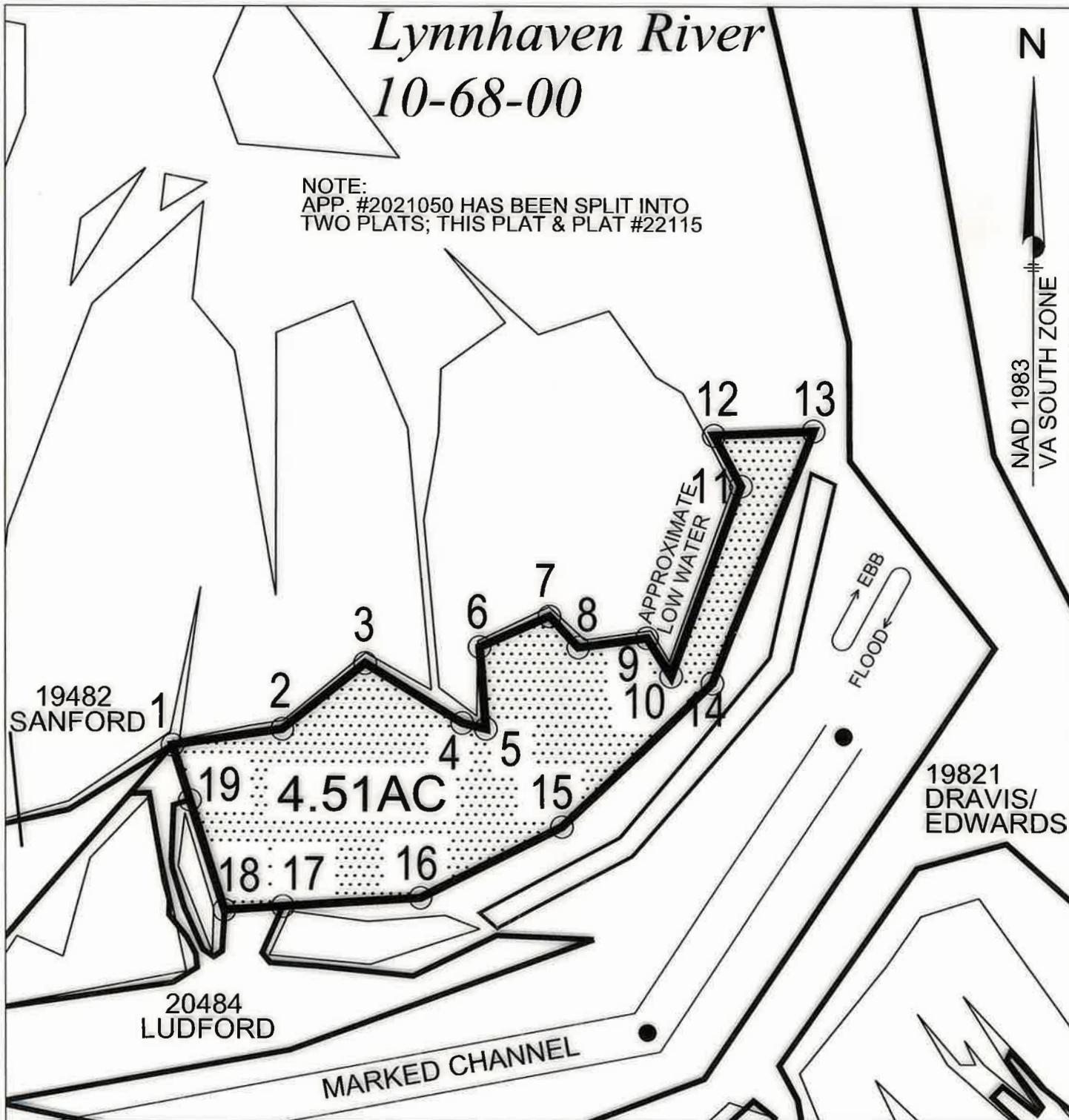
1 OF 2

FILE NO.

22116

Lynnhaven River
10-68-00

NOTE:
APP. #2021050 HAS BEEN SPLIT INTO
TWO PLATS; THIS PLAT & PLAT #22115



ALL CORNERS WERE SET BY GPS (RTN) METHODS

4.51 ACRES
OYSTER PLANTING GROUND

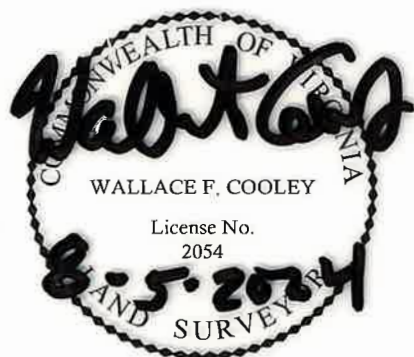
OF
LYNNHAVEN RIVER NOW

IN
LYNNHAVEN RIVER 10-68-00

CITY OF VIRGINIA BEACH

SCALE: 1/2400 (1" = 200')

DATE: JULY 31, 2024



Wallace F. Cooley
V.M.R.C. APPROVED / RECORDED

DANIEL FAGGERT
SURVEYOR



VIRGINIA
MARINE RESOURCES
COMMISSION
ENGINEERING / SURVEYING DEPARTMENT

APPLICATION NO. 2021050
DISTRICT NO. 22 MAP NO. 23_1489
SHEET NO. 2 OF 2 FILE NO. 22116

| VIRGINIA STATE PLANE COORDINATES SOUTH ZONE (U.S. FEET) | | | GEOGRAPHIC COORDINATES DEGREES, MINUTES | |
|--|-------------|-----------|--|--------------------|
| NORTHING | EASTING | POINT NO. | LATITUDE | LONGITUDE |
| 3495447.59 | 12187338.51 | 1 | 36° 53.8860340' N. | 76° 05.4457561' W. |
| 3495470.05 | 12187491.74 | 2 | 36° 53.8890896' N. | 76° 05.4142078' W. |
| 3495561.49 | 12187607.66 | 3 | 36° 53.9036661' N. | 76° 05.3899513' W. |
| 3495479.14 | 12187743.68 | 4 | 36° 53.8895273' N. | 76° 05.3624821' W. |
| 3495471.14 | 12187776.60 | 5 | 36° 53.8880708' N. | 76° 05.3557714' W. |
| 3495584.42 | 12187767.80 | 6 | 36° 53.9067699' N. | 76° 05.3569830' W. |
| 3495627.92 | 12187865.30 | 7 | 36° 53.9135259' N. | 76° 05.3367557' W. |
| 3495584.24 | 12187905.61 | 8 | 36° 53.9061603' N. | 76° 05.3287161' W. |
| 3495597.54 | 12188001.66 | 9 | 36° 53.9079471' N. | 76° 05.3089445' W. |
| 3495544.47 | 12188035.33 | 10 | 36° 53.8990625' N. | 76° 05.3023162' W. |
| 3495813.56 | 12188132.73 | 11 | 36° 53.9429831' N. | 76° 05.2809269' W. |
| 3495883.96 | 12188094.74 | 12 | 36° 53.9547409' N. | 76° 05.2883505' W. |
| 3495890.27 | 12188233.86 | 13 | 36° 53.9551947' N. | 76° 05.2597806' W. |
| 3495534.93 | 12188093.05 | 14 | 36° 53.8972479' N. | 76° 05.2905266' W. |
| 3495332.43 | 12187883.11 | 15 | 36° 53.8647711' N. | 76° 05.3346509' W. |
| 3495231.42 | 12187685.45 | 16 | 36° 53.8489621' N. | 76° 05.3757239' W. |
| 3495219.02 | 12187493.03 | 17 | 36° 53.8477288' N. | 76° 05.4152579' W. |
| 3495213.78 | 12187411.53 | 18 | 36° 53.8472083' N. | 76° 05.4320025' W. |
| 3495369.37 | 12187362.94 | 19 | 36° 53.8730450' N. | 76° 05.4411546' W. |

ALL CORNERS WERE SET BY GPS (RTN) METHODS

4.51 ACRES
OYSTER PLANTING GROUND

OF
LYNNHAVEN RIVER NOW

IN
LYNNHAVEN RIVER 10-68-00

CITY OF VIRGINIA BEACH



SCALE: 1/2400 (1" =200') DATE: JULY 31, 2024

[Signature]
V.M.R.C. APPROVED / RECORDED

DANIEL FAGGERT
SURVEYOR

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

380 Fenwick Road, Bldg. 96
Fort Monroe, VA 23651

RECEIVED

SEP 07 2021

MARINE RESOURCES
COMMISSION
(Revised 8-22-2019)

APPLICATION FOR OYSTER PLANTING GROUND

Name(s): LYNNHAVEN RIVER NOW

(Complete pages 1 and 2 of application) (Please Print) (All Applicants must be Virginia residents or eligible business entities, See Code 28.2-604)

Responsible Applicant: BRENT JAMES

Birthdate: 03/13/52

(if multiple applicants)

911 Address: _____
Number Street City State Zip Code

Mailing Address 1085 DOWNSHIRE CHASE VA BEACH VA 23452
Number Street P.O. Box City State Zip Code

E-mail Address BRENT@LRNOW.ORG Telephone: 757-560-3845
Work/Cell Home

Contact Person (if other than applicant): _____ C/O or agent OR if signing as: POA _____ Corporate Officer _____
(Check only one above)

Mailing Address for contact person: _____
Street or P.O. Box City State Zip Code

E-mail Address (for contact person) _____ Telephone: _____
Work/Cell Home

Ground is in the waters of LYNNHAVEN RIVER, containing approximately 79.25 acres, in the City/County of VA BEACH, and described as follows (Please list any adjoining leases, Public Ground, proximity to mean low water, navigation channels, and any other nearby physical landmarks such as channel markers, land features, etc., if applicable, and existing submerged aquatic vegetation). Please provide a map. See pages 3 and 4 for additional instructions.

see: https://webapps.mrc.virginia.gov/public/maps/chesapeakebay_map.php

CURRENT EXPIRING LEASE # 18187 - CURRENTLY IN NAME OF JOHN MEEKINS. (NEAR CRAB CREEK.)

Application must include non-refundable fee (see page 3 for fee schedule). I/we agree to promptly pay the newspaper for the required advertising. All applicant's are equally responsible to pay all fees for advertising, notification of adjacent leaseholders, notification of adjacent highland property owners, surveying, mapping, assigning, and recording as specified in the Code of Virginia, Title 28.2.

Do you presently lease oyster ground in this name? yes X no _____ Billing number is _____

Do you presently have a MRC ID #? yes _____ no X MRC ID # is _____

Federal Employer Identification Number (FEIN), if applicable: _____

Brent S. James
Applicant's signature(s) (all must sign)

FOR OFFICE USE ONLY:

App. Number: 2021-050 Billing Number: 8810 Waterbody Number: 10-68-00
Map Number: 023-1489 District Number: 22 Assigned Surveyor: Daniel Fagert
Latitude: N36-54.1427 Longitude: W76-05.4558

Brent S. James 9-13-21 Rob Bergman
Chief or Director, Engineering/Surveying Dept. Date Law Enforcement Officer/Supervisor

The Code of Virginia requires that leased areas "be occupied for the purpose of planting or propagating oysters" (Chapter 6, 28.2-603). Shellfish lease applications will not be accepted for the sole purpose of attempting to exclude other legal uses of the area.

Please provide information requested below for evaluation of the lease application request:

1. Will the lease be used for traditional shelling of the bottom, cultivating existing shell resources or the placement of other cultch material? Yes ☒ No ☐
2. Will there be any planting of spat and/or seed oysters on bottom.
Yes ☒ No ☐ Uncertain ☐
3. Will there be the placement of structures on-bottom for shellfish production?
Yes ☐ No ☒

If yes will they exceed a height of 12-inches from the substrate?

Yes ☐ No ☒ N/A

(Any structures that extend more than 12-inches above the substrate, or that are marked with buoys or stakes, will require additional authorization from the Fisheries Management Division and/or any floating structures will require a subaqueous permit from the Habitat Management Division and are not defacto authorized on oyster lease grounds).

4. Will there be clam cultivation using traditional harvest or seed planting methods?
Yes ☐ No ☒ With protective nets Yes ☐ No ☐
5. Are other uses proposed not included above?
Yes ☐ No ☒

If yes please explain: _____

RECEIVED

SEP 07 2021

MARINE RESOURCES
COMMISSION

Applicants Name(s) (Print) LYNDHAVEN RIVER NOW / BRENT JAMES

Brent James 9/1/21
Signature of Applicant(s) (All applicants must sign) Date

Signature of Applicant(s) (All applicants must sign) Date

FOR OFFICE USE ONLY: APPLICATION # 2021-050

Virginia Marine Resources Commission



Acreage: 79.25

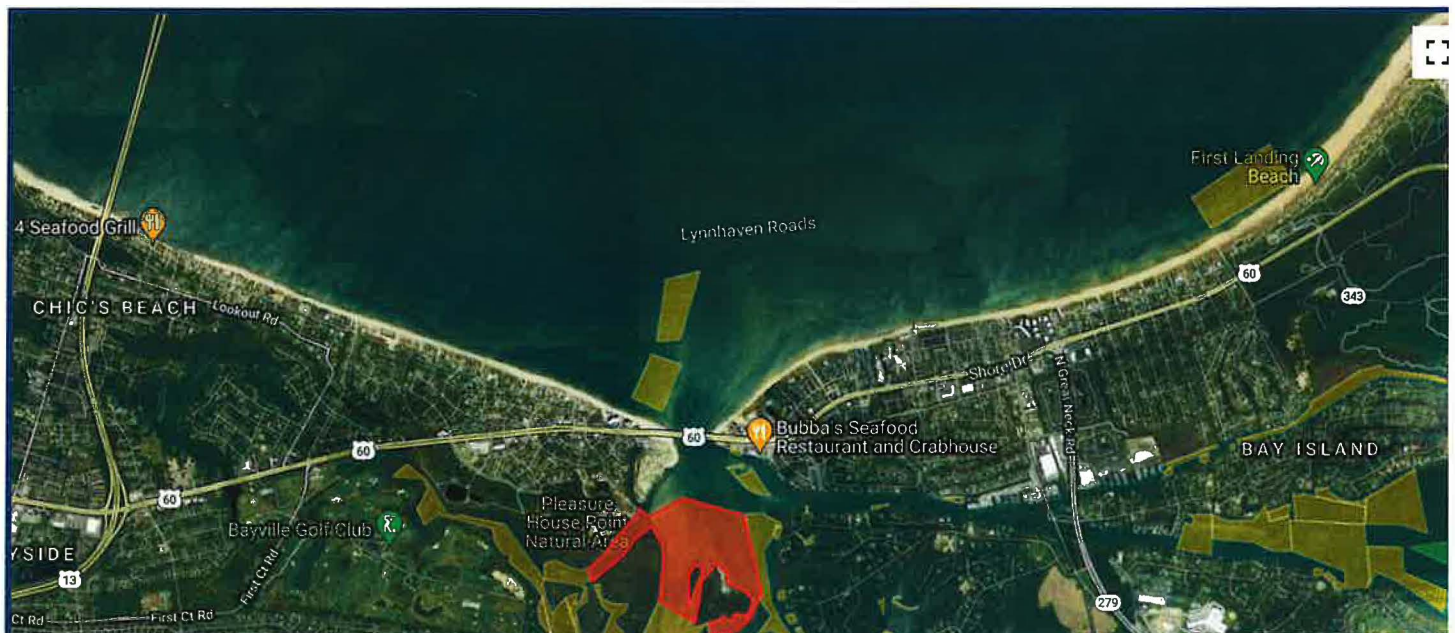
Lease Type: Regular

Waterbody: Lynnhaven River

 **Oyster Ground Leases**

 **Oyster Ground Applications**

 **Public Baylor Grounds**





COMMONWEALTH of VIRGINIA

Marine Resources Commission

380 Fenwick Road

Bldg 96

Fort Monroe, VA 23651-1064

Matthew J. Strickler
Secretary of Natural Resources

Steven G. Bowman
Commissioner

September 13, 2021

Virginia Beach Beacon
ATTN: Legal Advertising Department,
150 W. Brambleton Ave.
Norfolk, VA 23510

REQUEST FOR ADVERTISEMENT

In accordance with 28.2-606 of the Code of Virginia, please publish the attached notice once a week for two (2) consecutive weeks in your newspaper. Please format in a manner that minimizes the cost to the applicant.

Please submit bill to:

KAREN FORGET (2021050)

3663 MARLIN BAY DR

VIRGINIA BEACH, VA 23455

Telephone: 757-962-5398

Please send statement of verification to Engineering/Surveying Department, Marine Resources Commission, 380 Fenwick Road, Fort Monroe, VA 23651-1064.

Virginia Marine Resources Commission
Engineering Department

An Agency of the Natural Resources Secretariat

www.mrc.virginia.gov

Telephone (757) 247-2200 (757) 247-2292 V/TDD Information and Emergency Hotline 1-800-541-4646 V/TDD

NOTICE OF OYSTER PLANTING GROUND APPLICATION

LYNNHAVEN RIVER NOW, (2021050) has applied for approximately 79.25 acres of oyster planting ground in Lynnhaven River situated in Virginia Beach City/County. The application is located at Lat/Long: N36-54.1427 / W76-05.4558

To view a map of the application, use this web link to search the application by number (2021050): https://webapps.mrc.virginia.gov/public/oystergrounds/search_applications.php or contact the VMRC Engineering/Surveying Department at 757-247-2230.

Send written comments or concerns to:

Marine Resources Commission, Engineering/Surveying Department
380 Fenwick Road, Fort Monroe, VA 23651-1064

**Virginia Marine Resources Commission
Shellfish Management Public Comments
Application Number 2021050**

Print Date: Thursday October 03 2024 10:50

| Number | Name | Received | Position |
|--------|--|------------------------|----------|
| 3 | MARK SANFORD 757-263-7599 lynnhavenbay@gmail.com | 08/12/2024 13:41:19 PM | OPPOSE |

I AM PROTESTING THIS APPLICATION AT THIS TIME AND I AM REQUESTING A HEARING BEFORE THE VMRC COMMISSION



COMMONWEALTH of VIRGINIA

Marine Resources Commission

380 Fenwick Road

Building 96

Fort Monroe, VA 23651

Travis A. Voyles
Secretary of Natural and Historic
Resources

Jamie L. Green
Commissioner

August 19, 2024

MEMORANDUM

FROM: Adam Kenyon,
Chief, Shellfish Management Division

SUBJECT: VMRC Oyster Ground Lease Application #2021-050

This memo serves to inform you that the Marine Resources Commission has completed its review of Oyster Ground Lease Application #2021-050 covering 5 acres within Lynnhaven River in the City of Virginia Beach (see map below). You are receiving this memo as you had previously submitted written comments concerning this application.

After careful consideration of your written comments, along with a thorough evaluation of the public benefits and impacts of on-bottom shellfish aquaculture, as well as the factors outlined in subsection A of §28.2-1205 of the Code of Virginia, the Marine Resources Commission has made a determination that the assignment of this ground is in the public interest, therefore it will be assigned accordingly.

Please note that the applicant has chosen to amend their application to mitigate user conflicts in the area. This application does not include any subaqueous bottom either in Crab Creek or the sand bar at the mouth of Lynnhaven River. It only includes the area on the south side of the island as shown in the map below.

Should you disagree with the findings of the agency, the Code of Virginia §28.2-216 allows any person to appeal an action of the Commission through an in-person formal hearing process. You have 14 days from the date of this memo to file a complaint to the agency in writing. If a complaint is submitted within this timeframe, you will be required to appear before the Commission at an in-person formal hearing to present your case. Written complaints must be sent to the agency main office at: VMRC, 380 Fenwick Road, Fort Monroe, VA 23561.



An Agency of the Natural and Historic Resources Secretariat

www.mrc.virginia.gov

Telephone (757) 247-2200 Information and Emergency Hotline 1-800-541-4646

From: [Mark Sanford](#)
To: [Kenyon, Adam \(MRC\)](#)
Subject: Re: Letter of Finding for Oyster Ground Lease #2021-050
Date: Thursday, August 22, 2024 1:03:45 PM

Adam

I'm still protesting application #2021-050 and I'm wanting to go before the board .Is this sufficient as a notice or do I need to email the commissioner

Thanks

Mark sanford

On Mon, Aug 19, 2024, 2:24 PM Kenyon, Adam (MRC) <Adam.Kenyon@mrc.virginia.gov> wrote:



COMMONWEALTH of VIRGINIA

Travis A. Voyles
Secretary of Natural and Historic
Resources

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

Jamie L. Green
Commissioner

October 1, 2024

MEMORANDUM

FROM: Adam Kenyon
Chief, Shellfish Management Division

SUBJECT: Lynnhaven River Now, Oyster Planting Ground Application #2021-050
Requests authorization to lease approximately 5 acres of oyster planting ground in the Lynnhaven River in the City of Virginia Beach

The application for oyster planting grounds, referenced above, will be heard by the Marine Resources Commission at their public hearing scheduled for Monday, October 28, 2024, beginning at 9:30 a.m.

You are receiving this memo as you had previously submitted written comments concerning the above application. For more information pertaining to this application, please visit:
https://webapps.mrc.virginia.gov/public/oystergrounds/search_applications.php.

If you wish to withdraw your written comments, please contact the Shellfish Management Division at 757-247-8068 prior to the date of the public hearing.

The Marine Resources Commission does not discriminate against individuals with disabilities. Therefore, if you are in need of reasonable accommodation due to a disability, please advise Michele Guilford, Agency Secretary, at (757) 247-2206 no less than five workdays prior to the meeting time and identify your need.

SHELLFISH MANAGEMENT DIVISION EVALUATION, 10/28/2024

| | |
|------------------------|---|
| Public Hearing: | Proposal to amend Chapter 4 VAC 20-1250-10 et seq., "Pertaining to the Tagging of Shellfish" to modify the method of identifying harvested shellfish to align with the National Shellfish Sanitation Program's tagging requirements to increase public safety and protect the shellfish resource. |
| Issues: | The proposed amendments will enhance the specificity of shellfish harvest locations in Virginia. By aligning Virginia's regulations with the latest National Shellfish Sanitation Program standards, these changes will improve the traceability of molluscan shellfish harvested in the state. Specifically, the amendments incorporate updated growing areas identified by the Virginia Department of Health and mandate that shellfish tags include the growing area and either the lease number or public harvest area. |
| Background: | <p>The National Shellfish Sanitation Program (NSSP) is the federal/state cooperative program recognized by the U. S. Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption. The purpose of the NSSP is to promote and improve the sanitation of shellfish (oysters, clams, mussels and scallops) moving in interstate commerce through federal/state cooperation and uniformity of State shellfish programs. Participants in the NSSP include agencies from shellfish producing and non-producing States, FDA, EPA, NOAA, and the shellfish industry. Under international agreements with FDA, foreign governments also participate in the NSSP. Other components of the NSSP include program guidelines, State growing area classification and dealer certification programs, and FDA evaluation of State program elements.</p> <p>The latest revision to the NSSP Guide for the Control of Molluscan Shellfish introduces more detailed guidelines for identifying shellfish harvest areas, enhancing traceability and safeguarding both the public and industry against potential disease outbreaks. The proposed amendments will update the information required on shellfish tags, mandating that harvesters document the growing area and either the lease number or public harvest area.</p> <p>This regulatory change is set to take effect on January 1, 2025. The delay allows the Virginia Marine Resources Commission and the Department of Health ample time to educate the industry and harvesters on these changes, thereby improving traceability for shellstock products.</p> |

Staff Recommendation: Staff recommends the Commission approve amendments to Chapter 4 VAC 20-1250-10 et seq., "Pertaining to the Tagging of Shellfish" to modify the method of identifying harvested shellfish to align with the National Shellfish Sanitation Program's tagging requirements to increase public safety and protect the shellfish resource.



COMMONWEALTH of VIRGINIA

Marine Resources Commission

Building 96

380 Fenwick Road

Fort Monroe, VA 23651

Travis A. Voyles
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 October 9, 2024, 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 Monday, October 28, 2024, 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 12:00 p.m., Wednesday, October 23, 2024. 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.

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 close the 2024/2025 winter crab dredge fishery and consider extending the commercial crab pot fishery season.

The purpose of these amendments is to protect the female spawning stock while increasing opportunity in the blue crab fishery for winter harvest.

II. Chapter 4VAC20-1250-10 et seq., “Pertaining to the Tagging of Shellfish”

The Commission proposes to amend Chapter 4VAC20-1250-10 et seq., “Pertaining to the Tagging of Shellfish” to modify the method of identifying harvested shellfish.

The purpose of these amendments is to align with the National Shellfish Sanitation Program’s tagging requirements to increase public safety and protect the shellfish resource.

**VMRC DOES NOT DISCRIMINATE AGAINST INDIVIDUALS WITH DISABILITIES;
THEREFORE, IF YOU ARE IN NEED OF REASONABLE ACCOMMODATIONS**

An Agency of the Natural and Historic Resources Secretariat

www.mrc.virginia.gov

Telephone (757) 247-2200 (757) 247-2292 V/TDD Information and Emergency Hotline 1-800-541-4646 V/TDD

**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.**

VIRGINIA MARINE RESOURCES COMMISSION
“PERTAINING TO THE TAGGING OF ~~SHELLFISH~~ SHELLSTOCK”
CHAPTER 4 VAC 20-1250-10 ET SEQ.

PAGE 1 OF 15

This draft version was modified on 10/16/2024 to include a revised section 50.

PREAMBLE

This chapter establishes a method of identifying, with the use of shellfish tags, any harvest of shellfish from Virginia waters. This chapter is promulgated pursuant to the authority contained in §§28.2-201 and 28.2-801 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous chapter 4 VAC 20-1250-10 et seq., which was adopted on ~~May 22, 2012~~ August 24, 2021 and made effective on ~~May 31, 2012~~ October 1, 2021. The effective date of this chapter is ~~October 1, 2021~~ January 1, 2025.

4 VAC 20-1250-10. Purpose.

The purpose of this chapter is to establish a method of identifying harvested ~~shellfish~~ shellstock, according to its original Virginia ~~harvest~~ growing area, at any time of the year.

4 VAC 20-1250-20. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

“Bulk ~~shellfish~~ shellstock tag” means a ~~shellfish~~ shellstock tag that shall only be used for ~~shellfish~~ shellstock harvested from a single ~~harvest~~ growing area in any one day and accompanies a conveyance containing multiple containers of shellfish.

“Certified dealer” means a person to whom certification is issued by the Virginia Department of Health for the purposes of introducing ~~shellfish~~ shellstock into commerce.

"Certified dealer tag" means a ~~shellfish~~ shellstock tag, which is approved by the Virginia

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

Department of Health, ~~Division of Shellfish Sanitation~~, that shall only be used for ~~shellfish~~ shellstock harvested from a single harvest growing area, ~~in any one day, and those shellfish are either loose in a conveyance or in a single container.~~

"Container" means any bag, box, sack, tote, or other receptacle that contains ~~shellfish~~ shellstock to be held, in any type of conveyance, for transport from the ~~harvest growing area~~ to the landing site and from the landing site to the point of sale or other use.

“Conveyance” means any form of transport, either mechanical, such as a boat or truck, or non-mechanical that is used to transport ~~shellfish~~ shellstock from the ~~harvest growing area~~ to the landing site or from the landing site to a certified dealer or other use.

~~“Direct marketing” means any shellfish or shellstock that is landed and sold without any post-harvest processing.~~

"Harvest" means the act of removing any ~~shellfish or~~ shellstock from a designated ~~harvest growing area~~ and placing that ~~shellfish or~~ shellstock in a container or on or in a conveyance.

“Land” or “landing” means to (i) enter port with finfish, ~~shellfish~~ shellstock, crustaceans, or other marine seafood on board any boat or vessel; (ii) begin offloading finfish, ~~shellfish~~ shellstock, crustaceans, or other marine seafood; or (iii) offload finfish, ~~shellfish~~ shellstock, crustaceans, or other marine seafood.

“Post-harvest processing” means any process which has been validated using National Shellfish Sanitation Program validation procedures.

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

“Replant” or “replanting” means to place after harvest ~~shellfish~~ shellstock into waters as allowable by applicable law or permit.

“Restricted-use shellstock” means shellstock ~~or shellfish~~ harvested from approved ~~shellfish~~ growing areas that shall ~~not be sold for direct marketing or raw consumption~~ only be sold to a certified shucker-packer for the purpose of shucking or post-harvest processing.

“Restricted-use shellstock tag” means a Virginia Marine Resources Commission-issued green tag that shall only be used by a certified ~~dealer who has a current certificate of inspection as a~~ shucker packer for shellstock ~~or shellfish~~ harvested from a single ~~harvest~~ growing area in any one day. Use of any such tag indicates that shellstock is intended for ~~further processing~~ shucking or for post-harvest processing prior to distribution ~~to retail or food service.~~

~~“Shellfish” or~~ “Shellstock” means all ~~species of bivalve~~ live molluscan shellfish in the shell.

“Single ~~harvest~~ growing area” means one of the water areas established by the Virginia ~~Marine Resources Commission for reporting fisheries statistics~~ Department of Health.

“~~Shellfish~~ Shellstock harvester tag” means a ~~shellfish~~ tag that shall only be used for ~~shellfish~~ shellstock harvested from a single ~~harvest~~ growing area, in any one day, and those ~~shellfish~~ shellstock are either loose in a conveyance or in a single container.

“Shucker-packer” means a person who shucks and packs ~~shellfish~~ shellstock under a current certificate of inspection issued by the Virginia Department of Health, ~~Division of Shellfish Sanitation.~~

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

“Temperature control” means the use of ice or mechanical refrigeration, which is capable of lowering the temperature of the shellstock and maintaining it at 50°F (10°C) or less, as approved by the Virginia Department of Health, ~~Division of Shellfish Sanitation~~.

4 VAC 20-1250-30. Shellfish identification.

A. Any person harvesting ~~shellfish~~ shellstock for commercial purposes shall affix a ~~shellfish~~ shellstock harvester tag to each container of ~~shellfish~~ shellstock, except as provided in subsection E of this section, before leaving any single ~~harvest~~ growing area. The ~~shellfish~~ shellstock harvester tag shall remain in place while the ~~shellfish~~ shellstock are transported from the ~~harvest~~ growing area to the landing site and from the landing site to a certified dealer or for any other use. Any transport of ~~shellfish~~ shellstock to a certified dealer requires that the ~~shellfish~~ shellstock harvester tag remain affixed to each container of ~~shellfish~~ shellstock until the container is emptied or shipped and re-tagged by a certified dealer.

B. The ~~shellfish~~ shellstock harvester tag, the bulk ~~shellfish~~ shellstock tag, and the green restricted-use shellstock tag shall be durable, waterproof, at least 13.8 square inches in size, and approved by the Virginia Marine Resources Commission or the Virginia Department of Health prior to use, ~~and at least 13.8 square inches in size.~~

C. The ~~shellfish~~ shellstock harvester tag shall contain all of the following indelible and legible information, in the following order:

1. The harvester's Virginia Marine Resources Commission identification number or Virginia Marine Resources Commission oyster aquaculture harvester permit number or clam aquaculture harvester permit number;

“PERTAINING TO THE TAGGING OF ~~SHELLFISH~~ SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

2. The date of harvest, time that any ~~shellfish~~ shellstock harvest began, and time that harvested ~~shellfish~~ shellstock were offloaded and placed under temperature control;
3. An acknowledgement of whether or not those ~~shellfish~~ shellstock, described in subdivision 2 of this subsection, were placed in a storage container approved by the Virginia Department of Health, Division of Shellfish Sanitation ~~approved storage container~~ with ~~a layer~~ layers of ice that continuously and completely covered the oysters;
4. The most accurate identification of the harvest location ~~or aquaculture site~~, including the abbreviated name of the state of harvest ~~and the Virginia Marine Resources Commission's designation of the growing area by indexing, administrative, or geographic designation, and the minimum identification requirement shall be to specify a single growing area from the listing, as described in 4VAC20-1250-50~~; The harvest location shall include the single growing area as described in 4VAC20-1250-50 and shall also include either lease number, public harvest area as described in 4VAC20-720, or aquaculture site.
5. The type and quantity of harvested ~~shellfish~~ shellstock; and,
6. The following statement, in bold capitalized letters: "THIS TAG IS REQUIRED TO BE ATTACHED, UNTIL THE CONTAINER IS EMPTY OR IS ~~RE-TAGGED~~, RETAGGED AND THEREAFTER KEPT ON FILE, IN CHRONOLOGICAL ORDER, FOR 90 DAYS."

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

D. For any quantities of ~~shellfish~~ shellstock commercially harvested from a single ~~harvest~~ growing area, in any one day, that are loose and not containerized aboard any conveyance, the harvester shall prepare a ~~shellfish~~ shellstock harvester tag for that quantity of ~~shellfish~~ shellstock, which shall accompany that quantity of ~~shellfish~~ shellstock during transport from the single ~~harvest~~ growing area to the landing site and from the landing site to a certified dealer or for transport to any area for replanting.

E. When multiple containers of ~~shellfish~~ shellstock are harvested from a single ~~harvest~~ growing area, in any one day, and placed in any conveyance, the lot may be tagged with a bulk ~~shellfish~~ shellstock tag, for that quantity of ~~shellfish~~ shellstock, which shall accompany that quantity of ~~shellfish~~ shellstock during transport from the ~~harvest~~ growing area to the landing site and from the landing site to a certified dealer or for transport to any area for replanting. In addition to the information required in subsection C of this section, any bulk ~~shellfish~~ shellstock tag shall also include:

1. The following statement in bold capitalized letters: "ALL SHELLFISH CONTAINERS IN THIS LOT HAVE THE SAME HARVEST DATE AND ~~ARE FROM A SINGLE~~ AREA OF HARVEST"; and,
2. The number of individual containers in the lot.

F. Certified shucker-packers shall use a green restricted-use shellstock tag for the harvest of restricted-use shellstock from a single ~~harvest~~ growing area in any one day. The restricted-use shellstock tag shall accompany that quantity of ~~shellfish~~ shellstock during transport from the

“PERTAINING TO THE TAGGING OF ~~SHELLFISH~~ SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

~~harvest~~ growing area to the landing site and from the landing site to the certified shucker-packer. In addition to the information required in subsection C of this section, any restricted-use shellstock tag shall also include:

- 1) The ~~certified~~ shucker-packer name and address; the certification number issued by the Virginia Department of Health, ~~Division of Shellfish and Sanitation~~ ~~certification number~~; and the following statement in bold capitalized letters: “FOR SHUCKING ~~BY A CERTIFIED DEALER~~ OR POST HARVEST PROCESSING ~~ONLY BY A CERTIFIED DEALER ONLY~~”; and,

- 2) The quantity of restricted-use shellstock in the lot.

G. Certified dealers may use their certified dealer tag in place of a ~~shellfish~~ shellstock harvester tag as provided in subsection A of this section, except as provided in subsection F of this section.

H. All commercially harvested ~~shellfish~~ shellstock shall be tagged by a certified dealer prior to being sold, marketed, consumed, or transported to any location other than to a certified dealer or for replanting.

4 VAC 20-1250-40. Penalty.

A. In addition to the penalty prescribed by law, any person violating any provision of this chapter shall destroy, in the presence of a marine police officer, all ~~shellfish~~ shellstock in his possession, or, at the direction of the marine police officer, shall place the shellfish overboard on

“PERTAINING TO THE TAGGING OF SHELLFISH SHELLSTOCK”**CHAPTER 4 VAC 20-1250-10 ET SEQ.**

the nearest oyster sanctuary or closed ~~shellfish~~ shellstock growing area and shall cease harvesting on that day. All harvesting apparatus may be subject to seizure, and, pursuant to § 28.2-232 of the Code of Virginia, all licenses and permits may be subject to revocation, following a hearing before the Virginia Marine Resources Commission.

B. 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.

4 VAC 20-1250-50. Designated Single ~~Harvest~~ Growing Areas.

A listing of water area names for use by harvesters to designate ~~harvest~~ growing areas.

| | |
|--------------------------------------|---|
| Back Bay | Mobjack Bay |
| Back River | Nansemond River |
| Bogue Bay | Nomini River |
| Bradford Bay | North River |
| Burton's Bay | North Landing River |
| Chesapeake Bay Lower East | Outlet Bay |
| Chesapeake Bay Lower West | Oyster Bay Seaside Eastern Shore |
| Chesapeake Bay Upper East | Pagan River |
| Chesapeake Bay Upper West | Pamunkey River |
| Chickahominy River | Piankatank River |

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| | |
|--------------------------------|---------------------------|
| Chincoteague Bay | Pocomoke River |
| Chuckatuck Creek | Pocomoke Sound |
| Coan River | Poquoson River |
| Cobb Bay Seaside Eastern Shore | Potomac Creek |
| Corrotoman River | Rappahannock River Middle |
| Currioman River | Rappahannock River Lower |
| East River | Rappahannock River Upper |
| Elizabeth River | Rosier Creek |
| Fleets Bay | Severn Creek |
| Gargathy Bay | South Bay |
| Great Wicomico River | Swash Bay |
| Hog Island Bay | Tangier Sound |
| Horn Harbor | Upper Machodoc Creek |
| James River Middle | Upshur Bay |
| James River Lower | Ware River |
| James River Upper | Warwick River |
| Kegotank Bay | Watts Bay |
| Lafayette River | Willoughby Bay |
| Little Wicomico River | Winter Harbor |
| Lower Machodoc Creek | Yeocomico River |
| Lynnhaven Bay | York River Middle |
| Magothy Bay | York River Lower |

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~~Mattaponi River~~ ~~York River Upper~~
~~Mattox Creek~~ ~~Ocean Eastern Shore~~
~~Metomkin Bay~~ ~~Ocean Virginia Beach~~
~~Milford Haven~~

001A Upper Machodoc Creek

001 Rosier Creek

003 Potomac River: Mattox Creek to Currioman Bay

004 Nomini and Currioman Bays

005 Potomac River: Lower Machodoc Creek

006 Gardner, Jackson and Bonum Creeks

007 Potomac River: Yeocomico River

008 Potomac River: Coan River

009 Potomac River: Cod Creek to Hack Creek

010 Little Wicomico River

011 Chesapeake Bay: Smith Point to Fleeton Point

012 Cockrell, Reason and Whays Creek

013 Great Wicomico River

014 Chesapeake Bay: Cranes Creek to Mill Creek

015 Chesapeake Bay: Dividing Creek

016 Chesapeake Bay: Barnes Creek to Windmill Point

018 Oyster, Little Oyster, Windmill Point and Mosquito Creeks

020 Rappahannock River: Carter Creek

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021L Corrotoman River, Lower

021U Corrotoman River, Upper

022 Rappahannock River: Towles Point to Monaskon

023 Rappahannock River: Monaskon to Farham Creek

024 Rappahannock River: Farnham Creek

025 Rappahannock River: Sharps to Accaceek Point

025A Rappahannock River: Accaceek Point to Tappahannock Bridge

026A Rappahannock River: Tappahannock Bridge to Wares Wharf

026 Rappahannock River: Wares Wharf to Jones Point

027 Rappahannock River: Jones Point to Weeks Point

028 Rappahannock River: Lagrange and Robinson Creeks

029 Rappahannock River: Urbanna and Whiting Creeks

030 Rappahannock River: Meachim Creek

031 Rappahannock River: Locklies and Mill Creeks

032 Rappahannock River: Bush Park, Sturgeon and Broad Creeks

034 Piankatank River, Lower

035 Piankatank River, Upper

037 Gwynn’s Island, Queens Creek to Whites Creek

038 Chesapeake Bay: Winter Harbor and Garden Creek

039 Chesapeake Bay: Horn Harbor and Dyer Creek

040 Mobjack Bay: New Point Comfort to East River

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- 041 Mobjack Bay: East River
- 042 Mobjack Bay: North River
- 043 Mobjack Bay: Ware River
- 044 Mobjack Bay: Severn River
- 045 Mobjack Bay: Browns Bay and Monday Creek
- 046 York River: Sarah Creek and Perrin River
- 047 York River: Gloucester Point to Allmondsville
- 048 York River: Purtan and Poropotank Bays
- 049 York River: West Point
- 050 York River: Terrapin Point to Camp Peary
- 051 York River: Camp Peary to Yorktown
- 052 York River: Yorktown and Back Creek
- 053 Chesapeake Bay: Poquoson River
- 054 Back River
- 055 Chesapeake Bay: Back River to Old Point Comfort
- 056 Hampton Roads North
- 057 James River: Newport News Point to Blunt Point
- 058 Warwick River
- 059 James River: Blunt Point to Jamestown Island
- 060 James River: Hog Point to Days Point
- 061 Pagan River
- 062 Chuckatuck Creek

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- 063 Nansemond River
- 064 James River: Days Point to Pig Point
- 065 Elizabeth and Lafayette Rivers
- 066 Hampton Roads South
- 068 Willoughby Spit to Lynnhaven Bay
- 070 Lynnhaven Bay
- 071 Broad and Linkhorn Bays
- 073 Virginia Beach
- 075 Pocomoke Sound: Pocomoke River
- 076 Pocomoke Sound: Messongo and Guilford Creeks
- 077 Pocomoke Sound: Hunting and Deep Creeks
- 078 Tangier, Smith and Fox Islands
- 079 Chesapeake Bay: Chesconessex Creek
- 080 Chesapeake Bay: Onancock and Matchotank Creeks
- 081 Chesapeake Bay: Pungoteague and Butcher Creeks
- 082 Chesapeake Bay: Nandua Creek
- 083 Chesapeake Bay: Craddock Creek
- 084 Chesapeake Bay: Occohannock Creek
- 085 Chesapeake Bay: Nassawadox Creek
- 086 Chesapeake Bay: Hungars and Mattawoman Creeks
- 087 Chesapeake Bay: The Gulf
- 088 Chesapeake Bay: Cherrystone Inlet and Kings Creek

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- 089 Chesapeake Bay: Cape Charles
- 090 Chesapeake Bay: Old Plantation Creek to Fisherman’s Island
- 093 Seaside: Fisherman’s Island to Smith Point
- 094 Seaside: Smith Island to Sand Shoal Inlet
- 095 Seaside: Sand Shoal Inlet to Great Machipongo Inlet
- 096 Seaside: Great Machipongo Inlet to Wachapreague Inlet
- 097 Seaside: Wachapreague Inlet to Metompkin Inlet
- 098 Seaside: Metompkin Inlet to Gargathy Inlet
- 099 Seaside: Gargathy Inlet to Chincoteague Channel
- 100 Chincoteague Bay West
- 101 Chincoteague and Assateague Islands

This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Virginia Marine Resources Commission, pursuant to authority vested in the Commission by §§ 28.2-201 and 28.2-801 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission’s minute book, at its meeting held in Hampton, Virginia on October 28, 2024.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

By: _____
Jamie L. Green
Commissioner

“PERTAINING TO THE TAGGING OF ~~SHELLFISH~~ SHELLSTOCK”

CHAPTER 4 VAC 20-1250-10 ET SEQ.

Subscribed and sworn to before me this _____ day of _____ 2024.

Notary Public

DRAFT

FISHERIES MANAGEMENT DIVISION EVALUATION 10/28/2024

PUBLIC HEARING: Proposal to amend Chapter 4 VAC 20-270-10 et seq., “Pertaining to Blue Crab Fishery,” to close the 2024/2025 winter crab dredge fishery and extend the commercial crab pot season through December 31.

ISSUE: In 2008, all Chesapeake Bay jurisdictions took a 34% decrease in effort to conserve a consistently low blue crab population observed for multiple years. Closing the Virginia winter crab dredge fishery represented half of Virginia’s 34% reduction. As described in §28.2-707 of the Code of Virginia, the winter crab dredge fishery season is from December 1 to the following March 31. Until 2024, the dredge season has been closed since 2008 each year by annual updates to Chapter 4 VAC 20-1140-10 et seq., “Prohibition of Crab Dredging in Virginia Waters.” In June 2024, the Commission repealed Chapter 4 VAC 20-1140-10 et seq. and asked staff to bring a new dredge regulation before them in September.

BACKGROUND: A Blue Crab Federal Fishery Disaster was declared for Chesapeake Bay by NOAA Fisheries in 2008. The three Chesapeake Bay jurisdictions--Virginia, Maryland, and the Potomac River Fisheries Commission--agreed to take a 34% reduction in effort to conserve the blue crab population. Virginia’s 34% reduction included reducing individual crab pot limits, increasing cull rings, shortening female harvest season, increasing minimum size limit for peeler crabs, and closing the winter crab dredge fishery.

Virginia’s dredge fishery harvested mostly female crabs, with some studies reporting up to 95% of dredge harvest were female. This is due to the life cycle and distribution of crabs throughout Virginia, where female crabs primarily overwinter in the lower Chesapeake Bay in preparation for spawning in spring. Continued closure of the winter crab dredge fishery was precipitated by concerns that pressure on pre-spawn female crabs, especially when blue crab adult female abundance has not generally achieved the management target (Figure 1A), could negatively affect subsequent spawning events and crab pot harvest. While the adult female crab population has generally remained above the abundance threshold (indicating that the stock is not overfished) and overfishing is no longer occurring (Figure 1B), the female population has only met the abundance target in two of the last 16 years (Figure 1A).

In Virginia, the winter crab dredge season typically began after the crab pot season ended, and it closed before the crab pot season opened the

following spring. In the last five years of Virginia's crab dredge fishery (2004-2008), that sector averaged 2.5 million pounds of blue crabs landed, or approximately 10% of Virginia's annual harvest. The number of participants in that time ranged from 73 to 174, though this fishery had been in decline for some time.

Recently there has been renewed interest in a winter blue crab fishery, including reopening the winter dredge fishery or extending the crab pot season. One reason for the request was to maintain market that could be lost to southern states during our three-month winter closure. At their August 3, 2023, meeting, the Crab Management Advisory Committee (CMAC) voted to recommend staff put together a proposal for an experimental crab dredge fishery, with 4-6 boats participating. Staff began work on this proposal, including work sessions with CMAC advisors. At their May 29, 2024, meeting, CMAC voted to recommend opening the 2024-25 winter dredge fishery rather than have a limited experimental fishery.

On June 25, 2024, the Commission voted 5-4 to repeal Chapter 4 VAC 20-1140-10 et seq., "Prohibition of Crab Dredging in Virginia Waters." This regulation, which by law could only close one year's crab dredge season at a time, had been re-adopted each year since implemented in 2008. The Commission also requested a new dredge regulation to be voted on later that year. According to §28.2-707 of the Code of Virginia, the crab dredge season would open December 1 unless delayed or closed by the Commission, but because all crab dredge regulations were repealed in 2008, there are currently no regulations regarding crab dredging (outside of §28.2-707).

CMAC meetings were held during the summer of 2024, both of which were facilitated by an independent third-party to promote a balanced discussion on management measures for a winter crab fishery. On July 29, 2024, staff presented data to CMAC regarding the crab dredge fishery and sought what further information committee members would find useful in making recommendations for a future dredge fishery. On August 20, 2024, the committee was asked to provide recommendations on aspects of a potential dredge fishery. Decisions needing to be made about the dredge fishery included: who would be eligible to participate; how many licenses to issue; where dredging would be allowed; how many crabs could be caught in the dredge fishery; and what gear restrictions would be in place. Staff also sought recommendations on how to pursue conservation equivalency (i.e., how to take reductions elsewhere in the blue crab fishery to offset the increase in harvest from re-opening the crab dredge fishery). VMRC staff and VIMS recommend conservation equivalency in the event of the dredge fishery re-opening. A proposal was made to open the 2024-25 crab dredge fishery based on a plan developed in 2013 by staff and

CMAC and voted against by the Commission in light of low crab abundance that year. Most of the committee indicated they had concerns with this proposal. Several committee members said they felt the winter dredge fishery should not be opened until results of the ongoing stock assessment are released in 2026. The committee voted 8-5 to instead recommend extending the crab pot season through December 31, 2024, re-open on March 1, 2025, and to maintain a March 1 – December 31 season until the stock assessment results are available. In the meantime, staff would continue discussing a framework with CMAC for a potential future winter dredge fishery. The committee made no other recommendations on a framework for a winter dredge fishery at this time.

The purpose of fishery stock assessments is to increase our understanding of how a stock is changing over time, to examine fishing pressure trends, and to determine the current health of a stock as well as the fishing rates that would allow sustained catches while allowing enough of the stock remaining to reproduce and maintain itself into the future. Stock assessments are the basis of scientific advice provided to managers. Ideally, assessments occur on a regular basis, using updated datasets to determine the stock status relative to reference points. During a “benchmark” stock assessment such as the one presently underway, scientists can broaden the research aspects of the assessment and make changes to which data sets are used (and how), the types of model(s) used, and how the models are implemented. Biological reference points are calculated and compared to estimates of stock abundance and fishing pressure to determine whether a stock is overfished and whether or not overfishing is occurring. Major changes to management are often postponed during ongoing assessments to reduce the chance of having to re-adjust measures in response to the stock assessment results.

Staff recommends adding a section to Chapter 4 VAC 20-270-10 et seq., “Pertaining to Blue Crab Fishery”, describing the season, to allow the Commission to adjust or close the winter dredge season each year. Eventually, as staff continues to work with CMAC on a dredge fishery framework, more sections would be added pertaining to licensing, quotas, and gear and area restrictions, for example. Once that framework is in place, it would remain in regulation whether the dredge fishery season is open or closed. This would prevent a future situation where the season would be opened December 1 by §28.2-707 without management measures or licensing in place.

Along with recommending the continued closure of the winter crab dredge season, CMAC recommended extending the crab pot season from March 1 through December 31.

Extending the crab pot season through December 31 is unlikely to have a large impact on harvest. The season is currently set to close on December 16. In the five years when the crab pot season was extended into December (2012, 2013, 2016, 2020, and 2023), less than 200,000 pounds of blue crabs were landed during each of the two to three-week extensions. This represents 1% or less of the total annual harvest from Virginia. Up to 100 harvesters have been active each year during a December extension, compared with the 700-800 total active harvesters each year. Many crabbers switch to the oyster fishery in the winter months. The harvesters who do participate in December fisheries report better prices, as supply is down. Waning participation and decreases in catch per trip due to crabs “settling in” for winter means harvest increases with a December extension are likely to remain small.

How much harvest will increase by opening the crab pot season March 1 is unknown. The crab pot season has only been opened prior to March 17 once (in 2017), with nearly 460,000 pounds of blue crabs harvested between March 1 and March 16—41% of the March 2017 total harvest. This expansion followed a winter dredge survey of high female abundance, along with a December extension in 2016. The following year’s survey was lower, resulting in a shortened season that year.

Blue crab behavior is highly temperature dependent, with most blue crabs remaining dormant below 5°C (41°F) and stop feeding below 9°C (48.2°F). Food, via the bait bag, is the main lure that attracts blue crabs into crab pots. Therefore, crab pots are expected to be less effective at colder temperatures. Indeed, Virginia’s commercial harvest in March appears to be correlated with the average water temperature (Figure 1). In other words, when the water is warmer, more crabs are active and feeding, so crab pot harvest will likely be higher. Due to climate change, Virginia is likely to see increasingly warmer springs in future years. Variation in annual March temperatures is likely a driver of the wide range of March harvest, from less than 10,000 pounds to over 2.5 million pounds.

In addition, the first half of the year is the most important time to protect female crabs, which make up the majority of Virginia’s blue crab population. Females fertilized in the previous year overwinter in the lower part of Chesapeake Bay, where salinity is higher. They will eventually release their eggs in late spring or summer. According to a recent study by VIMS (Schneider et al., 2023), most crabs releasing their eggs in late spring are first time spawners, having never contributed to the population before. In summary: the more female crabs harvested in early spring, the fewer who can release their eggs and contribute to the population.

For these reasons, staff recommends extending the 2024 crab pot season through December 31. Uncertainty about the magnitude of potential early March harvest and the importance of protecting pre-spawn females mean a March extension could have a large impact on the blue crab population.

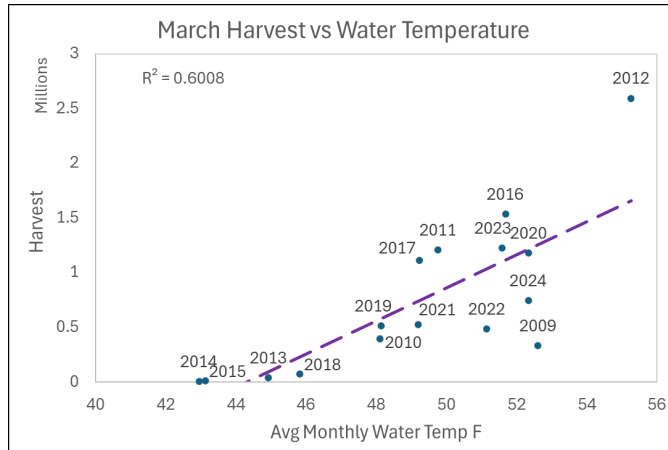


Figure 1. March commercial crab pot harvest (in millions of pounds) versus the average water temperature during March of each year.

At the September 24, 2024, meeting of the VMRC, the Commission voted to advertise for an October public hearing to close the 2024-25 crab dredge fishery and to extend the crab pot season, while staff continues working toward a framework for a crab dredge fishery.

The agency has received 513 comments (thanking the Commission for closing the winter dredge fishery and in opposition of extending the crab pot season – these comments can be found here: https://mrc.virginia.gov/commission_briefing_packets/2024/2024-10-28-RC720-Public-Comments.pdf) and one comment in opposition of opening the winter dredge fishery and extending the crab pot season (below). These are in addition to the five organization letters and six online comments in opposition of opening the winter dredge fishery submitted for the Request for Public Hearing last month.

STAFF

RECOMMENDATION: Staff recommends the Commission amend Chapter 4VAC20-270 “Pertaining to Blue Crab Fishery,” to close the 2024/2025 winter crab dredge fishery and extend the commercial crab pot fishery season through December 31.



October 22, 2024

Jamie Green
Commissioner
Virginia Marine Resources Commission
380 Fenwick Road, Building 96
Fort Monroe, VA 23651

RE: Proposal to amend Chapter 4VAC20-270, "Pertaining to Blue Crab Fishery," to close the 2024/2025 winter crab dredge fishery and consider extending the commercial crab pot fishery season

Submitted via email only to: jennifer.farmer@mrc.virginia.gov

Dear Commissioner Green:

On behalf of the Chesapeake Bay Foundation (CBF), I wish to provide the following comments on the Virginia Marine Resources Commission's (VMRC) proposed amendments to Virginia's commercial crabbing regulations that will be heard during VMRC's October meeting.

First, I want to thank VMRC and its staff for the resources deployed this summer to more fully consider the implementation of a winter dredge fishery later this year—and possibly in future years. I believe the facilitated discussion was extremely helpful for the blue crab management advisory committee to more fully consider the implications of such a fishery throughout the entire blue crab fishery. Although it is unfortunate that the committee abandoned a consensus-based approach, the more in-depth discussions during those meetings were helpful in arriving at a more thorough recommendation by the advisory committee. I hope VMRC will consider continuing to use this approach when discussing long-term management of the Commonwealth's blue crab resource.

Given the results of this year's winter dredge survey which estimated approximately 19 million fewer adult females and a continued low number of males currently in the Chesapeake Bay population, we strongly support VMRC's decision to only move forward with keeping the winter dredge fishery closed for the upcoming season. We believe this is the best decision not only for the resource, but also the commercial crabbers who depend on the blue crab for the majority of their livelihood.

At this time, CBF cannot support the proposed season extensions recommended by the advisory committee. Although the harvests from these proposals would be minimal, VMRC has already approved significant additions to the working hours, as well as a shorter December extension, during its June meeting. These changes, especially the additional working hours, are likely to increase harvest from what would have been harvested with the shorter working days. Although

the bushel limits remain in place, it is likely that harvesters will be more successful in catching those limits. This will place increased pressure on the blue crab resource and may negatively affect commercial crabbers by lowering market prices during the height of the season. We hope VMRC will elect to keep the previously adopted seasons in place to allow VMRC staff and the management advisory committee to fully quantify the impacts of these changes on Virginia's blue crab harvest.

Finally, CBF would like to again highlight the importance of the upcoming blue crab stock assessment to future management efforts. We are grateful the management advisory committee recommended waiting until after the results of this effort are released to consider more robust changes in Virginia's fishery. Given the economic importance of the blue crab fishery to the Chesapeake Bay region and the numerous stressors to the blue crab population, it is appropriate to have the best available information when discussing the long-term structure of the blue crab fishery.

Sincerely,

A handwritten signature in black ink that reads "Chris Moore". The signature is written in a cursive, slightly slanted style.

Chris Moore
Virginia Executive Director

cc: Alison Prost, Vice President EPR, CBF
Allison Colden, Maryland Executive Director, CBF
VMRC Associate Commissioners



COMMONWEALTH of VIRGINIA

Marine Resources Commission

Building 96

380 Fenwick Road

Fort Monroe, VA 23651

Travis A. Voyles
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 October 9, 2024, 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 Monday, October 28, 2024, 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 12:00 p.m., Wednesday, October 23, 2024. 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.

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 close the 2024/2025 winter crab dredge fishery and consider extending the commercial crab pot fishery season.

The purpose of these amendments is to protect the female spawning stock while increasing opportunity in the blue crab fishery for winter harvest.

II. Chapter 4VAC20-1250-10 et seq., “Pertaining to the Tagging of Shellfish”

The Commission proposes to amend Chapter 4VAC20-1250-10 et seq., “Pertaining to the Tagging of Shellfish” to modify the method of identifying harvested shellfish.

The purpose of these amendments is to align with the National Shellfish Sanitation Program’s tagging requirements to increase public safety and protect the shellfish resource.

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“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 ~~September 26, 2023~~ June 25, 2024, and made effective on ~~October 1, 2023~~ July 5, 2024. The effective date of this chapter, as amended, is ~~July 5, 2024~~ November 1, 2024.

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.

“PERTAINING TO BLUE CRAB FISHERY”**CHAPTER 4 VAC 20-270-10 ET SEQ.****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, the lawful season for the commercial harvest of crabs by hard crab pot shall be March 17 through December 16 ~~31~~. In 2025, the lawful season for the commercial harvest of crabs by hard crab pot shall be March 17 through ~~November 30~~ December 31. 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~~ January 1, 2025, through March 16, 2025. 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, through April 14, 2025.

“PERTAINING TO BLUE CRAB FISHERY”**CHAPTER 4 VAC 20-270-10 ET SEQ.**

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.

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B. From July 5, 2024, through October 31, 2024, and May 16, 2025, through July 4, 2025, 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, through December ~~16~~ 31, 2024, and March 17, 2025, through May 15, 2025, 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

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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

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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, through March 31, 2025, 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 October 28, 2024.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

By: _____

“PERTAINING TO BLUE CRAB FISHERY”

CHAPTER 4 VAC 20-270-10 ET SEQ.

Jamie L. Green
Commissioner

Subscribed and sworn to before me this ____ day of ____ 2024.

Notary Public

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