

AGENDA
MARINE RESOURCES COMMISSION
DECEMBER 3, 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. VLADIMIR ARANA, VMRC #24-2086**
requests authorization to construct a 33-foot by 37-foot dual slip boathouse, along the Chickahominy River at 7671 Cypress Drive in James City County. The proposal is protested by an adjoining property owner.
- 6. RIZVI FAMILY PARTNERSHIP LLC, #24-2292**
requests authorization to construct a 16-foot by 28-foot open-sided boathouse as part of a statutorily authorized private pier proposal adjacent to 17299 Nanzatico Lane, situated along Nanzatico Bay in King George County. The proposal is protested by an adjacent property owner.
- 7. RAY LEWIS, #24-1654**
requests authorization to install a 14-foot by 22-foot open-sided gazebo roof structure onto a proposed statutorily authorized private pier along the Horn Harbor shoreline at 371 Peary Road in Mathews County. The project is protested by an adjacent property owner.
- 8. PUBLIC COMMENTS**
- 9. PETITIONER**
Petitioner Robert Allen requests, "Rulemaking by the Virginia Marine Resources Commission (VMRC) for a managed recreational Hickory Shad fishery in Chesapeake Bay waters and coastal rivers and their tributaries within Virginia with a daily creel limit informed by and adjusted based on best available data. The requested regulation would be part of existing VMRC fisheries management for Alosine species and is needed to conserve the Hickory Shad stock by replacing unrestricted recreational harvesting with a controlled fishery. Unrestricted take exposes this species to overharvesting and diminishes the contribution of Virginia coastal river spawners to species abundance."

AGENDA

10. PUBLIC HEARING

Proposal to amend Chapter 4VAC20-252-10 et seq., "Pertaining to Atlantic Striped Bass" to 1) adjust the commercial Chesapeake area striped bass quota from 983,393 pounds to 914,555 pounds and 2) remove existing regulatory language that prohibits commercial striped bass harvesters from obtaining both Chesapeake area and Coastal area tags at one time.

11. RECOMMENDATION

Recommendation on funding proposals from the Commercial Fishing Advisory Board.

AGENDA

PAGE 2 ITEMS

A. WEYMOUTH FAIN, VMRC #24-0248

requests authorization to install two (2) riprap sills totaling 56 linear feet with associated backfill along Deep Creek at 2227 Firman Street in the City of Chesapeake. This project requires a VMRC Wetlands permit.

B. JOSEPH FOULIS, #24-1488

requests authorization to place 120 cubic yards of clean sand fill upon 1,600 square feet of intertidal wetlands along the Mattaponi River shoreline at 416 Lee Street in the City of West Point. The project requires a VMRC Wetlands Permit.

C. DARRELL RODA, #24-1562

requests authorization to replace an 11-foot by 35-foot section of an existing concrete boat ramp; install two (2) 25-foot long timber retaining walls; install and backfill a 52-foot long bulkhead two (2) feet channelward of an existing bulkhead with two (2) 10-foot returns; remove an existing bulkhead and install and backfill a 25-foot section of bulkhead landward of the old bulkhead; and construct a 45-foot long low profile timber groin along the Rappahannock River shoreline at 327 Riverdale Road in Essex County. The project requires a VMRC Wetlands and Subaqueous Permit.

D. CORDELL PRECIADO, #24-0998

requests authorization to install 680 linear feet of riprap, the toe of which may be installed a maximum of 10 feet channelward of mean high water, at 12212 Almer Lane, situated along the James River in Chesterfield County. This project requires a VMRC Wetlands permit.

E. SCOTT ELIAS, #24-2196

requests authorization to replace two (2) low-profile timber groins extending 40 feet channelward of an existing bulkhead along the Rappahannock River at 113 Wildwood Place in Essex County. The project requires a VMRC Wetlands Permit.

F. METRO MACHINE CORPORATION, #24-1421

requests authorization to remove an existing floating pier and construct a new, 370-footlong floating pier at the General Dynamics shipyard adjacent to Ligon Street situated along the Southern Branch Elizabeth River in Norfolk. This project requires a VMRC Subaqueous permit.

G. LOUDON COUNTY DEPARTMENT OF TRANSPORTATION AND CAPITAL INFRASTRUCTURE, #24-0754

requests authorization to construct a new multi-user clear spanbridge over a 40-foot section of Broad Run adjacent to Westwind Drive in Loudoun County. This project requires a subaqueous permit.

AGENDA

H. NASA GSFC WALLOPS FLIGHT FACILITY, #24-1660

requests authorization to conduct three (3) barge landing tests on the beach adjacent to Launch Pad O-B for the transport of rocket components to the flight facility situated along the Atlantic Ocean in Accomack County. This project requires a VMRC Dunes and Beaches permit.

I. NGL ENERGY PARTNERS, #24-1922

requests authorization to mechanically (maintenance) dredge up to 20,000 cubic yards of state-owned submerged lands on an as-needed basis, to maximum depths of minus thirty seven (-37) feet mean low water from the Southern Branch of the Elizabeth River adjacent to their commercial facility at 2901 South Military Highway in the City of Chesapeake. Dredged spoils will be barged to the Craney Island Dredged Material Management Area or another approved upland facility. This project requires a VMRC Subaqueous permit.

MINUTES

COMMISSION MEETING

October 28, 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
Lynn Kellum	
A.J. Erskine	
William Bransom	
Jeremy Headley	Associate Members
Jeanette Edwards	
Thomas Preston	
Preston White	
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
Emily Hein		

Others present:

Brent James	Eric Holloway	Bessie Cameron
Chris Moore	Rebecca Frances	Beverly Ludford
Chris Ludford	Ian Ormesher	Dianna Keen
Nick Hess	Betsy Egan	Bill Egan
George Mapp	David O’Brien	Jackie Shannon
Dave Antos	Mark Sanford	and others.

* * * * *

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

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

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MINUTES: Commissioner Green asked if there were any changes or corrections to be made to the September 24, 2024, Commission Meeting minutes.

Associate Member Headley moved to approve the minutes as presented. Associate Member Edwards seconded the motion. The motion carried, 5-0-2. Members White & Kellum abstained.

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

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

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

- 2A.

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. This project requires a VMRC Subaqueous permit.
- 2B.

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, along Broad Creek in Middlesex County. This project requires a VMRC Subaqueous permit.
- 2C.

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.

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 Page 2 items 2A through 2C as presented. Associate Member Headley seconded the motion. The motion carried, 7-0.

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. 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.

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.

There were five (5) people that spoke in support of the project and one (1) person who spoke in opposition of the project.

The matter was before the Commission for discussion and action.

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

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- 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.

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.

Ms. Kellum abstained from voting on the agenda item. Her comments are a part of the verbatim record.

Ian Ormesher, Commadore of the Yacht Club, was sworn in and spoke on behalf of the project. His 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 Erskine moved to approve the project as presented. Associate Member Bransom seconded the motion. The motion carried, 6-0-1. Member Kellum abstained from voting.

* * * * *

7. **LYNNHAVEN RIVER NOW, OYSTER PLANTING GROUND, #2021-050**, Requests authorization to lease approximately 5 acres of oyster planting ground in the Lynnhaven River in the City of Virginia Beach.

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

Brent James, member of Lynnhaven River Now spoke on behalf of the application. His comments are a part of the verbatim record.

There were two (2) people that spoke in support of the application. Their comments are part of the verbatim record.

There was one (1) person who spoke in opposition of the application. His comments are part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member Bransom moved to approve the lease as presented. Associate Member Erskine seconded the motion. The motion carried, 4-2-1. Associate Members Headley and Preston voted no. Associate Member White abstained.

* * * * *

8. PUBLIC COMMENT:

Mark Sanford: Requested to rescind the regulation to lease Condemned Waters. His comments are a part of the verbatim record.

Eric Holloway: Requested to get his Commercial Card and his oyster license back. His comments are a part of the verbatim record.

Dave Antose: Spoke on behalf of hickory shad with a managed recreational fishery. His comments are a part of the verbatim record.

Wesley Waters: Spoke on behalf of unification between recreational and commercial anglers. His comments are a part of the verbatim record.

* * * * *

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.

Adam Kenyon, Chief, Shellfish Mgmt., gave the briefing of the information provided in the staff’s evaluation, with PowerPoint slides. Mr. Kenyon’s comments are a part of the verbatim record.

No one spoke in support or opposition of the proposed amendment.

Associate Member Headley requested to extend the implementation of the regulation for 1 year to provide further education and allow time for industry to use the tagging stock they may currently have on hand prior to the regulation change.

Associate Member Kellum recommended that this should be discussed at the SMAC meeting.

The matter was before the Commission for discussion and action.

Associate Member Headley moved to table the proposed regulation change until it is discussed at a SMAC and extend the start date for at least 1 year. Associate Member Edwards seconded the motion. The motion carried, 7-0.

* * * * *

- 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.

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.

Chris Moore, Chesapeake Bay Foundation, spoke on behalf of the past CMAC meetings. His comments are part of the verbatim record.

Mark Sanford spoke and recommended the March crab season. His comments are a part of the verbatim record.

The matter was before the Commission for discussion and action.

Associate Member White moved to approve the closure of the upcoming 2024 - 2025 winter blue crab dredge fishery season as presented. Associate Member Bransom seconded the motion. The motion carried, 6-1. Associate Member Headley voted no.

Mark Sanford spoke and recommended the March crab pot fishery season. His comments are a part of the verbatim record.

First motion on the table:

Associate Member Edwards moved to approve option 3 to extend the crab pot fishery season with a closure of December 31 and opening the season on March 1 as presented. Associate Member Erskine seconded the motion.

Substitute motion: Overrides the first motion

Associate Member Preston made a substitute motion for Option 1, with the season

Commission Meeting

**19267
October 28, 2024**

closing on December 16 and reopening March 17. Associate Member White seconded the motion. The motion carried, 6-1. Associate Member Edwards voted no.

* * * * *

There being no further business, the meeting is adjourned at 12:30 p.m. The next Commission meeting will be meeting on **Tuesday**, December 3, 2024.

Jamie L. Green, Commissioner

Jamie Hogge, Recording Secretary



COMMONWEALTH of VIRGINIA

Marine Resources Commission

Building 96

380 Fenwick Road

Fort Monroe, Virginia 23651

Travis A. Voyles
Secretary of Natural and
Historic Resources

Jamie L. Green
Commissioner

November 27, 2024

MEMORANDUM

TO: Commissioner Jamie Green
Mr. William Bransom
Ms. Kelci Block
Mr. Jeremy S. Headley
Ms. Jeannette Edwards
Mr. A. J. Erskine
Ms. Lynn Kellum
Mr. Preston White
Mr. Thomas Preston
Mr. Lyle Varnell
Mr. Patrick Hand

FROM: Randy Owen, Chief, Habitat Management Division *RDO*

SUBJECT: Habitat Management Division Evaluations for the December Commission Meeting

Attached please find the Habitat Management Division evaluation for this month's Commission meeting. We now have three full brief items and nine Page Two cases.

As a reminder, a more complete application record for each of the Habitat agenda items, including the permit applications, agency or public comments, and protests can be viewed on our agency website. The information can be found through the Habitat Permits link in the Habitat Management section of the VMRC home page or directly at <https://webapps.mrc.virginia.gov/public/habitat/> You can enter the project number to view the information (2024-2086).

I look forward to seeing everyone next Monday.

RDO/lra
HM
Attachments
cc: Dr. Mark Luckenbach, VIMS

An Agency of the Natural Resources Secretariat

www.mrc.virginia.gov

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

Ray Lewis
MRC #24-1654

1. Habitat Management Evaluation dated December 3, 2024.
(Pages 1 and 2)
2. Project drawings dated received September 16, 2024.
(Pages 3 through 7)
3. Letter of protest:
 - A. From Ms. Sandra Diggs received August 30, 2024.
(Pages 8 through 11)
 - B. From Ms. Sandra Diggs received November 18, 2024.
(Pages 12 through 15)

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

HABITAT MANAGEMENT DIVISION EVALUATION

RAY LEWIS, #24-1654, requests authorization to install a 14-foot by 22-foot open-sided gazebo roof structure onto a proposed statutorily authorized private pier along the Horn Harbor shoreline at 371 Peary Road in Mathews County. The project is protested by an adjacent property owner.

Narrative

The proposal is located along an undefended, low-lying shoreline along a cove on Horn Harbor. There are three other piers located on the shoreline of the cove, none of which has a roofed structure. Roofed structures, however, are allowed on piers per county planning and zoning ordinances. Since the applicant's pier proposal is located on his property and extends into his riparian area, it meets the criteria found in §28.2-1203(A)(5) in the Code of Virginia and is therefore statutorily authorized.

Mr. Lewis is also requesting to construct a 14-foot by 22-foot open-side gazebo on the proposed pier. The proposed gazebo meets the statutory authorization requirements found in §28.2-1203(A)(5), however, the adjacent property owner is objecting to the project. A partial "no permit necessary letter" was issued on November 18, 2024, for the pier portion of the project but advised that the gazebo portion of the project will require a public hearing by the Commission due to the protest.

Issues

The project is protested by the adjoining property owner to the south, Ms. Sandra Diggs, who submitted a statement of opposition to our public database on August 30, 2024, and again on November 18, 2024. Ms. Diggs cites two main issues, impacts to her viewshed and the location of the pier potentially being located on her property due to a boundary line adjustment that is not reflected on the County's GIS map.

Given receipt of Ms. Diggs's protest, the open-sided gazebo requires the Commission's consideration for issuance of a subaqueous permit. The Local Wetlands Board has sent a letter of no permit required for the open pile pier and roof structure as exempt structures.

No State agencies have commented on the project, and the other adjacent property owner is not opposed to the project.

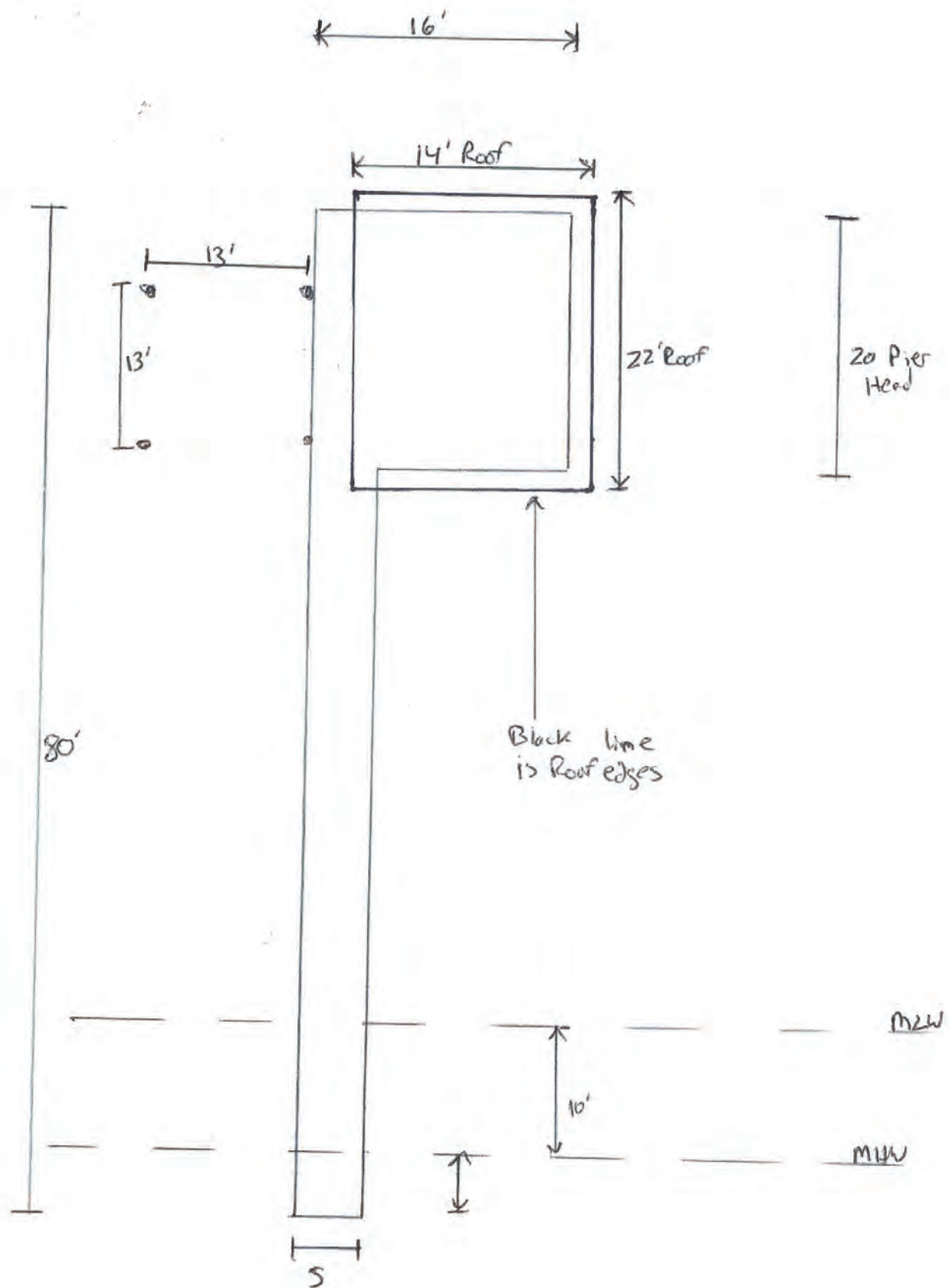
Summary/Recommendations

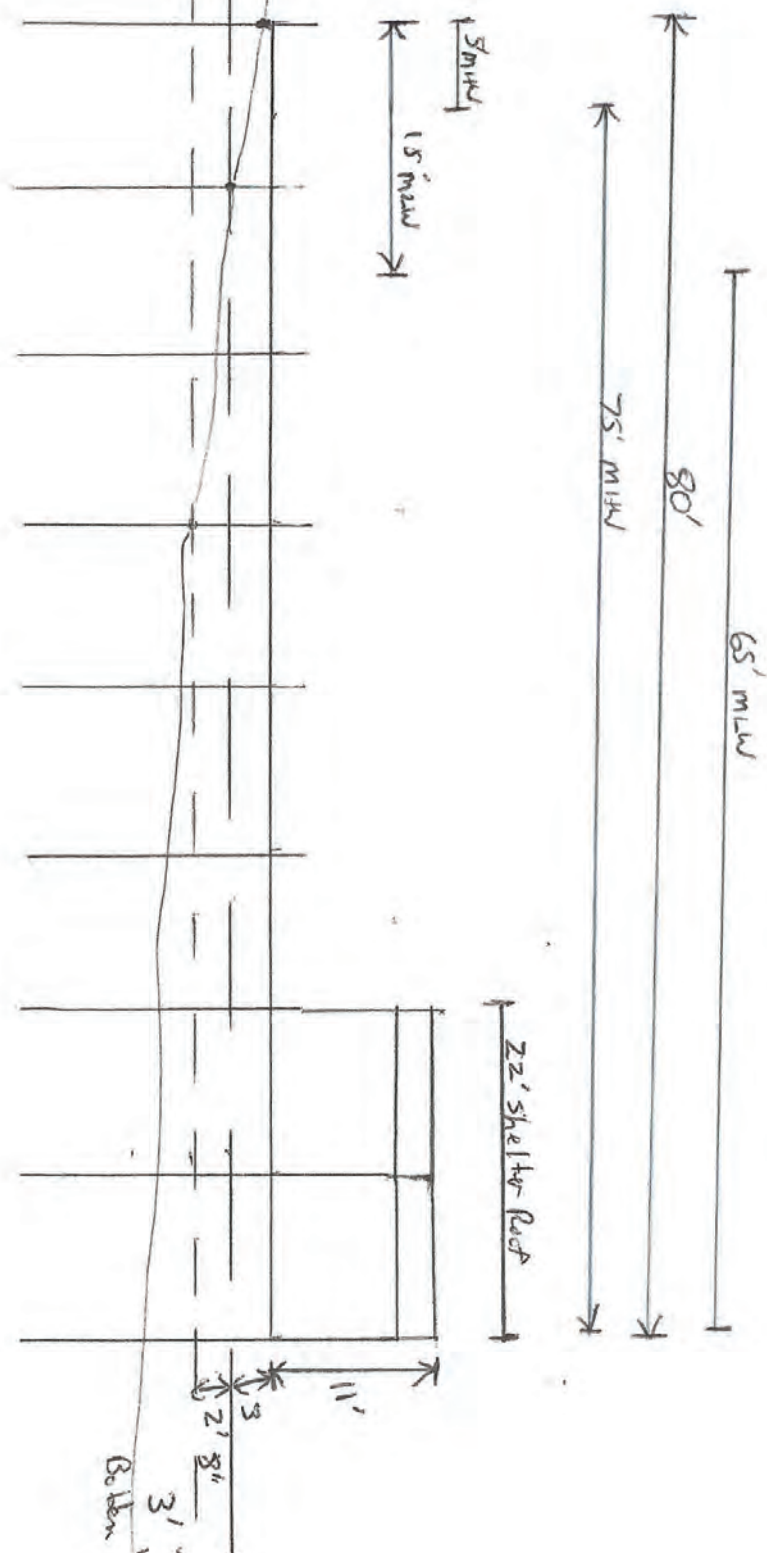
Staff has carefully considered Mr. Lewis's request for a private pier and open-sided gazebo. After visiting the site, and extensive communication with the protestant and the applicant's agent, Mr. Wade Webb, staff has concluded that the pier is located on Mr. Lewis's property and appears to reasonably extend into his riparian area.

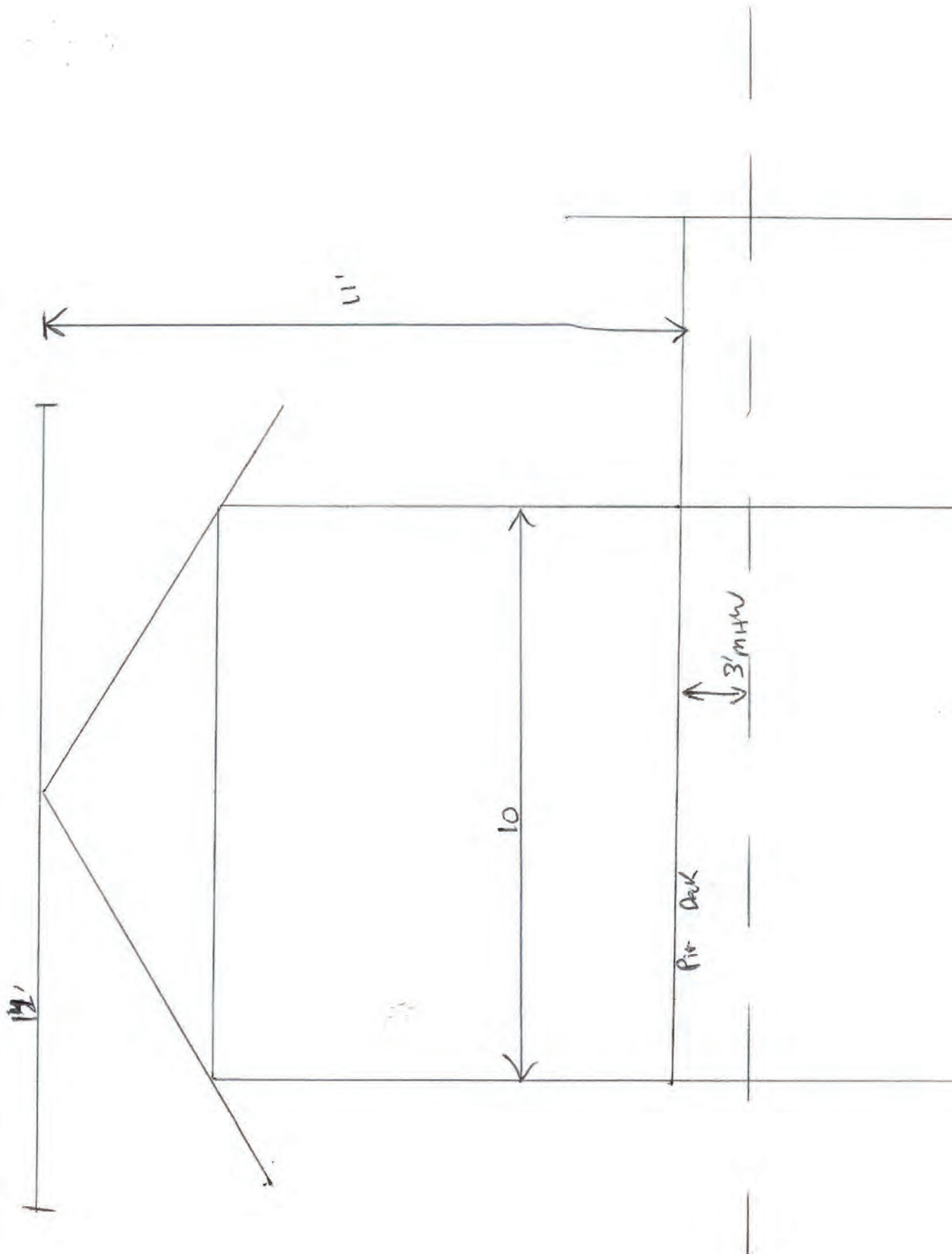
The Commission's sole responsibility in this case is to consider the open-sided gazebo portion of the project as described in §28.2-1203(A)(5) of the Code of Virginia. Staff notes that if Ms. Diggs had not objected to the project, the gazebo would have been statutorily authorized as well.

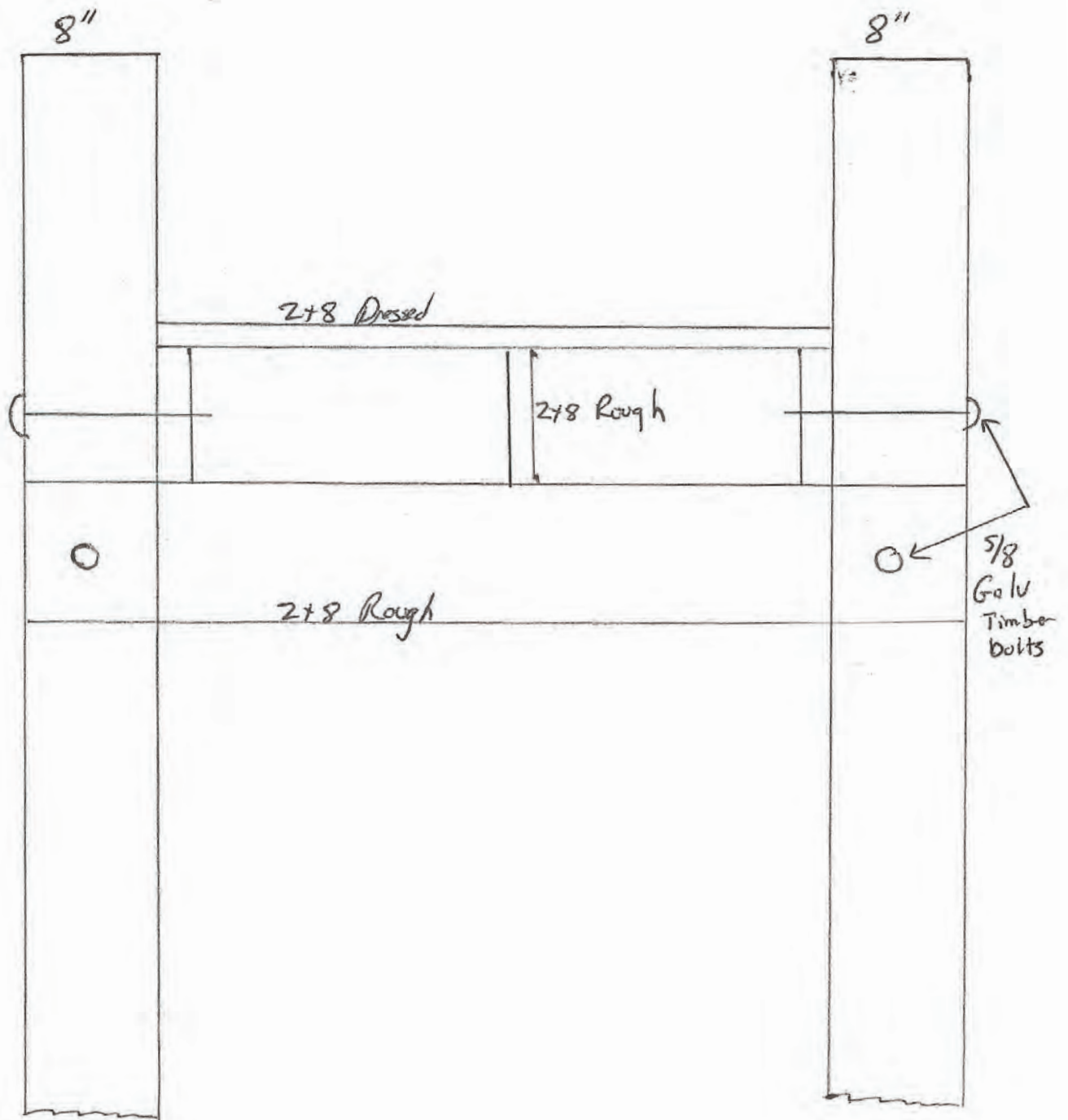
Summary/Recommendations (cont'd)

Staff believes the open-sided design of the gazebo only minimally adds to the visual obstruction already presented by Mr. Lewis's statutorily authorized pier. Accordingly, after evaluating the merits of the project against the concerns expressed by those in opposition, and after considering all the factors contained in §28.2-1205 of the Code of Virginia, staff recommends approval of the project as proposed.









461 Peary Road
Port Haywood, VA 23138
shdiggs@gmail.com
804-725-3967
August 27, 2024

Mr. Mike Johnson
Habitat Management, VMRC
380 Fenwick Rd.
Fort Monroe, VA 23651

Re: JPA # 24-1654, Ray LEWIS

Dear Mr. Johnson:

We are adjacent property owners for the above permit request. Please note that the Tax Map attached to this permit application as page 10 is incorrect. Though I have made repeated requests to the County of Mathews to correct the tax map, as of this morning it has not been done. We acquired 1.82 acres with 51±' of shoreline on April 21, 2023. On the county tax maps the quantity has been updated, but the map has not been changed to show our additional land. The deed was recorded in the Clerk's Office of Mathews on April 21, 2023, as document number CLR230000428. The plat was recorded in Plat Cabinet 2, Hanger 59, Slide 300A & 300B. Copy of portions of deed and plat are attached.

The application is very rough with only feet from a shed shown. Also, our names are incorrect on the application. It is NOT James and Sandy Calvin. We are James Calvin and Sandra Diggs.

Several years ago, a riparian apportionment was done at great expense for this cove and confirmed by the Circuit Court of Mathews. The line of navigability was established and may be reached with a 60' pier. We and the other property owner on the creek each have a pier that is approximately 60'. I am concerned that no part of Mr. Lewis' pier be in our riparian area.

Additionally, VMRC has previously denied a request for a covered area on a pier for the property adjoining Mr. Lewis on the north now owned by Hendricks but previously owned by Dingledine. We object to any covered area on the proposed pier.

Please take these concerns in consideration of this application.

Yours truly,

Sandra H. Diggs
James C. Diggs

Sandra H. Diggs }

James Calvin Diggs } Owners of TAX MAP 40-A-85B 3.69 acs & 40-A-85A 2.334 acs
Enc.

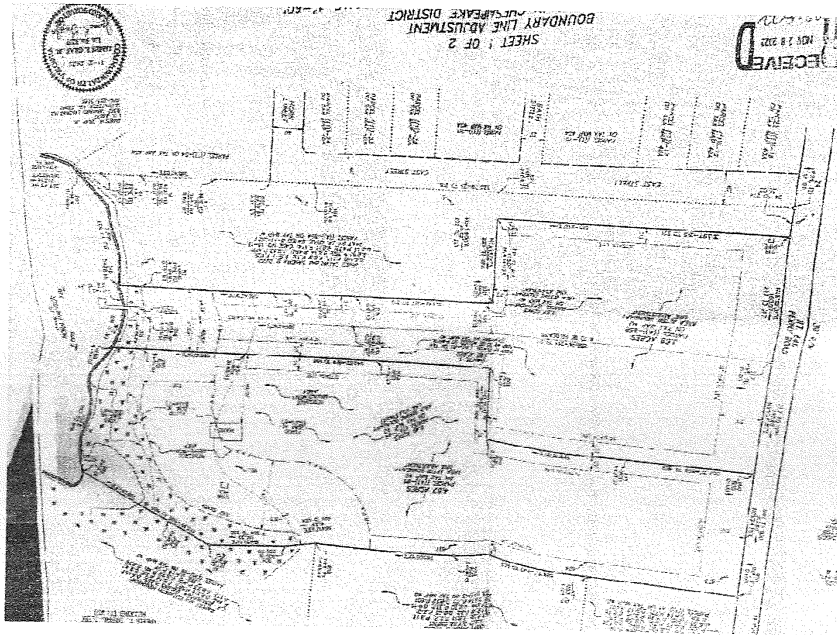
THIS DEED PREPARED AT THE REQUEST OF THE GRANTOR GRANTEE WITHOUT BENEFIT
OF TITLE EXAMINATION

This Deed of Gift, made this 7th day of February 2023, by and between SANDRA H. DIGGS and WENDY H. STEINHOFF and KERRY S. HALL, parties of the first part, Grantors and JAMES CALVIN DIGGS and SANDRA H. DIGGS, husband and wife, parties of the second part, Grantees, whose mailing address is 461 Peary Road, Port Haywood, VA 23138.

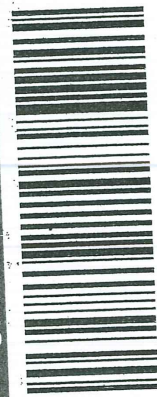
That for and in consideration of the love and affection that the Grantors have for the Grantees herein, and the sum of One Dollar (\$1.00) cash in hand paid, the receipt of which is hereby acknowledged by the parties of the first part, the Grantors give, grant and convey all of their one-third undivided interest each, with Special Warranty, unto James Calvin Diggs and Sandra H. Diggs, husband and wife, as tenants by the entirety with the right of survivorship as at common law, the real property described as follows:

This document prepared by James S. Sease, P.C. 187 19220 Post Office Box 715, Matthews, Virginia 22107 (804) 725-4790





CERTIFIED MAIL



7021 0350 0002 2835 8253

DAR
Sandra Diggs
461 Peary Rd
Port Haywood, VA 23138-2007

RICHMOND VA RPDC 230

28 AUG 2024 PM 2 L

FIRST-CLASS

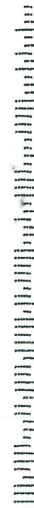
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Mr. Mike Johnson
Habitat Management, VMRC
380 Fenwick Rd.
Fort Monroe, VA 23651

23651-106480



From: habitat_copier@mrc.com
To: [MRC - jpa Permits](#); [Boyd, Teresa \(MRC\)](#)
Subject: Message from "RNP002673D2DCA9"
Date: Monday, November 18, 2024 2:42:43 PM
Attachments: [20241118143828-0500.pdf](#)

This E-mail was sent from "RNP002673D2DCA9" (MP 7503).

Scan Date: 11.18.2024 14:38:28 (-0500)

Queries to: habitat_copier@mrc.com

461 Peary Road
Port Haywood, VA 23138
shdiggs@gmail.com
804-725-3967
15 November 2024

Marine Resources Commission
Habitat Management Division
380 Fenwick Rd., Bldg. 96
Hampton, VA 23651

Re: VMRC #2024-1654 [JPA # 24-1654, Ray LEWIS]

Dear Commission:

I did not originally object to the pier, I only objected to the covered area. But after the last email with attachments from Mike Johnson and the notice in the Gazette Journal, I object:

I object to laws not being followed.

I object to not being mailed a copy of the original application as required when there is a covered area. You “assumed” I was fully aware. It’s not your job to assume. The Peary area of Mathews barely has internet or phone service.

I object to Johnson’s email with attachments, one of the attachments being the ORIGINAL application clearly marked in red “Received by VMRC July 15, 2024”, matched with revised drawing.

I object to not being mailed a copy of the REVISED application dated “Revised August 2024”. I question how a revised application can be named “Revised August 2024” when it was clearly revised in September 2024. I know there have been cases of “back dating” by employees of VMRC!

I object to being lied about. I did not sue Alley, Alley sued everyone on Gene’s Creek, to build a long pier with boatlift, etc. on his 8 feet of waterfront. The court ordered Alley to remove the pier.

I object to an ad in the paper that required any comments to be received within 15 days by USPS. USPS in Mathews is almost useless. Recently it took 19 days for my letter to get from Mathews to Williamsburg.

I object to the statement that “we claim to own” an additional 50 feet of waterfront. We have a recorded deed for that additional 50 feet. Our additional 50 feet is shown on the county GIS under acreage, but it has been impossible to get the county to update tax map drawing.

I object to Mr. Johnson's avoidance of my questions. I have paid Virginia taxes for over 60 years and am entitled to answers from its employees.

I object to a pier that is longer than necessary to reach court-determined line of navigability.

I object to my view being obstructed by a huge, covered area, 22'x14' and question if the dock will actually be private.

I object to errors on the application:

I. On page 7, Revised August 2025, Lewis incorrectly described the project location as [tax map #] 40-A85A & 40-A-85B. We own tax map parcels 40-A-85A and 40-A-85 B. Lewis owns 40-A-85 .

II. The un-numbered last page of revised application is a picture from county GIS and DOES NOT show the additional 50' we acquired. The 66' distance from pier would be 16' from our deeded property line and put part of the dock in our riparian area.

III. I object to an application without accurate addresses, no phone numbers, and wrong names for Adjacent Property Owners being processed. No one should be allowed a permit without having to give their actual address and phone number.

IV. I object to a drawing that has the building used to reference distances to the pier drawn in the wrong area.

V. I object to an ambiguous application that refers to a "boathouse", a "gazebo", and "shelter area". Is it meant to include all three?

Since VMRC seems incapable of following the law, it would be appropriate for the Commonwealth to shut the place down. The Commonwealth would be much better served by a new agency with new people dedicated to recovering and preserving the waterfront land that is disappearing at an alarming rate. We have lost 40 feet in the last 10 years. That dirt is now in the creek making it harder for boats to get in and out.

I would have no objection to a 70' dock with boatlift and a 10x20' covered area at the shoreline if no part of it is in my riparian area.

Yours truly,



Sandra H. Diggs

cc: Ingles



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Marine Resources Commission
Habitat Management Division
380 Fenwick Rd., Bldg. 96
Hampton, VA 23651

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WRITE FIRMLY WITH BALL POINT PEN ON HARD SURFACE TO MAKE ALL COPIES LEGIBLE.

VLADIMIR ARANA and RUTH BENITEZ
#24-2086

1. Habitat Management Evaluation dated December 3, 2024.
(Page 1)
2. Project drawings dated received November 7, 2024.
(Pages 2 - 3)
3. Online protest submission in Habitat Public Comments from Mr. Walker Ware received October 14, 2024.
(Page 4)
4. Letter of protest (email) and drawing from Mr. Walker Ware received October 16, 2024.
(Pages 5 - 6)
5. James City County email for no permit necessary received September 6, 2024.
(Page 7)
6. Previous Commission meeting June 27, 2023, Habitat Management evaluation.
(Pages 8 - 9)
7. Previous permit and drawings #23-0287 (inactivated).
(Pages 10 - 14)

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

HABITAT MANAGEMENT DIVISION EVALUATION

VLADIMIR ARANA and RUTH BENITEZ, #24-2086, requests authorization to construct a dual-slip 33-foot by 37-foot open-sided boathouse, adjacent to an existing private pier serving 7671 Cypress Drive situated along the Chickahominy River in James City County. The project is protested by an adjacent property owner.

Narrative

The proposal is located along a residential stretch of the Chickahominy River where several hundred piers, gazebos, and boathouses have been authorized and constructed. The applicants have two (2) registered vessels that will be stored in the proposed boathouse.

On June 27, 2023, the Commission approved the applicants' request for an 18-foot by 33-foot single slip open-sided boathouse. The previous permit #2023-0287, has been inactivated, due to this new boathouse permit application superseding the old permit. Statutory authorization for boathouses is limited to single-slip structures. A Commission subaqueous permit is required for this dual-slip proposal.

Issues

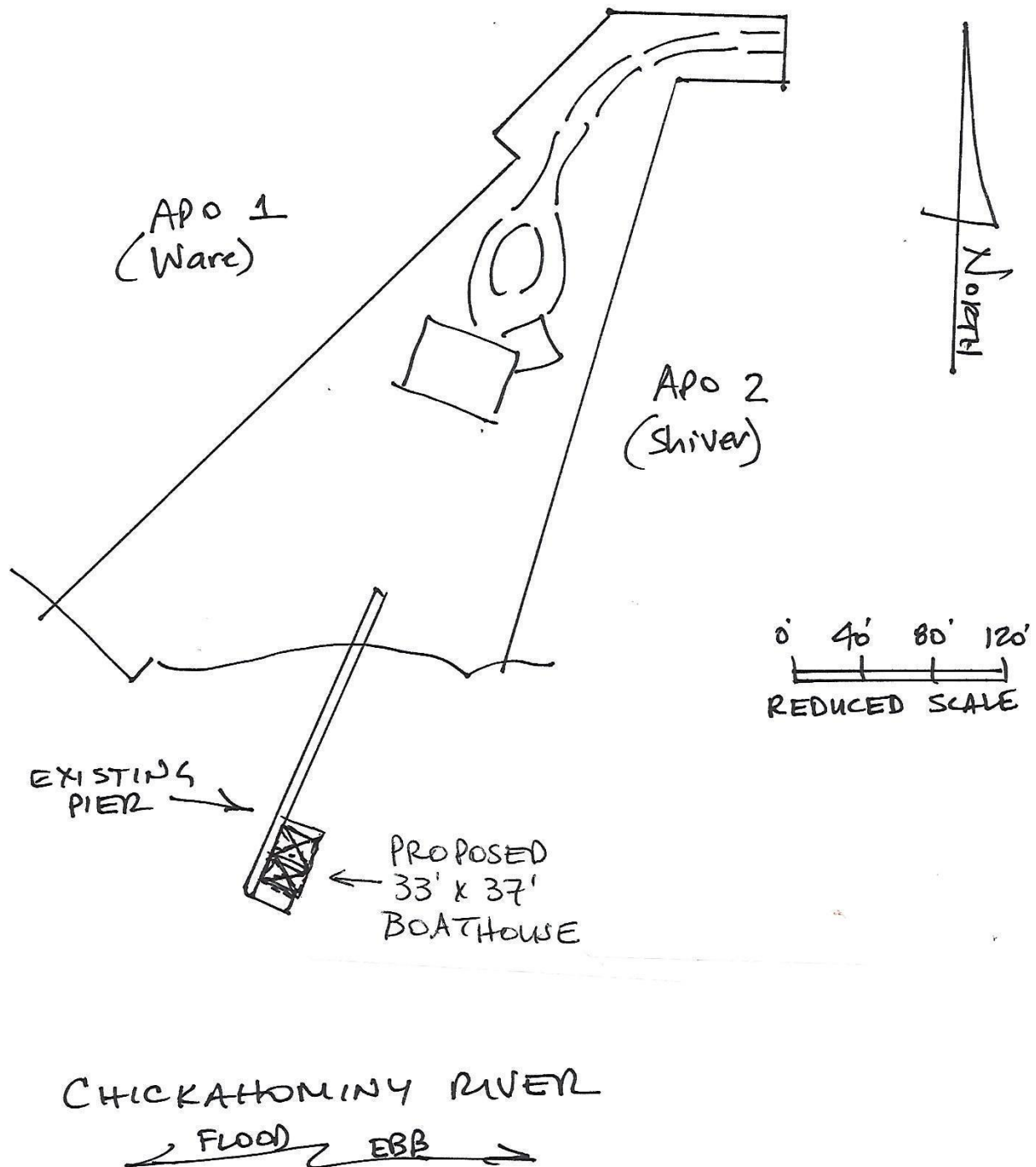
As part of staff's public interest review, the adjoining property owners were notified of the project. Mr. Walker Ware, the adjacent property owner to the west, filed his objections arguing that the applicants' existing pier and proposed boathouse impact his riparian rights. The applicants' existing pier is located approximately 130 feet from the property line shared with Mr. Ware. Mr. Ware also has a pier serving his property.

James City County has exempted the proposal as it is outside the jurisdiction of the local wetlands board.

Summary

The pier and proposed boathouse are located centrally on the applicants' property. If the protestant, Mr. Ware, believes his riparian rights are being encumbered, then he should seek a riparian apportionment of the waterway adjacent to the two properties and have that matter adjudicated by the local circuit court.

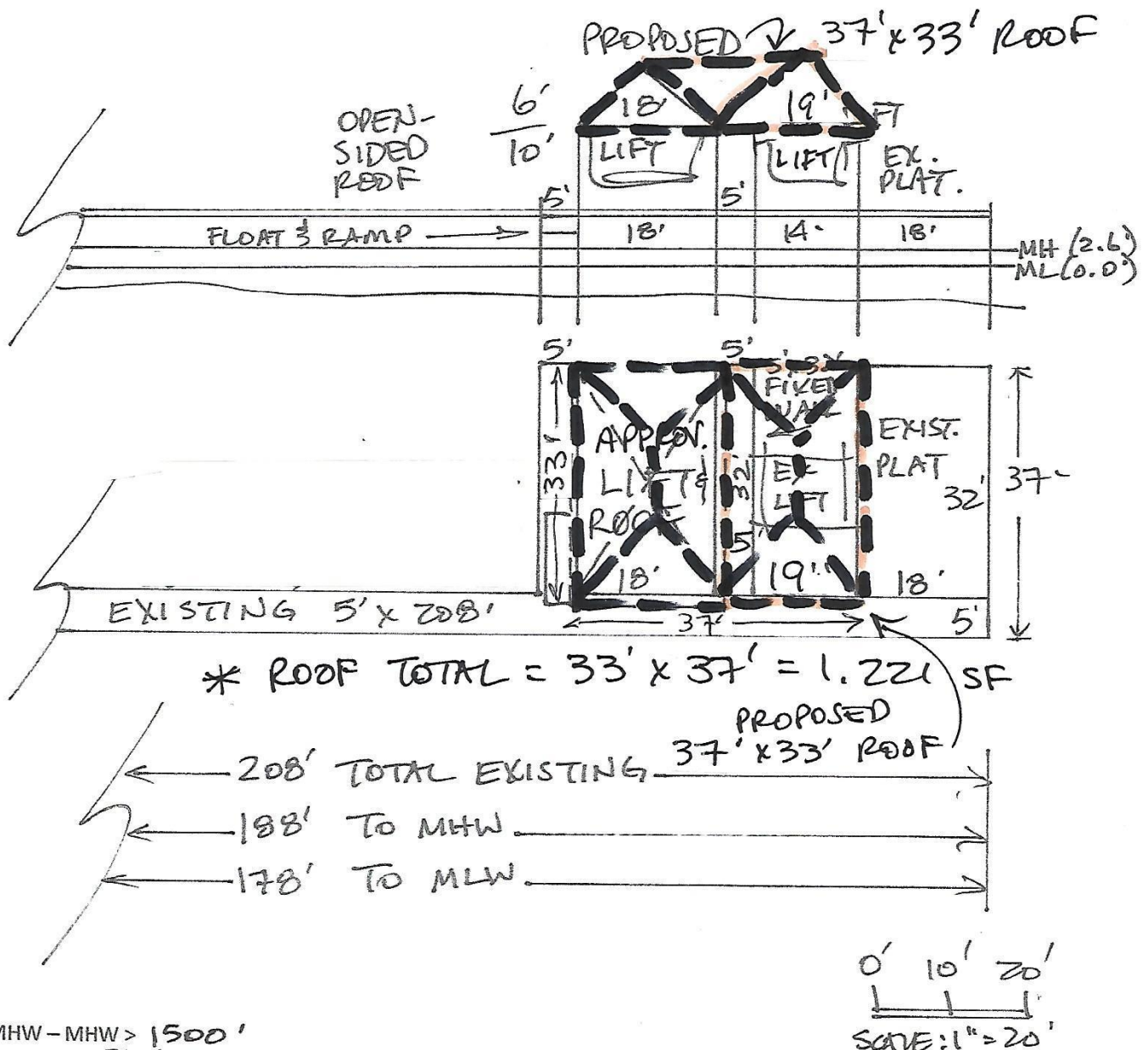
Had the application for the boathouse not been protested, staff would have administratively issued a subaqueous permit, as it appears to be an appropriate and water dependent request. Accordingly, after evaluating the merits of the project against the concerns expressed by those in opposition to the project and after considering all the factors contained in Section 28.2-1205 of the Code of Virginia, staff recommends approval of the project as proposed.



Note: Mid-Atlantic Resource Consulting is responsible only for applying to obtain local wetland, Virginia Marine Resources Commission and U.S. Army Corps of Engineers permits. Mid-Atlantic Resource Consulting is not responsible for any land disturbing activities or construction activities associated with the project.

Adjacent Property Owners:	SITE PLAN	VLADIMIR A. ARANA & RUTH E. BENITEZ
1. W. Walker Ware, IV Trustee	James City County	7671 Cypress Drive, Lanexa
2. Terry E. & Paula O. Shiver Trustee	PID 0930100007	On the Chickahominy River
	LRSN 21080	Date: 11-7-24 Sheet 2 of 3

Prepared by: Mid-Atlantic Resource Consulting - 1095 Cherry Row Lane - Plainview, VA 23156 (804) 366-1768 - karlashavens@gmail.com



MHW - MHW > 1500'

CHANNEL ~ 250' FROM MHW.

2 x 8 DECKING AND STRINGERS, ALL LUMBER TREATED.

ALL HARDWARE H.D.G.

8 TIMBER PILES, 12" MAXIMUM DIAMETER, LENGTH AS REQUIRED.

PILES INSTALLED WITH VIBRATORY HAMMER.

TEMPORARY CONSTRUCTION VESSEL.

NET INCREASE OF 1 PERMANENT, NON-COMMERCIAL VESSEL.

Note: Mid-Atlantic Resource Consulting is responsible only for applying to obtain local wetland, Virginia Marine Resources Commission and U.S. Army Corps of Engineers permits. Mid-Atlantic Resource Consulting is not responsible for any land disturbing activities or construction activities associated with the project.

Adjacent Property Owners:	PIER DETAIL	VLADIMIR A. ARANA & RUTH E. BENITEZ
1. W. Walker Ware, IV Trustee	James City County	7671 Cypress Drive, Lanexa
2. Terry E. & Paula O. Shiver Trustee	PID 0930100007	On the Chickahominy River
	LRSN 21080	Date: 11-7-24 Sheet 3 of 3

Prepared by: Mid-Atlantic Resource Consulting - 1095 Cherry Row Lane - Plainview, VA 23156 (804) 366-1768 - karlashavens@gmail.com

OCTOBER 14, 2024 MR. BRADLEY REAMS BUILDING 96 380 FENWICK ROAD FORT MONROE, VA. 23651 RE: VMRC 2024-2086 APO PROTEST DEAR MR. REAMS: I OBJECT AND PROTEST THE PROPOSED DEVELOPMENT OF ANYTHING FURTHER ON THE PIER/DOCK/BOATLIFT AND ANY AND ALL OTHER IMPROVEMENTS CONTEMPLATED ON THIS PARTICULAR PIER AND DOCK IDENTIFIED AS VMRC 2024-2086. • FEBRUARY OF 1993 A PERMIT WAS ISSUED FOR A 150 FOOT PIER TO INCLUDE AN L HEAD OF 20 FEET BY 40 FEET. • THE FINAL RESULT AS EVIDENCED IN YOUR LETTER IS A PIER 208 FOOT INCLUDING AN L HEAD OF 18 FEET BY 32 FEET. • THE 1993 LIMITS OF CONSTRUCTION WERE EXCEEDED AT LEAST BY 58 FEET AND THE ENTIRE 58 FEET IS OVER THE ADJACENT PROPERTY OWNER'S NATURAL RIPARIAN AREA/PROPERTY, THEREBY TRESPASSING AND DENYING ME THE LAWFUL USE OF MY RIPARIAN PROPERTY. • THE ORIGINAL APPLICANT DID NOT HAVE TO SEEK AN APO APPROVAL OR DENIAL BECAUSE VA CODE DID NOT REQUIRE SUCH APPROVAL UNLESS ANY OF THE CONSTRUCTION CROSSED THE NATURAL LINES OF THE ADJACENT PROPERTY OWNER. 151 FEET OF PIER AND DOCK TRIGGERED THIS UNMET REQUIREMENT. 208 FEET BY FAR EXCEEDED THIS REQUIREMENT, ESPECIALLY SINCE THE ENTIRE ADDITIONAL 58 FEET CROSSES INTO MY RIPARIAN AREA. • VIRGINIA MARINE RESOURCE COMMISSION VMRC IS CHARGED BY VIRGINIA LAW TO EXAMINE AND CONSIDER THE BOUNDARIES OF THE ADJACENT PROPERTY OWNER. VA. CODE 28.2--1203 ET SEQ. 5. 28.2--1204 ET SEQ • VMRC IS MANDATED BY VA. LAW TO CONSIDER OTHER REASONABLE AND PERMISSIBLE USES THE NATURAL RIPARIAN LANDOWNERS RIGHTS AND PRIVILEGES AND THE ADJACENT OR NEARBY PROPERTY NATURAL RIPARIAN RIGHTS OF ADJACENT LANDOWNERS VA CODE 28.2 --1205 ITEMS 1. AND 5. • VMRC MUST CONSIDER CITIZEN PROTEST. 28.2 ---1207 ITEMS 2. • VMRC IS CHARGED WITH INSPECTIONS AND MONITORING. VA CODE 28.2--1212 ITEM C. THIS PIER, DOCK, BOAT LIFTS AND MORING PILES, THE SUBJECT OF THIS APPLICATION, ARE ALL TRESPASSING ON MY ADJACENT PROPERTY AS ANYONE CAN PLAINLY SEE. I, W. WALKER WARE IV, DO NOT GIVE ANYONE PERMISSION TO BUILD OR CONSTRUCT ANYTHING ON MY PROPERTY AND I DO NOT GIVE VMRC OR ANY OTHER AGENCY OR PERSON PERMISSION TO VOID MY NATURAL RIPARIAN RIGHTS AND/OR GIVE ANYONE AT ANY TIME PERMISSION TO PERFORM ANY ACTIVITIES OR CONSTRUCT ANY THING AT ALL ANYWHERE ON MY PROPERTY OR MY PROPERTY'S NATURAL RIGHTS. GOVERN YOURSELF ACCORDINGLY. THANK YOU FOR YOUR TIME. SINCERELY W. WALKER WARE IV ADJACENT PROPERTY OWNER.

From: Walker Ware <wwalkerware4@gmail.com>
Sent: Monday, October 14, 2024 5:32 PM
To: Reams, Brad (MRC) <brad.reams@mrc.virginia.gov>
Subject: VMRC #24-2086 Arana and Benitez app

MR. Reams, I am emailing you concerning the above additions to an already existing illegal encroachment onto my riparian area on the Chickahominy River.

As I prepare the written documentation as to why I object to this proposed above identified construction # 24-2086, it will serve us both well if you could confirm that in addition to this above number, #24-2086, a PREVIOUS VMRC number # 23-0287 was proposed on June 27, 2023 to which I also objected on the grounds that the applicant's approved application is for a pier and dock to be 150 feet in its entirety including a 20 foot by 40 foot L head, which you now identify as a 208 foot private pier with 18 foot by 32 foot L head. I agree that the length of the pier AND dock is AT LEAST 208 FEET with at least 58 feet of the same extending into my riparian areas. The question I have of you is, do you have the paperwork for application #23-0287 and is this paperwork included in the above application for this project #24-2086? Do you have access to the information previously provided by me for my objection to this project #23-0287? #23-2087 was never started and this #24-2086 seems to be a continuation of #23-2087 project?

You have given me only until October 23 to state the factual evidence of this matter and with me obtaining this notification Saturday October 12 I am pressed for time, however, I will object on the same legal principles identified in my objection to case # 23-0287, provided that those objections have carried over to this project number #24-2086 and you have them in this file as it is basically the same request.

Your immediate reply is appreciated.

Sincerely,

Walker Ware

NOTES:

1. THIS EXHIBIT WAS PREPARED TO REFLECT THE LOCATION OF EXISTING DOCKS LOCATED AT PIN:0930100006 & PIN:0930100007. EXISTING FEATURES ARE SHOWN PER PREVIOUSLY FIELD LOCATED SURVEY WORK AND JAMES CITY COUNTY GIS MAPPING IMAGES.
2. WETLANDS, IF ANY, WERE NOT LOCATED FOR THIS SURVEY.
3. UNDERGROUND UTILITIES WERE NOT LOCATED.

EXHIBIT OF DOCKS
PIN:0930100006
PIN:0930100007

JAMES CITY COUNTY

VIRGINIA

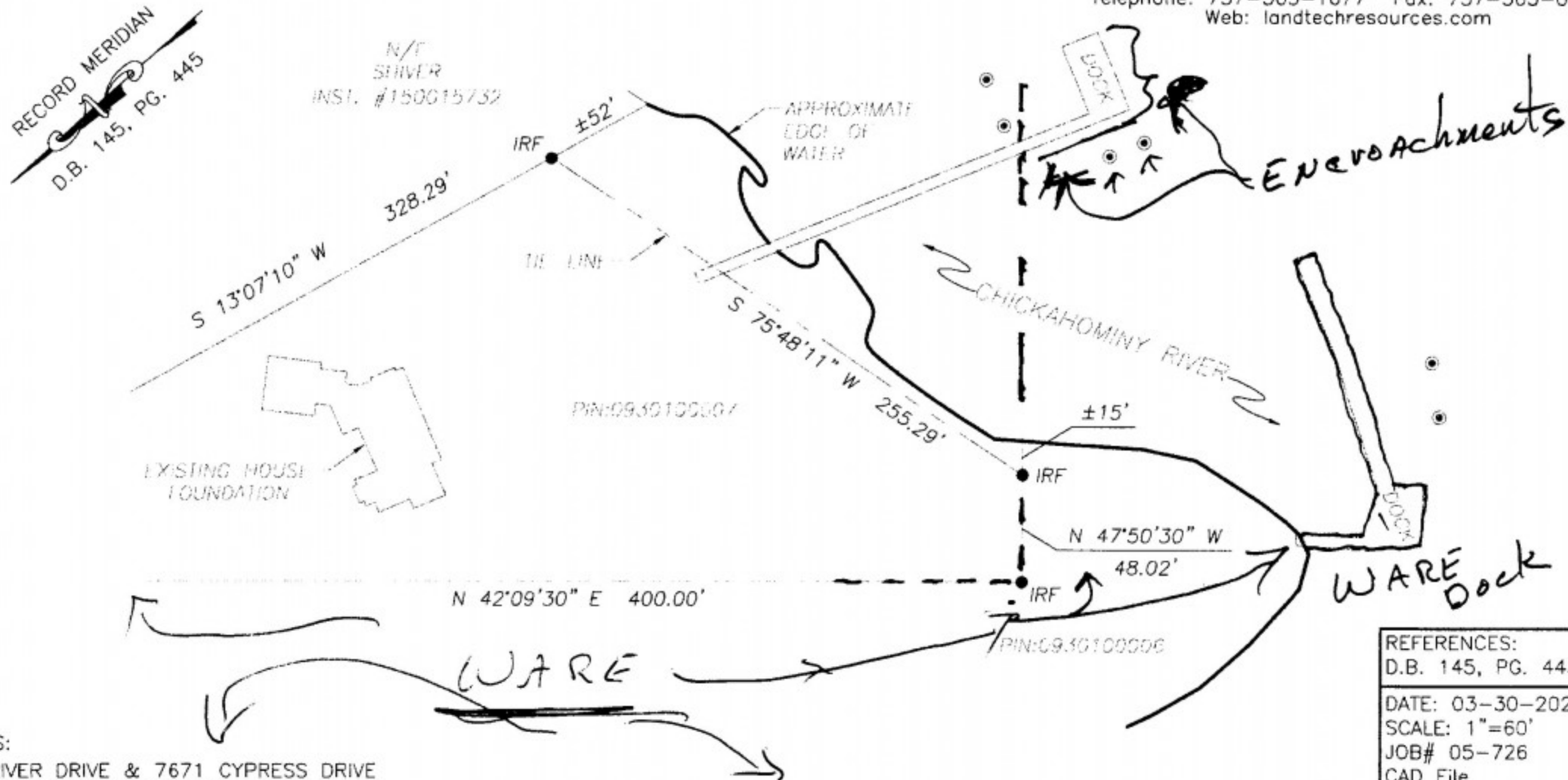
LandTech Resources, Inc.

ENGINEERING & SURVEYING CONSULTANTS

205 Bulifants Blvd., Suite E, Williamsburg, Virginia 23188

Telephone: 757-565-1677 Fax: 757-565-0782

Web: landtechresources.com



ADDRESS:

5004 RIVER DRIVE & 7671 CYPRESS DRIVE
JAMES CITY COUNTY, VIRGINIA

REFERENCES:
D.B. 145, PG. 445
DATE: 03-30-2023
SCALE: 1"=60'
JOB# 05-726
CAD File
05-726.dwg

WJPA-24-0026

[External]JPA: 20242086 in James City, Applicant: Vladimir A. Arana

VMRC JPA <beth.howell@mrc.virginia.gov>

Sat 8/31/2024 2:29 PM

To:Amanda Frazier <Amanda.Frazier@jamescitycountyva.gov>;Sean Seid <Sean.Seid@jamescitycountyva.gov>;Michael Woolson <Michael.Woolson@jamescitycountyva.gov>;Stormwater and Resource Protection <stormwater@jamescitycountyva.gov>;Emily Grojean <Emily.Grojean@jamescitycountyva.gov>

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: 20242086](#)

EKG
9/06/24

Applicant: Vladimir A. Arana

Locality: James City

Project Description: Boathouse

Date Received: August 29, 2024

Engineer: Brad Reams

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
outside jurisdiction of LWB

☐ Site inspection conducted on _____.

☒ No site inspection conducted.

Should you have any questions regarding this permit application, please do not hesitate to contact Brad Reams at (757) 247-2255 or Brad.Reams@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.

HABITAT MANAGEMENT DIVISION EVALUATION

VLADIMIR ARANA and RUTH BENITEZ, #23-0287, request authorization to construct two (2) 5-foot-wide finger piers, one (1) gangway, and an 18-foot by 33-foot open-sided boathouse roof with a lift adjacent to an existing private pier serving 7671 Cypress Drive situated along the Chickahominy River in James City County. The project is protested by an adjacent property owner.

Narrative

The applicants have applied to construct two (2) 5-foot-wide finger piers, one (1) gangway, and an 18-foot by 33-foot open-sided boathouse roof with a lift adjacent to their existing private pier. The proposal is located along the Chickahominy River in James City County. This area of the County is residential and several hundred piers, gazebos, and boathouses have been authorized and constructed.

Issues

Mr. Walker Ware, the adjacent property owner to the west, has submitted comments to VMRC stating his concerns that the existing pier and proposed boathouse impact his riparian rights. The applicants' existing pier is approximately 130 feet from the property line shared with the protestant. The protestant also has an existing pier serving their property.

Given the protest from the adjacent property owner, and in accordance with §28.2-1203(A)(5) of the Code of Virginia, a Commission subaqueous permit is required for the boathouse proposal.

Summary/Recommendations

Section 28.2-1203(A)(5) of the Code of Virginia provides statutory authorization for private noncommercial piers meeting certain design criteria, including open-sided boathouses measuring 700 square feet or less which are designed to cover a single boat slip or lift, provided that they are not objected to by the adjacent property owner and are allowed by local ordinances. The proposed boathouse size measures 594 square feet in size, and James City County has exempted the proposal as it is outside the jurisdiction of the local wetlands board.

The pier and proposed boathouse are located centrally on the applicants' property. If Mr. Ware believes his riparian rights are being encumbered, then he should seek a riparian apportionment of the waterway adjacent to the two properties and have that matter adjudicated by the local circuit court.

Summary/Recommendations (cont'd)

If the proposal had not been protested, staff would have determined that the open-sided boathouse was statutorily authorized and administratively processed the application.

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

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION
PERMIT**

The Commonwealth of Virginia, Marine Resources Commission, hereinafter referred to as the Commission, on this 27th day of June 2023 hereby grants unto:

**Vladimar A. Arana
7671 Cypress Drive
Lanexa, VA 23089-9320**

**Ruth E. Benitez
7671 Cypress Drive
Lanexa, VA 23089-9320**

hereinafter referred to as the Permittee, permission to:

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

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

Permittee is hereby authorized to install two (2) 5-foot-wide finger piers, one (1) gangway, and an 18-foot by 33-foot open-sided boat house roof with a lift adjacent to an existing pier servicing 7671 Cypress Drive situated along the Chickahominy River in James City County. All activities authorized herein shall be accomplished in conformance with the plans and drawings dated received February 6, 2023, and revised drawings dated received May 10, 2023, which are attached and made a part of this permit.

This permit is granted subject to the following conditions:

- (1) The work authorized by this permit is to be completed by **June 30th, 2028**. The Permittee shall notify the Commission when the project is completed. The completion date may be extended by the Commission in its discretion. Any such application for extension of time shall be in writing prior to the above completion date and shall specify the reason for such extension and the expected date of completion of construction. All other conditions remain in effect until revoked by the Commission or the General Assembly.
- (2) This permit grants no authority to the Permittee to encroach upon the property rights, including riparian rights, of others.
- (3) The duly authorized agents of the Commission shall have the right to enter upon the premises at reasonable times, for the purpose of inspecting the work being done pursuant to this permit.
- (4) The Permittee shall comply with the water quality standards as established by the Department of Environmental Quality, Water Division, and all other applicable laws, ordinances, rules and regulations affecting the conduct of the project. The granting of this permit shall not relieve the Permittee of the responsibility of obtaining any and all other permits or authority for the projects.
- (5) This permit shall not be transferred without written consent of the Commissioner.
- (6) This permit shall not affect or interfere with the right vouchsafed to the people of Virginia concerning fishing, fowling and the catching of and taking of oysters and other shellfish in and from the bottom of acres and waters not included within the terms of this permit.
- (7) The Permittee shall, to the greatest extent practicable, minimize the adverse effects of the project upon adjacent properties and wetlands and upon the natural resources of the Commonwealth.
- (8) This permit may be revoked at any time by the Commission upon the failure of the Permittee to comply with any of the terms and conditions hereof or at the will of the General Assembly of Virginia.
- (9) There is expressly excluded from the permit any portion of the waters within the boundaries of the Baylor Survey.
- (10) This permit is subject to any lease of oyster planting ground in effect on the date of this permit. Nothing in this permit shall be construed as allowing the Permittee to encroach on any lease without the consent of the leaseholder. The Permittee shall be liable for any damages to such lease.
- (11) The issuance of this permit does not confer upon the Permittee any interest or title to the beds of the waters.
- (12) All structures authorized by this permit, which are not maintained in good repair, shall be completely removed from State-owned bottom within three (3) months after notification by the Commission.
- (13) The Permittee agrees to comply with all of the terms and conditions as set forth in this permit and that the project will be accomplished within the boundaries as outlined in the plans attached hereto. Any encroachment beyond the limits of this permit shall constitute a Class 1 misdemeanor.
- (14) This permit authorizes no claim to archaeological artifacts that may be encountered during the course of construction. If, however, archaeological remains are encountered, the Permittee agrees to notify the Commission, who will, in turn notify the Department of Historic Resources. The Permittee further agrees to cooperate with agencies of the Commonwealth in the recovery of archaeological remains if deemed necessary.
- (15) The Permittee agrees to indemnify and save harmless the Commonwealth of Virginia from any liability arising from the establishment, operation or maintenance of said project.

1) A TITLE REPORT HAS NOT BEEN FURNISHED TO THIS FIRM.
2) WETLANDS SHOWN HEREIN WERE MARKED BY ROTH ENVIRONMENTAL, LLC.
3) THIS FIRM MADE AN ATTEMPT TO LOCATE UNDERGROUND UTILITIES.
4) PARCEL LIES IN A.F.M. ZONES "X" AND "AE" (BFE: 7') ACCORDING TO F.I.R.M.
5) MAP #15-0396C00180, DATED DECEMBER 16, 2015, DELINEATION OF FLOOD
6) ZONE SHOWN HEREON IS BASED ON CURRENT FLOOD TOPOGRAPHIC SURVEY
7) CONDUCTED BY FIRM OF FLOOD CONTROL DISTRICT OF LOS ANGELES
8) LOT SERVED BY PRIVATE WELL AND PRIVATE SEPTIC SYSTEM.
9) CONTRACTOR SHALL PROVIDE POSITIVE DRAINAGE AWAY FROM BUILDINGS SHOWN
10) HEREON.
11) VERTICAL DATUM IS NAVD83. ALL ELEVATIONS SHOWN ARE IN FEET.
12) TOPOGRAPHY AS SHOWN IS BASED ON A CURRENT FIELD TOPOGRAPHIC
13) SURVEY COMPLETED BY THIS FIRM IN JUNE 2015 UNDER THE DIRECTION
14) OF THE PROJECT MANAGER, J. LUGER, (LICENSE # 70633).
15) CONTRACTOR SHALL DETERMINE EXACT FINISH FLOOR ELEVATION AFTER
16) EXCAVATION.

TOTAL AREA: ±64,382 S.F./±1.478 AC.
MAP #: 0930T00007
ZONING DISTRICT: A1 (GENERAL AGRICULTURAL)
IN RPA / IN RMA (PER JAMES CITY COUNTY GIS)

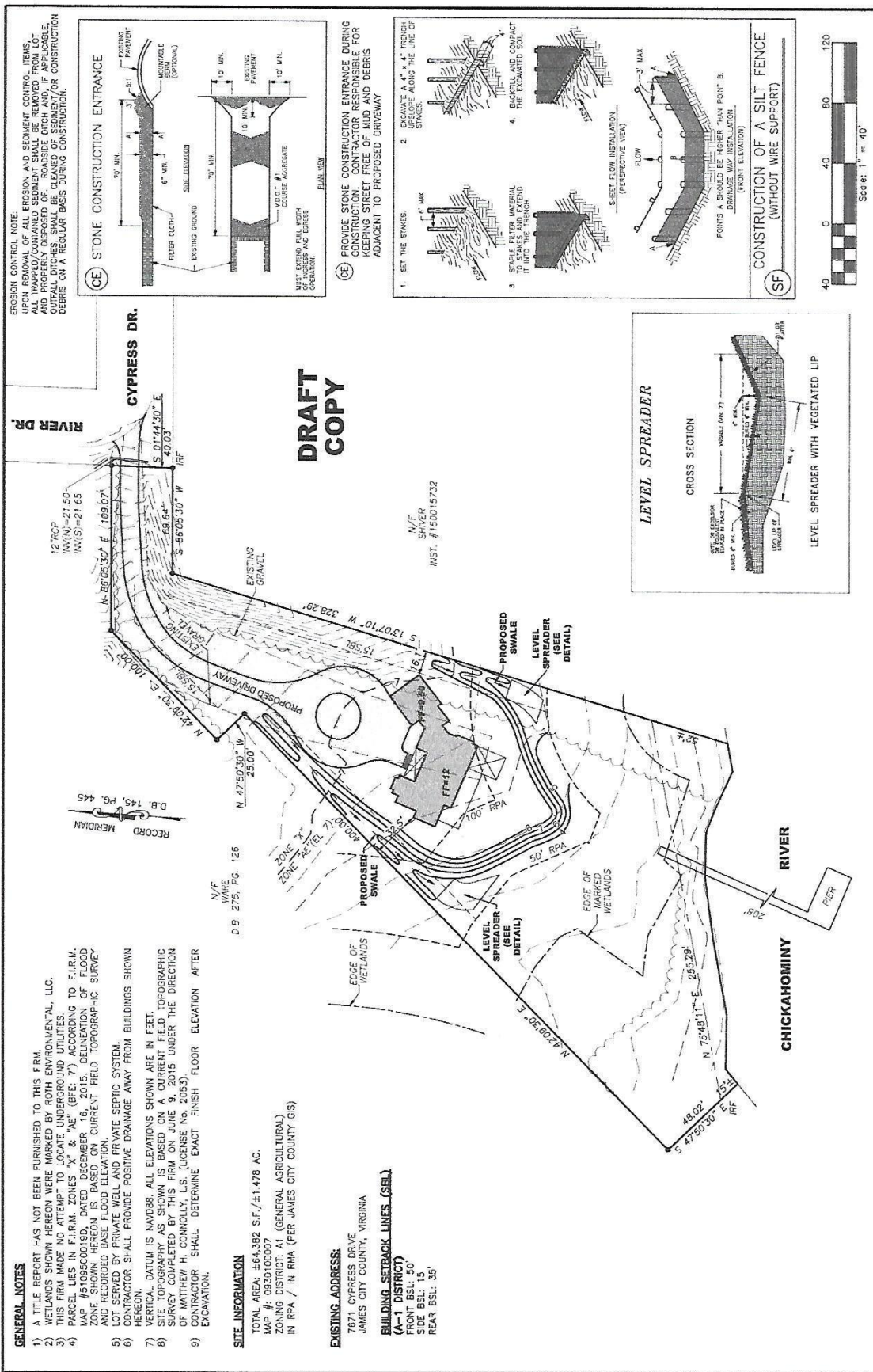
7671 CYPRESS DRIVE
JAMES CITY COUNTY, VIRGINIA

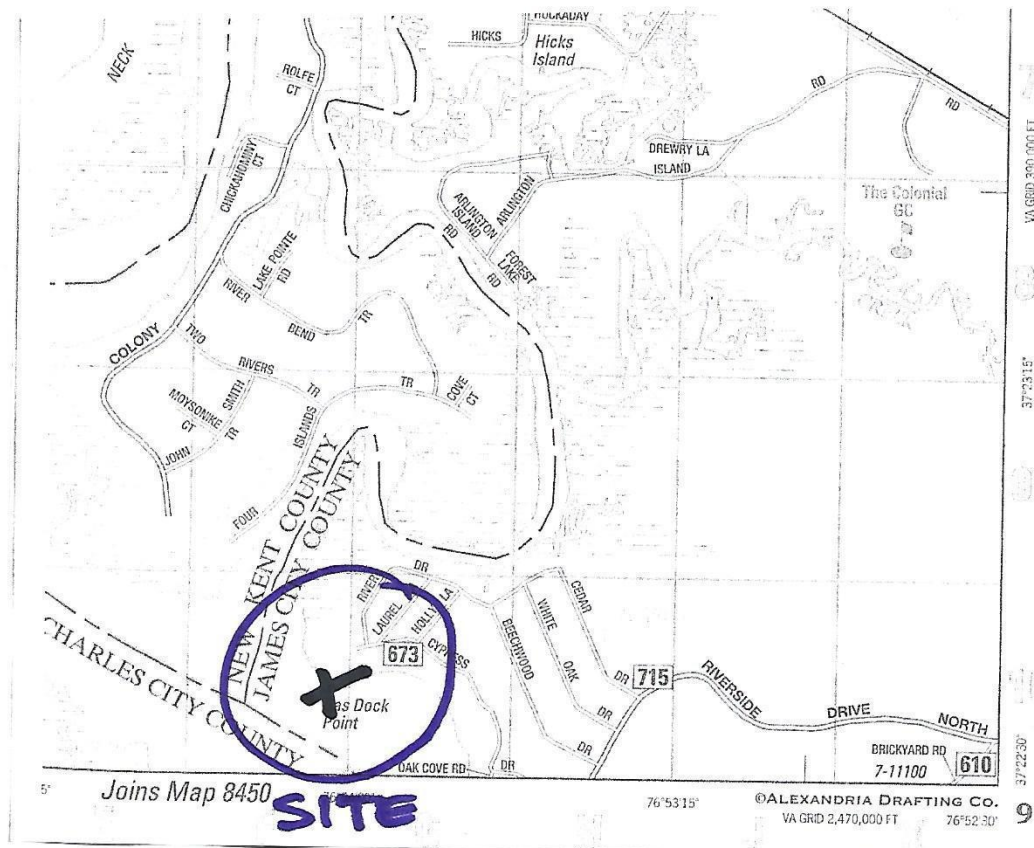
(A-1 DISTRICT)
FRONT BSL: 50'
SIDE BSL: 15'
REAR BSL: 35'

PARCEL A
CYPRESS POINT

[illegible]

LandTech Resources, Inc.
Engineering & Surveying Consultants
3925 Midlands Road, Williamsburg, Virginia 23188
Telephone: 757-565-1677 Fax: 757-565-0782
Web: landtechresources.com



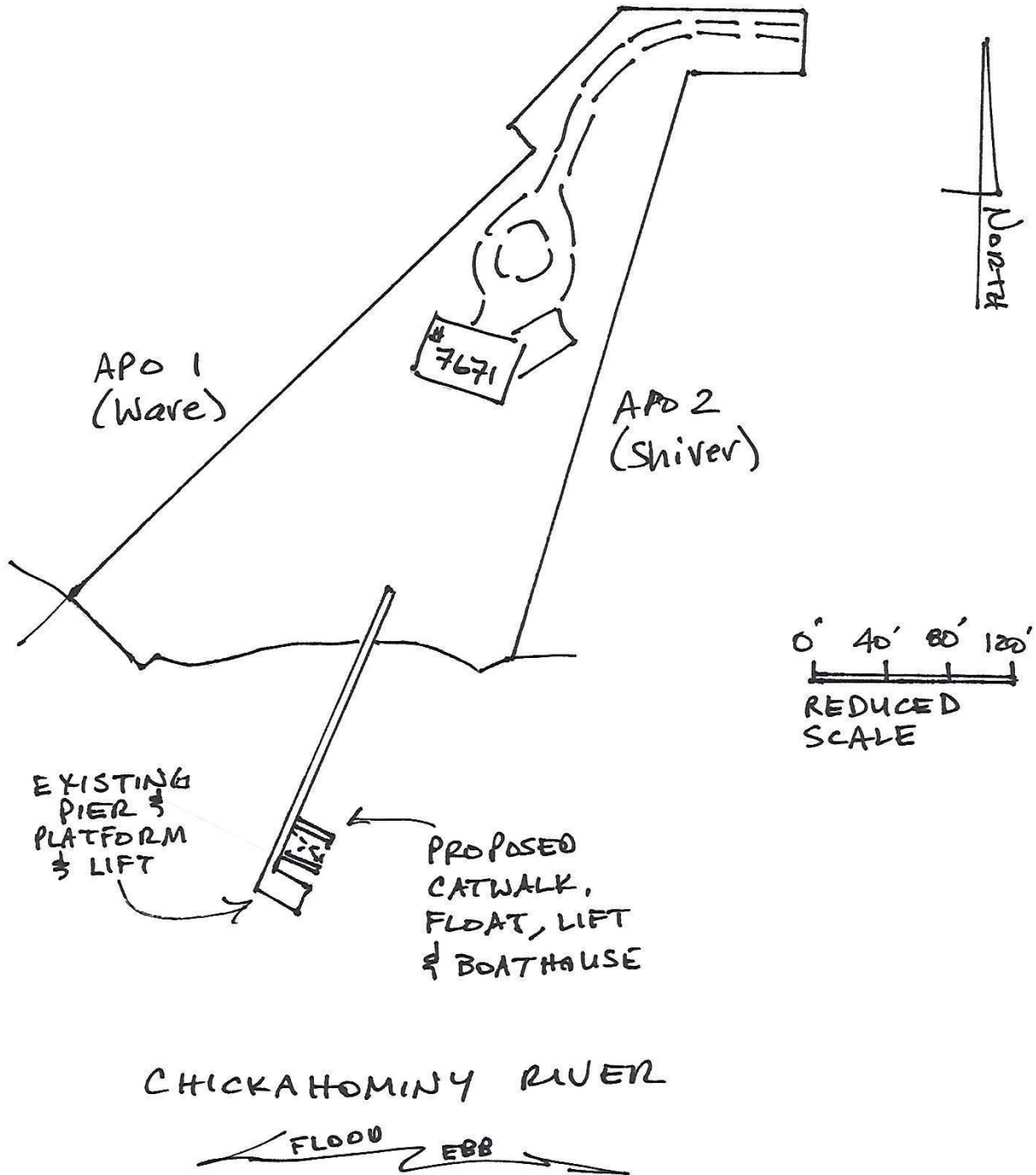


ADC Street Atlas - Virginia Peninsula,
Page 9, Map # 8342, 2007.

Note: Mid-Atlantic Resource Consulting is responsible only for applying to obtain local wetland, Virginia Marine Resources Commission and U.S. Army Corps of Engineers permits. Mid-Atlantic Resource Consulting is not responsible for any land disturbing activities or construction activities associated with the project.

Adjacent Property Owners:	VICINITY MAP	VLADIMIR A. ARANA & RUTH E. BENITEZ
1. W. Walker Ware, IV Trustee	James City County	7671 Cypress Drive, Lanexa
2. Terry E. & Paula O. Shiver Trustee	PID 0930100007	On the Chickahominy River
	LRSN 21080	Date: 1-25-23 Sheet 1 of 3

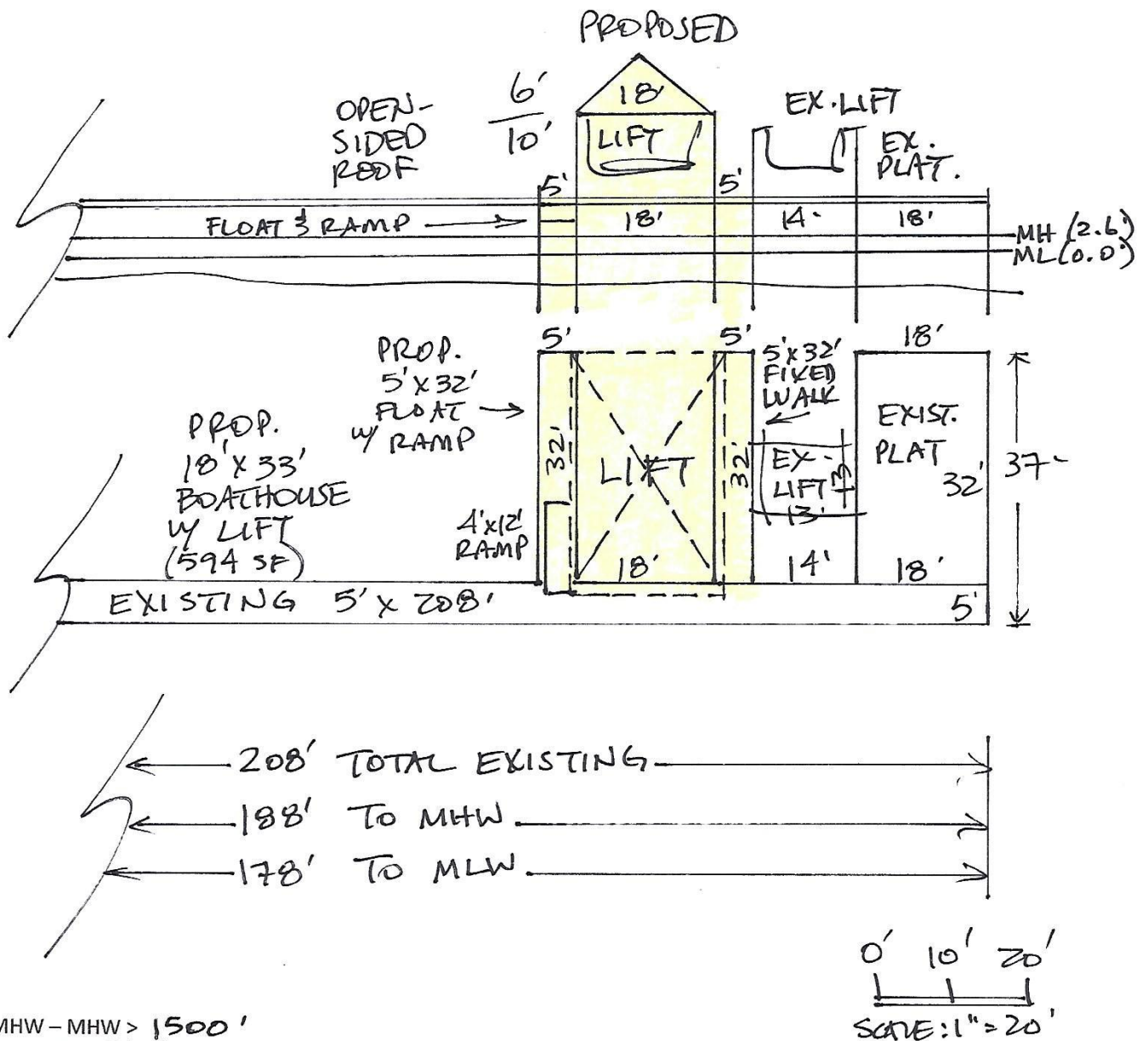
Prepared by: Mid-Atlantic Resource Consulting - 1095 Cherry Row Lane - Plainview, VA 23156 (804) 366-1768 - karlashavens@gmail.com



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MHW - MHW > 1500'

CHANNEL ~ 250' FROM MHW.

2 x 8 DECKING AND STRINGERS, ALL LUMBER TREATED.

ALL HARDWARE H.D.G.

12 TIMBER PILES, 12" MAXIMUM DIAMETER, LENGTH AS REQUIRED.

PILES INSTALLED WITH VIBRATORY HAMMER.

1 TEMPORARY CONSTRUCTION VESSEL.

NET INCREASE OF 1 PERMANENT, NON-COMMERCIAL VESSEL.

#23-0287
REV. DRAWING

Note: Mid-Atlantic Resource Consulting is responsible only for applying to obtain local wetland, Virginia Marine Resources Commission and U.S. Army Corps of Engineers permits. Mid-Atlantic Resource Consulting is not responsible for any land disturbing activities or construction activities associated with the project.

Adjacent Property Owners:	PIER DETAIL	VLADIMIR A. ARANA & RUTH E. BENITEZ
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	LRSN 21080	Date: 1-25-23 Sheet 3 of 3

Prepared by: Mid-Atlantic Resource Consulting - 1095 Cherry Row Lane - Plainview, VA 23156 (804) 366-1768 - karlashavens@gmail.com

Rizvi Family Partnership LLC
24-2292

1. Habitat Management Evaluation dated December 3, 2024.
(Pages 1 and 2)
2. Project drawings dated received November 13, 2024.
(Pages 3-10)
3. DHR comment dated November 6, 2024.
(Page 11-13)
4. Letters of protest (email) from Mr. Lucian Copen dated received November 23, 2024.
(Page 14-16)

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

HABITAT MANAGEMENT DIVISION EVALUATION

RIZVI FAMILY PARTNERSHIP LLC, VMRC #24-2292, requests authorization to construct a 16-foot by 28-foot open-sided boathouse as part of a statutorily authorized private pier proposal adjacent to 17299 Nanzatico Lane, situated along Nanzatico Bay in King George County. The proposal is protested by an adjacent property owner.

Narrative

The project is located on Nanzatico Bay, a tributary to the Rappahannock River, downstream of the Route 301 (Port Royal) bridge in King George County. This area of the County is primarily agricultural with dispersed residential homes. Nearby waterfront parcels have constructed private piers and boathouses.

This application was received on September 23, 2024, requesting authorization to install a private pier and boathouse. A partial ‘no permit necessary’ letter was issued on November 14, 2024, as the pier portion of the project qualified for the statutory authorization pursuant to §28.2-1203(A)(5) of the Code of Virginia.

Issues

As required by Code, staff notified the adjacent property owners. On October 16, 2024, staff received a protest from Mr. Lucian Copen, the owner of the two parcels immediately west of the applicant. Mr. Copen’s protest cited concerns of the proposal impacting the historic value of the upland property. The Department of Historic Resources commented on November 1, 2024, that they have no concerns with this project.

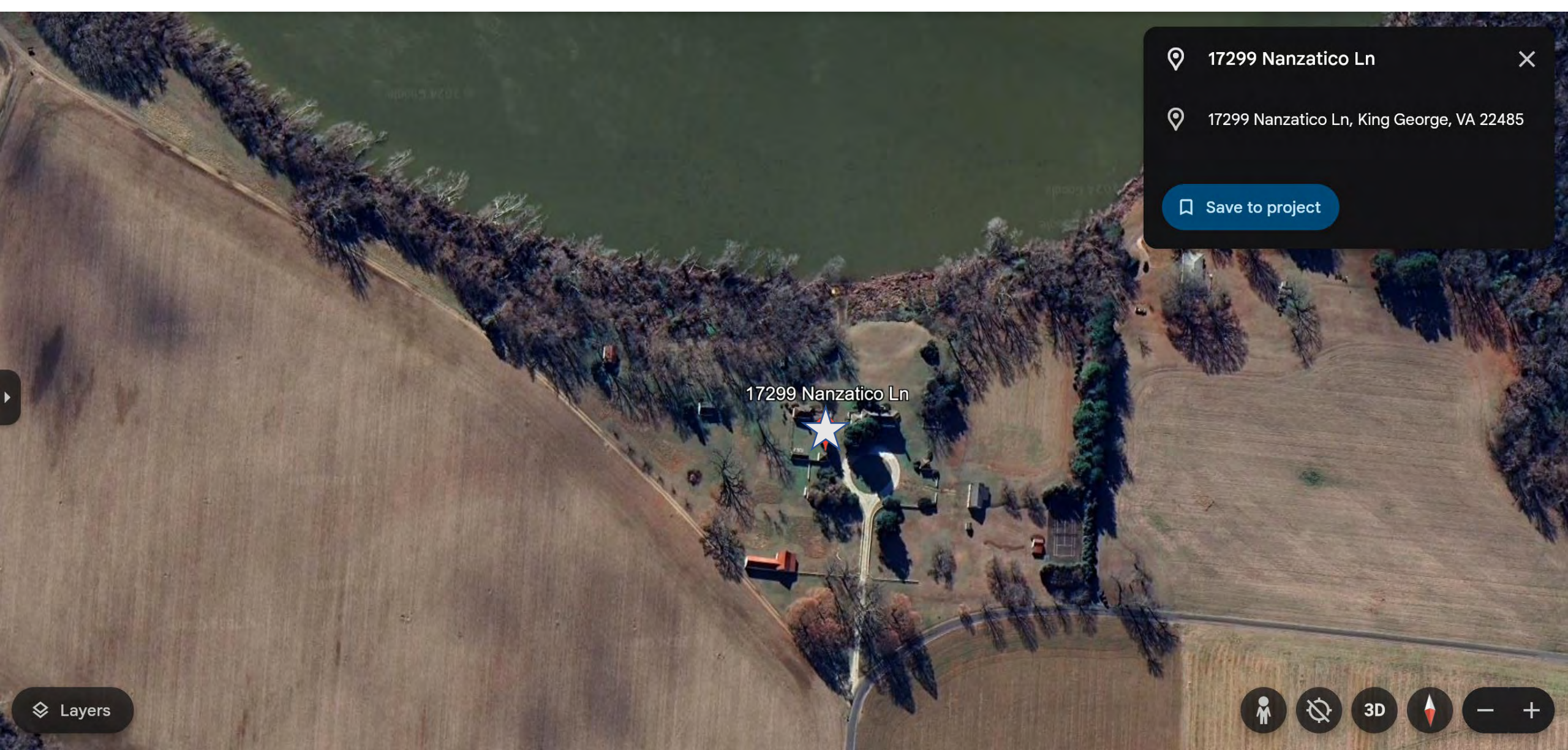
Upon a site visit on November 7, 2024, Mr. Copen again expressed his concern regarding the historic value of the property and further complained that the boathouse was unnecessary. Given the protest from the adjacent property owner, and in accordance with §28.2-1203(A)(5) of the Code of Virginia, a Commission subaqueous permit is required for the boathouse proposal.

Summary/Recommendations

Section 28.2-1203(A)(5) of the Code of Virginia provides statutory authorization for private noncommercial piers, including open-sided boathouses measuring 700 square feet or less which are designed to cover a single boat slip or lift, provided they are not objected to by the adjacent property owner and are allowed by local ordinances. The proposed boathouse size measures 448 square feet in size. If the proposal had not been protested, staff would have considered the open-sided boathouse statutorily authorized along with the private pier. While staff is sensitive to the protestant’s concerns, the proposed open-sided boathouse is a common and reasonable request from a private riparian property owner.

Summary/Recommendations (cont'd)

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



17299 Nanzatico Ln

17299 Nanzatico Ln, King George, VA 22485

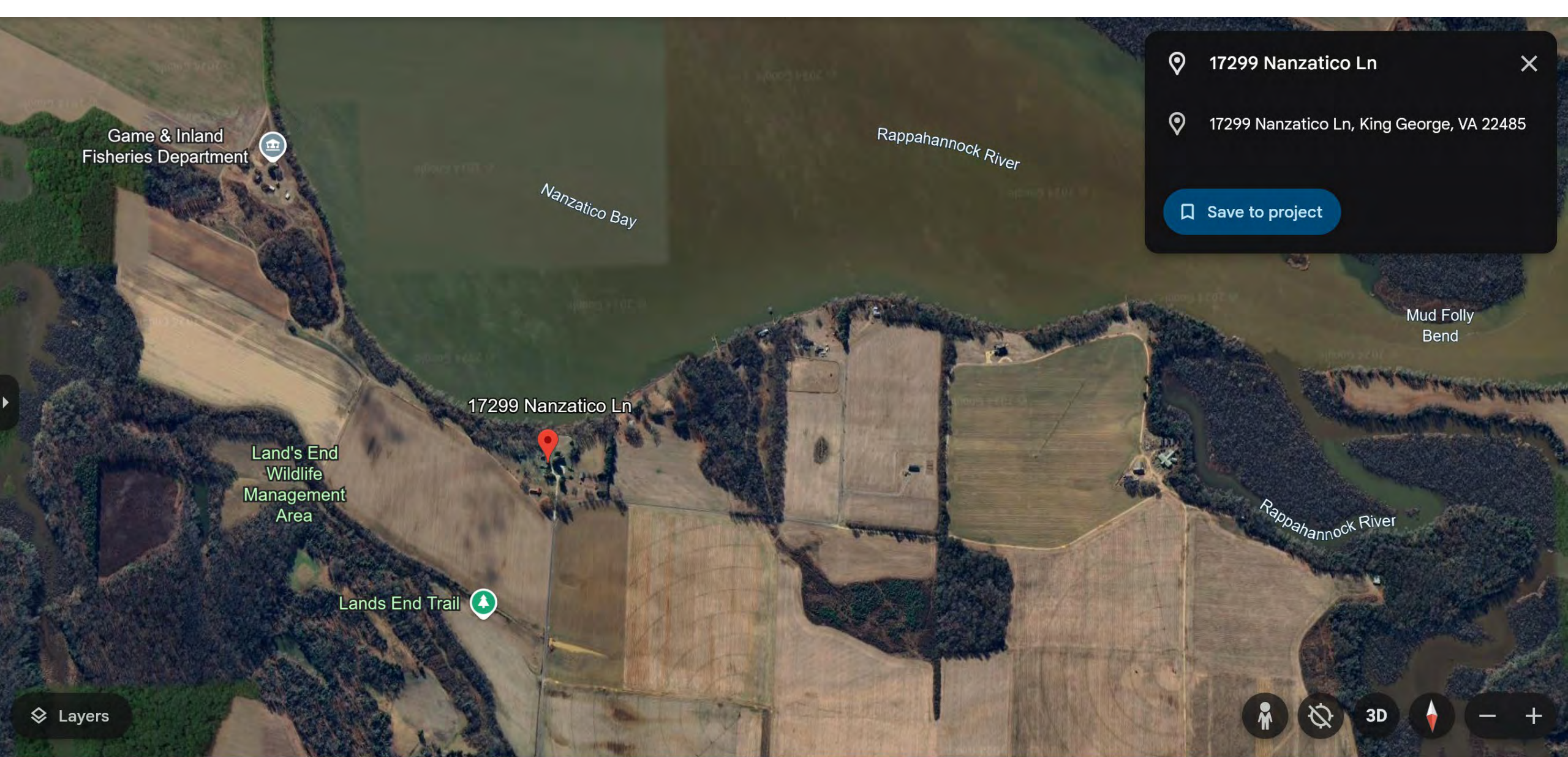
Save to project

17299 Nanzatico Ln



Layers

Applicant: RIZVI FAMILY PARTNERSHIP LLC Project Address: 17299 Nanzatico Lane County: KING GEORGE LAT. & LONG: 38.17278, -77.12196	Proposed: WALKWAY, FLOATING DOCK, BOAT HOUSE Tax Map: 40- 21 Waterway: Nanzatico Bay	Agent: DELTA MARINE CONSTRUCTION, LCC. ADJACENT PROPERTY: KIRK BALLARD Date: Date: November 12, 2024 Page: 1 of 8	3
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17299 Nanzatico Ln

17299 Nanzatico Ln, King George, VA 22485

Save to project

Applicant: RIZVI FAMILY PARTNERSHIP LLC Project Address: 17299 NANZATICO LANE County: KING GEORGE LAT. & LONG: 38.17278, -77.12196	Proposed: WALKWAY, FLOATING DOCK, BOAT HOUSE Tax Map: 40- 21 Waterway: NANZATICO BAY	Agent: DELTA MARINE CONSTRUCTION, LCC. ADJACENT PROPERTY: KIRK BALLARD Date: November 12, 2024 Page: 2 of 8	4
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Applicant: RIZVI FAMILY PARTNERSHIP LLC
Project Address: 17299 NANZATICO LANE
County: KING GEORGE
LAT. & LONG: 38.17278, -77.12196

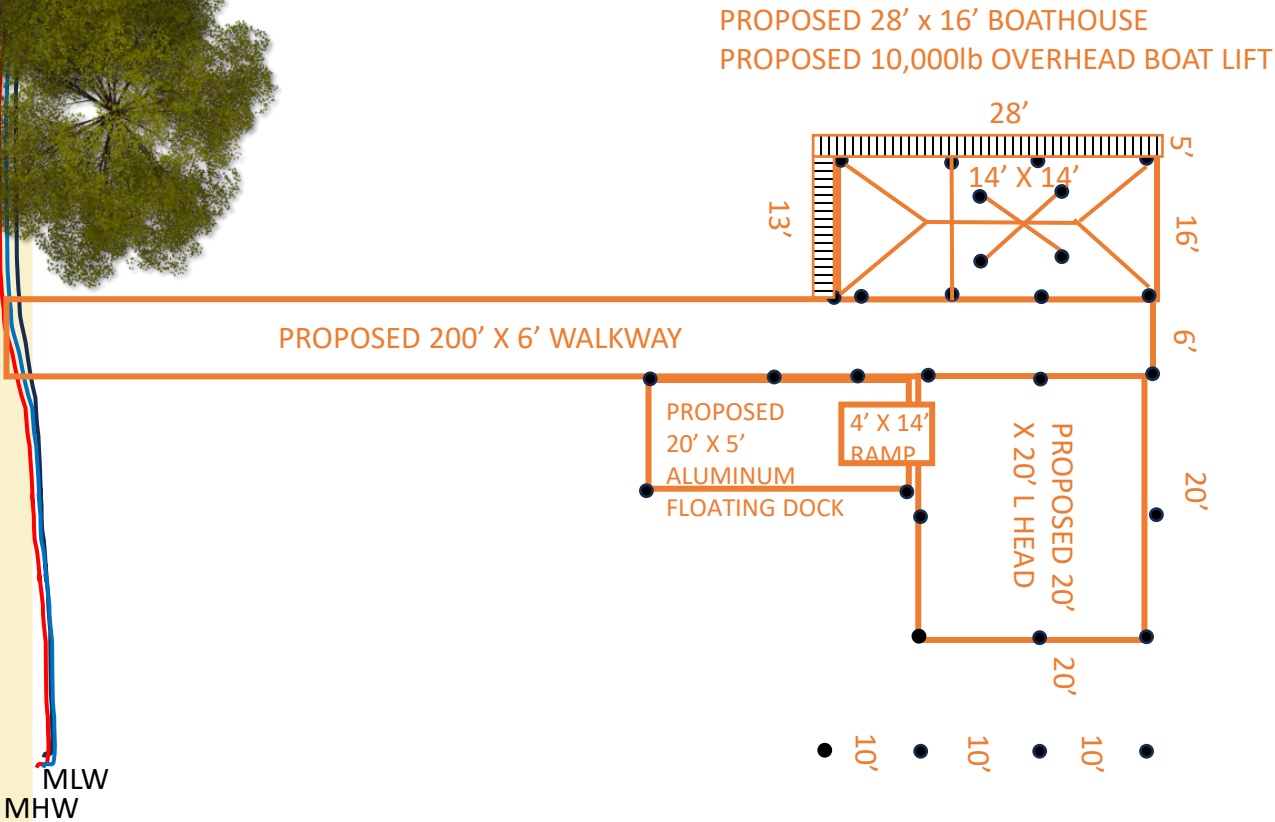
Proposed: WALKWAY, FLOATING DOCK, BOAT HOUSE
Tax Map: 40- 21
Waterway: NANZATICO BAY

Agent: DELTA MARINE CONSTRUCTION, LCC.
ADJACENT PROPERTY: KIRK BALLARD
Date: November 12, 2024
Page: 3 of 8

WATER DEPTH @ MHW, 5.00'



EXISTING BANK



PROPOSED STRUCTURES:

1. CONSTRUCT A 200' X 6' WALKWAY WITH A 20' X 20' L HEAD WITH EPI DECKING.
2. INSTALL A 20' X 5' LOW PROFILE FLOATING DOCK WITH EPI DECKING FOR BOAT ACCESS.
3. INSTALL A 4' X 14' LOW-PROFILE ALUMINUM FRAME RAMP WITH HANDRAILS FOR ACCESSIBILITY ACCESS.
4. CONSTRUCT A 28' X 16' BOAT HOUSE WITH A 51' X 5' WALKAROUND INSIDE OF THE BOAT HOUSE AND 10,000lb OVERHEAD ALUMINUM BOAT LIFT INSTALLED INSIDE OF THE BOAT HOUSE.
5. (68) TIMBER PILES, 25' MAX LENGTH, NO GREATER THAN 12- INCH DIAMETER, TO BE INSTALLED WITH VIBRATORY HAMMER.
6. (4) MOORING POLES, 25' MAX LENGTH, NO GREATER THAN 12- INCH DIAMETER, TO BE INSTALLED WITH VIBRATORY HAMMER.

Applicant: RIZVI FAMILY PARTNERSHIP LLC
Project Address: 17299 NANZATICO LANE
County: KING GEORGE
LAT. & LONG: 38.17278, -77.12196

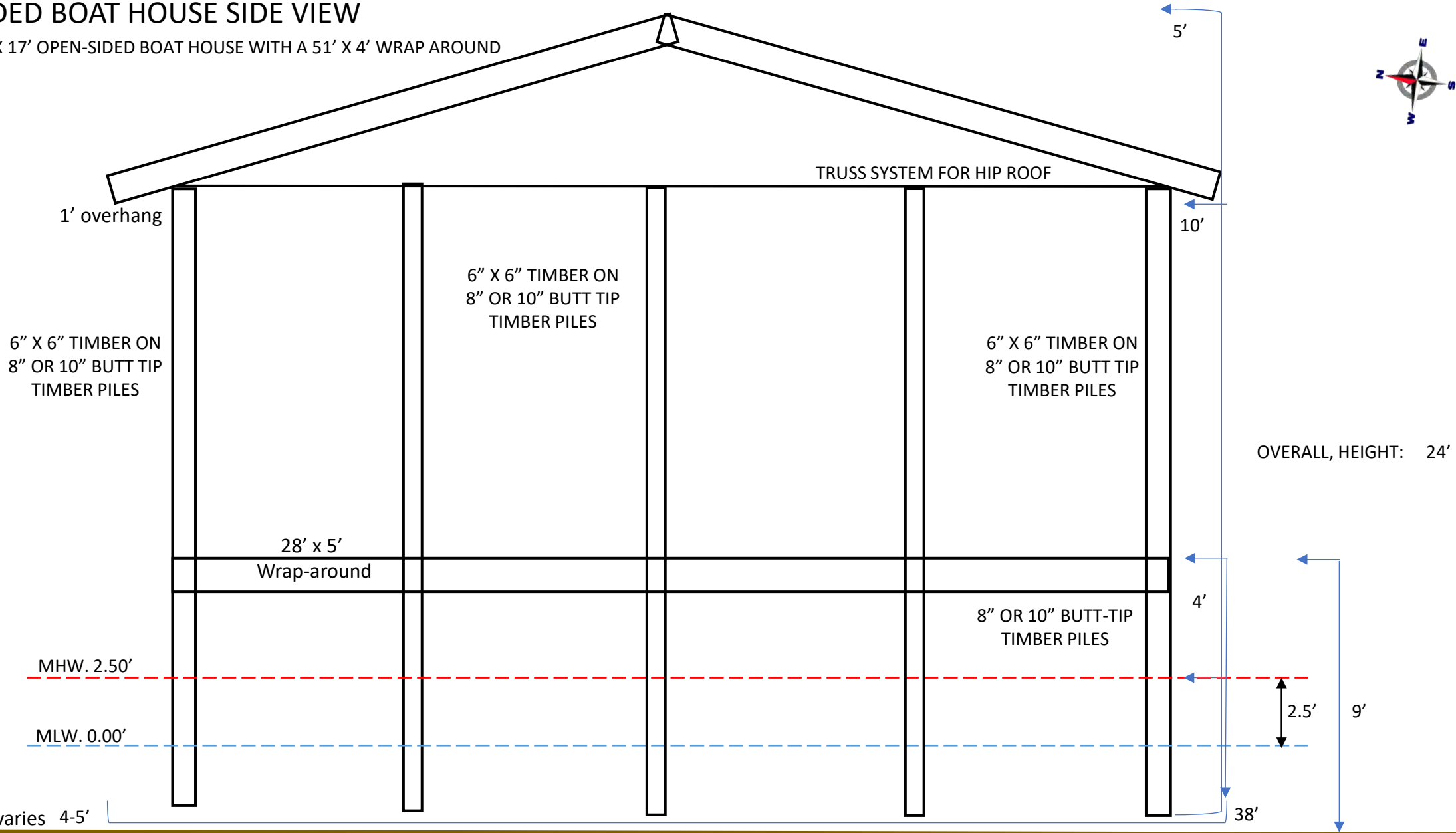
Proposed: WALKWAY, FLOATING DOCK, BOAT HOUSE
Tax Map: 40- 21
Waterway: NANZATICO BAY

Agent: DELTA MARINE CONSTRUCTION, LCC.
ADJACENT PROPERTY: KIRK BALLARD
Date: November 12, 2024
Page: 4 of 8

Not to scale

OPEN-SIDED BOAT HOUSE SIDE VIEW

INSTALL A 38' X 17' OPEN-SIDED BOAT HOUSE WITH A 51' X 4' WRAP AROUND

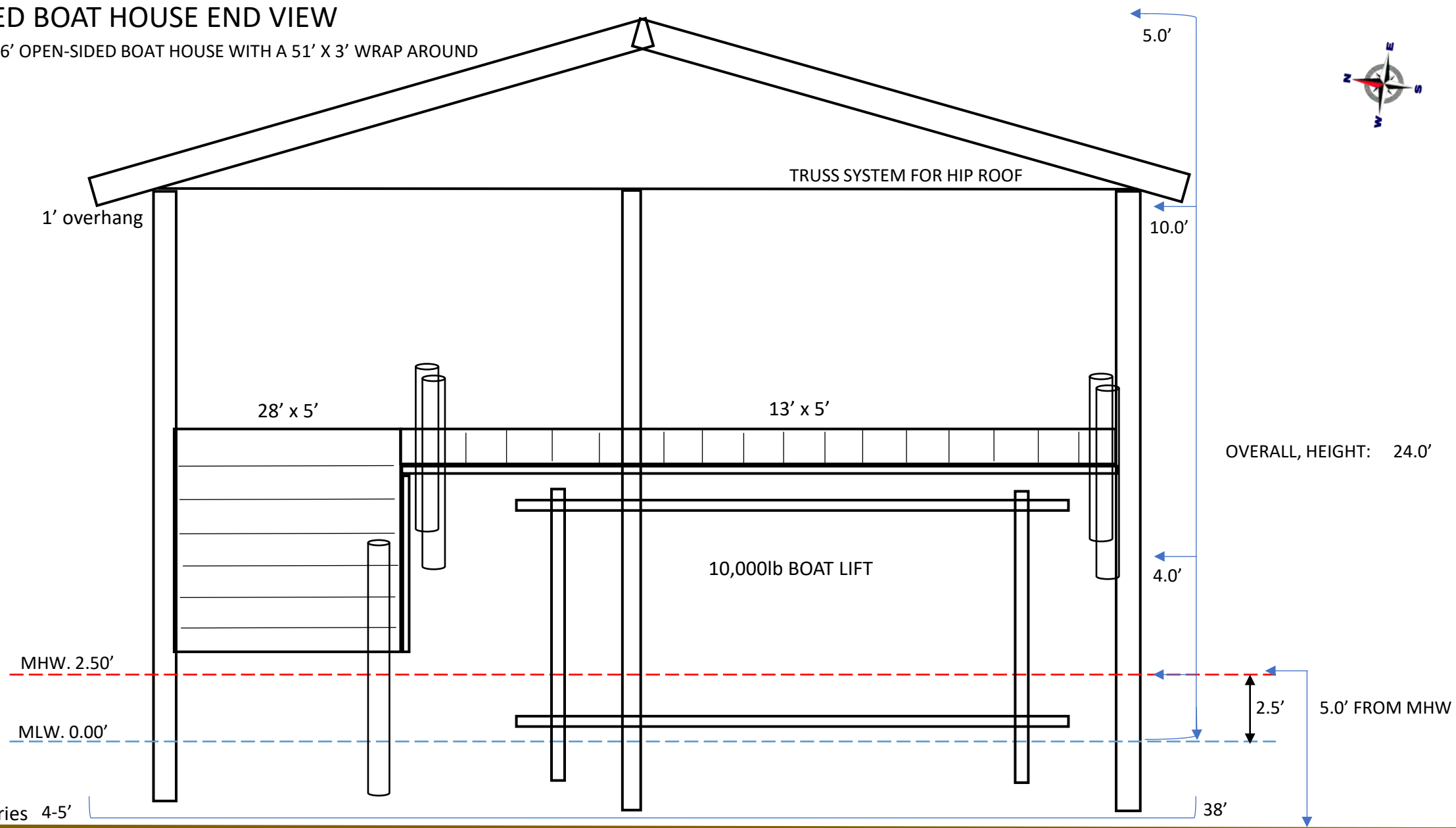


Bottom depth varies 4-5'

<p>Applicant: RIZVI FAMILY PARTNERSHIP LLC</p> <p>Project Address: 17299 NANZATICO LANE</p> <p>County: KING GEORGE</p> <p>LAT. & LONG: 38.17278, -77.12196</p>	<p>Proposed: WALKWAY, FLOATING DOCK, BOAT HOUSE</p> <p>Tax Map: 40- 21</p> <p>Waterway: NANZATICO BAY</p>	<p>Agent: DELTA MARINE CONSTRUCTION, LCC.</p> <p>ADJACENT PROPERTY: KIRK BALLARD</p> <p>Date: November 12, 2024</p> <p>Page: 5 of 8</p>	<p>Not to scale</p>
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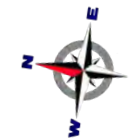
OPEN-SIDED BOAT HOUSE END VIEW

INSTALL A 28' X 16' OPEN-SIDED BOAT HOUSE WITH A 51' X 3' WRAP AROUND

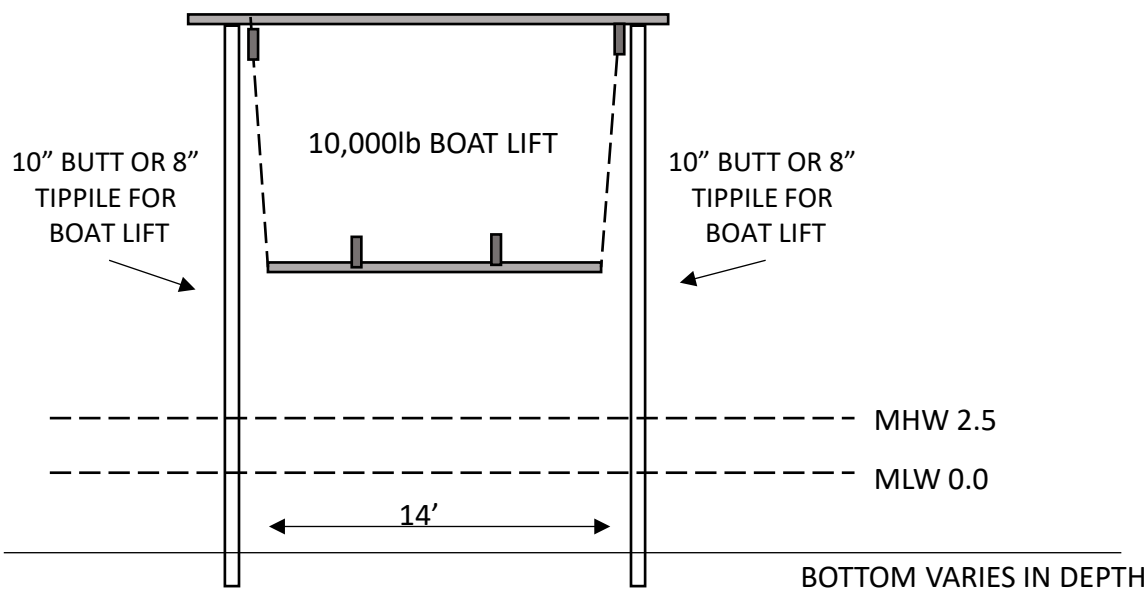


Bottom depth varies 4-5'

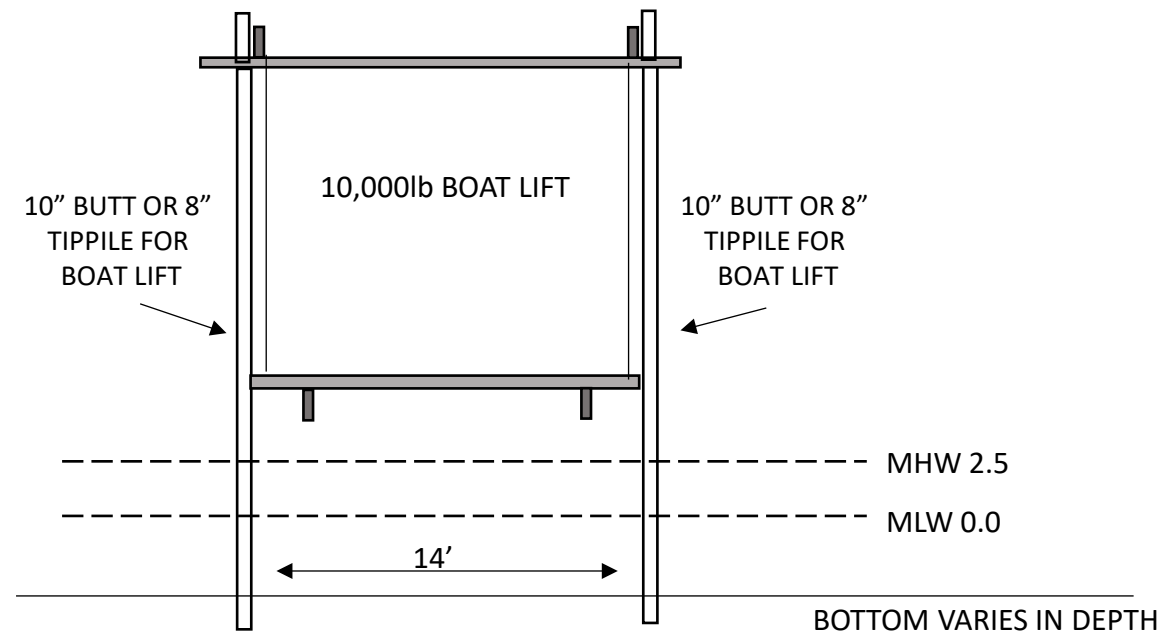
<p>Applicant: RIZVI FAMILY PARTNERSHIP LLC Project Address: 17299 NANZATICO LANE County: KING GEORGE LAT. & LONG: 38.17278, -77.12196</p>	<p>Proposed: WALKWAY, FLOATING DOCK, BOAT HOUSE Tax Map: 40- 21 Waterway: NANZATICO BAY</p>	<p>Agent: DELTA MARINE CONSTRUCTION, LCC. ADJACENT PROPERTY: KIRK BALLARD Date: November 12, 2024 Page: 6 of 8</p>	<p>Not to scale</p>
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PROPOSED 10,000lb BOAT LIFT (FRONTAL VIEW)



PROPOSED 10,000lb BOAT LIFT (SIDE VIEW)



- NOTES**
- ALL HARDWARE USED IN CONSTRUCTION SHALL BE GALVANIZED FASTENERS OR STAINLESS-STEEL SCREWS
 - ALL WOOD SHALL BE SALT TREATED TIMBER ONLY

<p>Applicant: RIZVI FAMILY PARTNERSHIP LLC Project Address: 17299 NANZATICO LANE County: KING GEORGE LAT. & LONG: 38.17278, -77.12196</p>	<p>Proposed: WALKWAY, FLOATING DOCK, BOAT HOUSE Tax Map: 40- 21 Waterway: NANZATICO BAY</p>	<p>Agent: DELTA MARINE CONSTRUCTION, LCC. ADJACENT PROPERTY: KIRK BALLARD Date: November 12, 2024 Page: 7 of 8</p>	<p>Not to scale</p> <div></div>
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Proposed dock structure

Water access path

17299 Nanzatico Ln

17299 Nanzatico Ln

17299 Nanzatico Ln, King George, VA 22485

Save to project

Layers

Applicant: RIZVI FAMILY PARTNERSHIP LLC Project Address: 17299 Nanzatico Lane County: KING GEORGE LAT. & LONG: 38.17278, -77.12196	Proposed: WALKWAY, FLOATING DOCK, BOAT HOUSE Tax Map: 40- 21 Waterway: Nanzatico Bay	Agent: DELTA MARINE CONSTRUCTION, LCC. ADJACENT PROPERTY: KIRK BALLARD Date: November 12, 2024 Page: 8 of 8	10
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From: [Harris, Kylie \(MRC\)](#)
To: [MRC - jpa Permits](#)
Subject: Fw: 17299 Nanzatico Lane
Date: Wednesday, November 6, 2024 3:23:34 PM

Please attach to 24-2292 (Rizvi) as DHR comment. Thanks!

Best,

Kylie Harris
Environmental Engineer – Habitat Management Division
Virginia Marine Resources Commission
380 Fenwick Road, Building 96
Fort Monroe, VA 23651
757-247-8032

From: permits@deltamarineconstruction.com <permits@deltamarineconstruction.com>
Sent: Friday, November 1, 2024 2:58 PM
To: Harris, Kylie (MRC) <kylie.harris@mrc.virginia.gov>
Subject: Fw: 17299 Nanzatico Lane

Good afternoon Kylie,

Please see the information and email chain below stating the historic easement does not preclude the construction of the dock.

Thank you,
Makenzie

From: frontend@deltamarineconstruction.com <frontend@deltamarineconstruction.com>
Sent: Friday, November 1, 2024 11:55 AM
To: Abid Rizvi <abidrizvi@outlook.com>; permits@deltamarineconstruction.com <permits@deltamarineconstruction.com>
Cc: Andr a Rizvi - andrea.rizvi@gmail.com <andrea.rizvi@gmail.com>
Subject: Re: 17299 Nanzatico Lane

Thank you for your prompt response. We will be sure to notify VMRC of this notification and we look forward to meeting you on Thursday November 7th.

Makenzie

From: Abid Rizvi <abidrizvi@outlook.com>

Sent: Friday, November 1, 2024 11:51 AM
To: Brian Fletcher, Manager <frontdesk@deltamarineconstruction.com>;
permits@deltamarineconstruction.com <permits@deltamarineconstruction.com>
Cc: Andr a Rizvi - andrea.rizvi@gmail.com <andrea.rizvi@gmail.com>
Subject: Fw: 17299 Nanzatico Lane

Brian, Jake,
Please see below from DHR.
They are confirming that the easement does not preclude the construction of the dock.
Thanks.
Abid

Abid Rizvi
AbidRizvi@outlook.com

From: Melinat, Megan (DHR) <Megan.Melinat@dhr.virginia.gov>
Sent: Friday, November 1, 2024 2:46 PM
To: Abid Rizvi <abidrizvi@outlook.com>
Cc: Andr a Rizvi - andrea.rizvi@gmail.com <andrea.rizvi@gmail.com>
Subject: Re: 17299 Nanzatico Lane

Hello Abid and Andrea,

Thank you for your email.
The dock will actually be reviewed by another division of DHR, but Easement staff did confirm with that staff member (Samantha Henderson) that we had no concern/official role for that project. I suspect you will receive an official response shortly.

Have a nice weekend,
Megan

Megan Melinat

Director, Preservation Incentives Division
Department of Historic Resources
megan.melinat@dhr.virginia.gov
804-482-6455

From: Abid Rizvi <abidrizvi@outlook.com>
Sent: Friday, November 1, 2024 2:14 PM
To: Melinat, Megan (DHR) <megan.melinat@dhr.virginia.gov>
Cc: Andr a Rizvi - andrea.rizvi@gmail.com <andrea.rizvi@gmail.com>
Subject: 17299 Nanzatico Lane

Hi Megan - thank you for your comments on the design. Andrea and I will work with the team to address them and be back to you (through Paige) shortly.

Am actually reaching out to you regarding another matter. As we had discussed, when you visited the property in April, we would like to put a dock on the property. I recall you saying that was the domain of VMRC and that DHR had no issues with us adding a dock (as the easement does not restrict us from that). We have since engaged Delta Marine Construction LLC to help get permits for the dock. They have been asked by the VMRC to confirm that DHR has no objections with us putting that dock in. Could you please be so kind to send us an email stating that? I am not sure if they would need something formal or if an email would suffice but maybe we could start with an email.

Please let us know if you have any questions or require additional information about this.

All the best

Abid and Andrea Rizvi

From: [Harris, Kylie \(MRC\)](#)
To: [Atkins, Lou \(MRC\)](#)
Subject: Fw: VMRC#24-2292
Date: Tuesday, November 26, 2024 8:48:38 AM

Could you upload this to 24-2292 Rizvi so I can include it in the book? It's from the protestant in response to the Comm. date notif. Thanks

Best,

Kylie Harris

Environmental Engineer – Habitat Management Division
Virginia Marine Resources Commission
380 Fenwick Road, Building 96
Fort Monroe, VA 23651
757-247-8032

From: Clay Copen <lccdoc12@gmail.com>
Sent: Saturday, November 23, 2024 3:38 PM
To: Harris, Kylie (MRC) <Kylie.Harris@mrc.virginia.gov>
Subject: Re: VMRC#24-2292

Notice of hearing r'cvd but will be unable to attend. Opinion stands but have prior obligation.
Clay

On Thu, Nov 14, 2024, 09:24 Harris, Kylie (MRC) <Kylie.Harris@mrc.virginia.gov> wrote:
Good morning,

Understood - we will continue to process this application for the Commission hearing date on 12/3/24. As for the newspaper, we worked with the Virginia Press Services to run the public notice in the nearest paper, which was the Westmoreland News. The notice ran for 15 days and a copy is available in the file online if you wish to view it.

Best,

Kylie Harris

Environmental Engineer – Habitat Management Division
Virginia Marine Resources Commission
[380 Fenwick Road, Building 96](#)
[Fort Monroe, VA 23651](#)
757-247-8032

From: Clay Copen <lccdoc12@gmail.com>
Sent: Wednesday, November 13, 2024 11:21 PM
To: Harris, Kylie (MRC) <Kylie.Harris@mrc.virginia.gov>
Subject: Re: VMRC#24-2292

Message received, I still personally find the project a bit ambitious for the benefits to be realized. Also, the newspaper listed "The King George Journal" is defunct and has been for a number of years! LCC

On Wed, Nov 13, 2024, 14:52 Harris, Kylie (MRC) <Kylie.Harris@mrc.virginia.gov> wrote:

Good afternoon Mr. Copen,

The Rizvi Family has submitted revised drawings showing a downsized pier. The document is attached to this email and the drawings/images begin on page 17.

Let me know if you have any questions.

Best,

Kylie Harris

Environmental Engineer – Habitat Management Division

Virginia Marine Resources Commission

[380 Fenwick Road, Building 96](#)

[Fort Monroe, VA 23651](#)

757-247-8032

From: Clay Copen <lccdoc12@gmail.com>

Sent: Friday, November 1, 2024 10:03 AM

To: Harris, Kylie (MRC) <Kylie.Harris@mrc.virginia.gov>

Subject: Re: VMRC#24-2292

Nov 7th will work for me. Thnx.

On Fri, Nov 1, 2024, 09:15 Harris, Kylie (MRC) <Kylie.Harris@mrc.virginia.gov> wrote:

Thank you. Would Thursday, November 7th between 12-1 work for you?

Best,

Kylie Harris

Environmental Engineer – Habitat Management Division

Virginia Marine Resources Commission

[380 Fenwick Road, Building 96](#)

[Fort Monroe, VA 23651](#)

757-247-8032

From: Clay Copen <lccdoc12@gmail.com>

Sent: Thursday, October 17, 2024 9:19 AM

To: Harris, Kylie (MRC) <Kylie.Harris@mrc.virginia.gov>

Subject: Re: VMRC#24-2292

I should have included that I reside at 17374 Twin Hickory which is adjacent to 17358. I am available at any time to meet. Phone 540 842-4497.

On Thu, Oct 17, 2024, 07:32 Harris, Kylie (MRC) <Kylie.Harris@mrc.virginia.gov> wrote:

Good morning,

We have received your protest of the above-referenced project and it has been entered into the official record. Would you be willing to meet with me at your property in November to discuss? I understand you are not residing at that address, so we could talk over the phone if necessary.

Thank you.

Best,

Kylie Harris

Environmental Engineer – Habitat Management Division

Virginia Marine Resources Commission

[380 Fenwick Road, Building 96](#)

[Fort Monroe, VA 23651](#)

757-247-8032

From: Clay Copen <lccdoc12@gmail.com>

Sent: Wednesday, October 16, 2024 11:57 AM

To: Harris, Kylie (MRC) <kylie.harris@mrc.virginia.gov>

Subject: VMRC#24-2292

My name is Lucian Copen and while I am not a resident at 17358 Twin Hickory Dr., I am half owner of that property. Regarding the proposed dock at Nanzatico it is my opinion that it is contrary to and also detrimental to the historic presentation of that property. My phone is 540 842-4497.

**FISHERIES MANAGEMENT DIVISION
RESPONSE TO PETITION, 12/06/2024**

- PETITION:** To consider Rulemaking by the Virginia Marine Resources Commission (VMRC) for a managed recreational Hickory Shad fishery in Chesapeake Bay waters and coastal rivers and their tributaries within Virginia with a daily creel limit informed by and adjusted based on best available data. The requested regulation would be part of existing VMRC fisheries management for alosine species and is needed to conserve the Hickory Shad stock by replacing unrestricted recreational harvesting with a controlled fishery. Unrestricted take exposes this species to overharvesting and diminishes the contribution of Virginia coastal river spawners to species abundance.
- PETITIONER:** Robert Allen and the Coastal Conservation Association of Virginia (CCA-VA).
- ISSUES:** On July 23, 2024, the Virginia Chapter of the Coastal Conservation Association (CCA) submitted a petition to request a conservative recreational possession limit for hickory shad. Their concern was the uncontrolled harvest of hickory shad in Chesapeake Bay and its tributaries in Virginia were removing spawners needed to maintain a self-sustaining population. Other alosines, (American shad, blueback herring, and alewife) are presently under a harvest moratorium along the coast due to reduced abundance associated with over harvesting and loss of habitat. Hickory shad harvest is presently unlawful in other Chesapeake Bay jurisdictions with a 10 fish bag limit permitted in North Carolina and Virginia waters under Department of Wildlife Resources' (DWR) jurisdiction. CCA has been trying since February 2019 to get this issue before the VMRC Board.
- BACKGROUND:** Hickory shad is one of four alosine species managed by the Marine Resources Commission, with the other three species (American shad, alewife, and blueback herring) presently under a coastwide harvest moratorium. Hickory shad are a popular spring recreational fishery – particularly in the upper reaches of the James River (Richmond), Rappahannock River (Falmouth and Fredericksburg) and Occoquan River (near River Mill Park in Occoquan, VA). Most of these fish are migrating upstream to spawn and are vulnerable to harvest in the shallow waters near the fall line. Anglers engage in both catch-and-release and harvest for the species – primarily for the roe or blue catfish bait. Members of the CCA have observed a number of individuals harvesting coolers full of hickory shad with dip nets and

cast nets being transported off these rivers. The CCA membership is concerned about this unrestricted harvest given these are spawning fish and little is known about the stock size of the populations.

CCA member first approached MRC in February of 2019 with their concerns and presented to the Finfish Management Advisory Committee (FMAC) on February 25, 2019. The FMAC recommended CCA go back to its management and gather what information they could on the species and get some support from other fishing groups to gather some consensus on the issue.

MRC fishery staff have discussed the issue several times with the Department of Wildlife Resources (DWR) staff, with a general consensus that a conservative recreational bag limit would provide some level of protection to the spawning stock. In addition, DWR mirrors MRC regulations on hickory shad above and below the fall line in all coastal rivers of the Chesapeake Bay and their tributaries. However, they have a 10 fish per person creel limit on waters that drain to the Chowan River and Albermarle Sound in North Carolina (Meherrin River below Emporia Dam, Nottoway River, Blackwater River, North Landing and Northwest rivers, and their tributaries plus Back Bay) to correspond with the NC bag limit for the species (N.C. Admin. Code 10C.0313).

The CCA has been very patient regarding this issue while MRC dealt with more pressing issues such as the 18% reduction in total striped bass removals required by the Atlantic States Marine Fisheries Commission's Striped Bass Fishery Management Plan (Addendum VI of Amendment 6 – 2019), COVID-19, and various menhaden issues. They approached to commission again in February 2024 with a petition for rule making to address the issue. After some discussions, the CCA leadership agreed to rescind the petition to expedite the issue through MRC's normal regulatory process. CCA presented their request to FMAC on March 28, 2024. The FMAC endorsed a 10 fish recreational creel limit for hickory shad with a 12-1-1 vote. A public hearing was pulled from the March 28, 2024, Commission agenda for further administrative review. After which, CCA submitted a second petition on July 29, 2024. Public comment was collected on Virginia's Regulatory Town Hall for the mandated 21 days ending September 16, 2024. Town Hall received 126 comments – all in favor of the petition.

If received positively by the Board, suggested regulatory amendments to Chapter 4VAC20-530-10 et seq., Pertaining to American Shad" may include: 1) Changing the regulation title from "Pertaining to American Shad" to "Pertaining to Shad" to address the addition of hickory shad to the regulation; 2) A definition regarding hickory shad; 3) Adding a section 36 regarding recreational harvest,

including the 10 fish creel limit per person per day for hickory shad; and 4) a series of minor language changes.

PROCESS:

The Board is tasked with deciding if the petition has merit and whether to proceed with regulatory amendments (Yes or No). The Board may also provide recommendations on when the public hearing should be scheduled (if approved), and request to staff to provide additional information at some future Board meeting.

PUBLIC COMMENTS:

Virginia Regulatory Town Hall 126 responses (all in favor)

Letters:

Rappahannock Tribe of Virginia (in favor)

Eric Hilton – (VIMS) (opposed)

Petition Title: Harvest Regulation to Conserve Hickory Shad in Virginia Tidal Waters

Petitioner: Robert Allen, Coastal Conservation Association Virginia

Board: Virginia Marine Resources Commission

VAC Chapter: Chapter 4 VAC 20-1260-10 ET SEQ., "PERTAINING TO RIVER HERRING"

Petitioner's Request:

Details: This petition requests rulemaking by the Virginia Marine Resources Commission (VMRC) for a managed recreational Hickory Shad fishery in Chesapeake Bay waters and coastal rivers and their tributaries within Virginia with a daily creel limit informed by and adjusted based on best available data. The requested regulation would be part of existing VMRC fisheries management for Alosine species and is needed to conserve the Hickory Shad stock by replacing unrestricted recreational harvesting with a controlled fishery. Unrestricted take exposes this species to overharvesting and diminishes the contribution of Virginia coastal river spawners to species abundance.

Petition objectives are to conserve the Hickory Shad species in Virginia's Chesapeake Bay waters and tributaries, sustain its contribution to species abundance of the East Coast stock, maintain a quality recreational fishery, and support shad and herring restoration plans.

The proposed fishery management action is for non-indigenous recreational fishing only. It would not alter commercial fishing regulations or the fishing rights of Native Americans who habitually reside on an Indian reservation or are members of a Virginia-recognized tribe who reside in the Commonwealth.

Why: The four anadromous Alosine species that inhabit the East Coast, including Hickory Shad, have experienced declines in historic abundance in the Mid-Atlantic region. The James River American Shad stock is on the verge of collapse due lack of successful reproduction from uncertain causes. Hickory Shad is the least studied and least understood of these species; the abundance necessary to sustain the species while allowing a recreational fishery in Virginia's coastal rivers is uncertain.

Large, unmonitored, and unrestricted harvests of staging and spawning Hickory Shad occur with by-catch of American Shad by indiscriminate fishers. These takes occur especially at and near the Fall Line during the Spring season in the Rappahannock River where anglers use a combination of cast nets, dip nets, and multiple-hook mini-longlines.

Rationale: Overharvesting of American Shad and River Herrings contributed greatly to stock depletion. These species are subject to recreational harvest moratoriums by Virginia, Maryland, District of Columbia, and the Potomac River Fisheries Commission. All but Virginia also put moratoriums on Hickory Shad harvests in Chesapeake Bay waters and tributaries. With an uncontrolled take, the Hickory Shad stock is vulnerable to excessive take from Virginia's Bay waters and tributaries while takes from the same overall stock are not available elsewhere in the Bay region.

Very limited data are available about Hickory Shad abundance, geographic ranges, recreational harvests, species responses to climate change, and the biomass needed to sustain the species while also providing forage for predator species generally and striped bass in particular. A species-specific management plan is not available. The Atlantic States Marine Fisheries Commission combined the species with American Shad and River Herring due to data limitations. Undetected bycatch of American Shad during the unrestricted harvest of Hickory Shad undermines Alosine restoration plans.

The species biomass in Virginia Chesapeake Bay waters and its tributary coastal rivers has not been determined with scientific certainty. There is substantial variability in annual Catch Per Unit of Effort (CPUE) field data for the five Chesapeake Bay tributaries that support Hickory Shad spawning. Per 2020 field data, the CPUE for four of these tributaries was well below average, with only that year's Rappahannock River spawning run exhibiting an above-average CPUE. Although this suggests the Rappahannock stock could support a modest recreational fishery, CPUE is only an indirect measure of species abundance.

Outside the Chesapeake Bay watershed, a ten-fish daily creel limit for restored hickory shad runs in Virginia rivers applies where the Virginia Department of Wildlife Resources (DWR) has jurisdiction. DWR regulations specify that creel and length limits shall be the same as those set by the VMRC. Consequently, DWR has an unrestricted hickory shad creel limit for Chesapeake Bay freshwater tributaries.

Reasonable management measures are needed to guard against overexploitation during the Virginia coastal river Hickory Shad spawning runs. This action is essential considering the condition of Alosine stocks generally and the undetermined species abundance thresholds necessary to sustain Hickory Shad and maintain a recreational fishery.

Regulatory Coordination and Process: CCA Virginia previously coordinated with the VMRC staff to put a safety net around the hickory shad fishery. We presented our request to the Finfish Management Advisory Committee which recommended a daily creel limit of 10 across all gear types, thereby providing consistency with DWR management of hickory shad outside the Chesapeake Bay watershed. We were subsequently informed by VMRC that our request is unable to proceed through normal rulemaking. Our petition submission responds to the process changes affecting issuance of discretionary regulations so that this important fisheries management need is presented to the interested and affected public and the VMRC in the best interests of the Commonwealth.

Benefits: Managing Hickory Shad harvests would conserve the Hickory Shad stock, maintain a quality recreational fishery, and provide a margin of safety for the long-term effects of a warming climate on migration patterns and spawning success. Conservation of this natural resource would also contribute to increasing the East Coast biomass.

Discrete harvest limits would reduce regulatory oversight burden by eliminating the need during field inspections to sort through a large quantity of fish, thereby making it easier to detect possession of American Shad.

Requested Action: I hereby request, on behalf of Coastal Conservation Association Virginia, that the VMRC replace unrestricted recreational hickory shad harvests with a managed recreational fishery to conserve the Hickory Shad stock that spawns in Chesapeake Bay waters and coastal rivers and their tributaries in Virginia by implementing the following measures: Specify a limited number of fish per person per day and make future adjustments to the daily possession limit determined by best available data. We further recommend that VMRC initiate management with a daily creel limit of 10 across all gear types. We respectfully request that the VMRC adopt these proposed regulatory changes.

Submitted by: *Robert Allen*

Robert Allen, Coastal Conservation Association Virginia
P.O. Box 1306, Springfield VA 22151
July 23, 2024

To: Jennifer Farmer, Regulatory Coordinator, Virginia Marine Resources Commission

From: Dr. Eric J. Hilton, Virginia Institute of Marine Science

Date: 7 November 2024

Subject: Petition for Harvest Regulation on Hickory Shad



This memo serves as a response to the petition sent to VMRC by Robert Allen, Coastal Conservation Association Virginia, titled Harvest Regulation to Conserve Hickory Shad in Virginia Tidal Waters (dated July 23, 2024). The intent of the petition, the conservation of Hickory Shad in Virginia, is laudable. However, it is my professional opinion that the implementation of the proposed management measures (i.e., institution of a daily creel limit) at this point is not necessary. Hickory Shad differs from American Shad in several life history traits (e.g., a lower age of maturity) and biology (e.g., piscivorous) that sets the two species apart and their populations are not subject to the same pressures. Historical and recent data on the population or stock strength of Hickory Shad in Virginia waters is largely unknown or unclear. However, anecdotal evidence from the VIMS Alosine Monitoring Program (annual survey for American Shad since 1998 and river herring, inclusive of Blueback Herring and Alewife, since 2015) suggests relatively consistent runs of Hickory Shad through time. Numbers of Hickory Shad encountered in this survey are annually reported to VMRC and the Atlantic States Marine Fisheries Commission. Although encounters of Hickory Shad in the VIMS survey have not been fully analyzed historically, beginning in 2025 biological data (e.g., size, sex, age, maturity, spawning condition) will be recorded for all individuals of Hickory Shad encountered to develop a time series for an index of abundance and other biological characteristics of the spawning run. If in the future changes or negative trends of the spawning stock of Hickory Shad in the Virginian tributaries of the Chesapeake Bay are detected, appropriate management strategies should be revisited.



RAPPAHANNOCK TRIBE OF VIRGINIA

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Reeva Tilley

Re: Petition for Hickory Shad Regulations

While the rulemaking requested within the petition would not alter the fishing rights of Indigenous Virginians, the Rappahannock Tribe fully supports implementing harvest regulations to conserve hickory shad in Virginia's tidal waters. The proposed regulations are a key step in Alosine conservation that will help protect the species against overfishing, increase the potential for successful spawns, and reduce the indiscriminate bycatch of protected American shad often found in nets during unrestricted bulk takes.

As a vital species in our ecosystem, hickory shad play a critical role in maintaining the balance of aquatic life. Overfishing and other obstacles such as dams have severely impacted their populations over time, and without action we risk further decline. By establishing reasonable creel limits and stricter regulations, we can protect this important species for future generations while promoting sustainable fishing practices.

Public Petition for Rulemaking: 413

Commenter	Title	Comment	Date/ID
Wayne Young, NOVA Chapter, CCA VA	Creel Limit Needed for Hickory Shad	Management of hickory shad should be consistent across Virginia. The DWR 10 per day hickory shad limit for Virginia rivers outside the Chesapeake Bay watershed is a reasonable model for beginning management of the Chesapeake Bay and tributary hickory shad spawning runs in Virginia. All recreational fishing harvest pressure on hickory shad in Chesapeake Bay and its tributaries is in Virginia because of a moratorium on recreational takes of hickory shad in Maryland and DC waters. Weak James and York River hickory shad spawning runs in recent years has focused fishing pressure for takes onto the Rappahannock and Occoquan River hickory shad spawning runs. Unrestricted takes during the spawning runs reduces the potential for successful spawns, risks species depletion below self-sustaining thresholds, and jeopardizes the continued availability of a recreational fishery. Therefore, fisheries management oversight is needed for species conservation, and I support establishing a reasonable creel limit.	8/27/24 7:10 am CommentID:227449
kendall osborne	hickory shad	I am in favor of creel limits on Hickory shad.	8/27/24 1:34 pm CommentID:227453
DN	support for shad management initiatives	I support the proposed regulations	8/27/24 1:52 pm CommentID:227454
Dave Gedra	Support of Hickory Shad Conservation Proposal	I support the Hickory Shad conservation proposal. Conserving hickory shad will help protect against overfishing of a species with a currently unknown population and an undetermined abundance needed for a self-sustaining stock. Overfishing of the Hickory Shad risks depletion of the stock and jeopardizes the continued availability of a recreational Hickory Shad fishery. I very much have enjoyed the spring Hickory Shad fishing every spring on the Occoquan River near my house. I would like for today's youth and future generations to have the same opportunities to enjoy the annual rite of the spring Hickory Shad fishing on the Occoquan and other rivers in Virginia. Thank you.	8/27/24 4:27 pm CommentID:227459
Don Pirro	Hickory Shad Creel Limits and Conservation	I support the petition to regulate the catch of hickory shad with the establishment of a creel limit of 10 in Virginia. Hickory shad are an important forage fish for striped bass and bluefish and their stocks have been in decline for years. There is a need to put guard rails on hickory shad recreational fishing via the establishment of creel limits. I have enjoyed fishing for hickory shad for many years with friends and family and have seen the abuses of people filling up cooler's full of dozens of spawning hickory shad. I know for a fact people confuse hickory shad with the protected American Shad species and are taking both species out of circulation. Hickory shad need to be protected, particularly during the spawning season, so that they can rebuild their population and having a creel limit regulation is a major step	8/28/24 12:02 pm CommentID:227469

		in that effort.	
Michael H. Greene	Hickory Shad Petition	I support the proposal for creel limits on Hickory Shad. It is time that Virginia join with its Atlantic States fisheries neighbors to protect this endangered species.	8/28/24 3:44 pm CommentID:227472
Jesse Howe	In support of the hickory shad conservation proposal	I support the hickory shad conservation proposal to protect against overfishing of a species with a currently unknown population and an undetermined abundance needed for a self-sustaining stock. Overfishing of the hickory shad risks depletion of the stock and jeopardizes the continued availability of a recreational hickory shad fishery.	8/28/24 9:29 pm CommentID:227481
John Jensen	Hickory Shad regulations	I live on the Mattaponi River and have seen the populations of White and Hickory Shad drop in recent years. I am in support of a daily limit on Hickory Shad. All of our fish species should have a daily limit. As our population increases and more people are recreational fishing the pressure increases on all of our fish populations.	8/29/24 7:29 am CommentID:227485
JohnKilday	Hickory Shad Regulations	I support the proposed Harvest Regulations to Conserve Hickory Shad in Virginia Tidal Waters	8/29/24 10:47 am CommentID:227488
B. Hayes	In support but....	I support any conversation. However the same rules that the recreational fisherman follow. So should the commercial fisherman. The rules have always been bent in favor of the commercial fisherman.	8/30/24 7:59 am CommentID:227497
Capt. Mike	Support conservation of hickory shad	I support setting a limit on hickory shad. A limit of ten is an appropriate start until science proves otherwise.	8/30/24 9:34 am CommentID:227498
John Bello	Hickor Shad	I JNsupport this change. It makes common sense for the preservation of the stock.	8/30/24 12:19 pm CommentID:227512
Jonathan Freeman	The future of Hickory Shad	The Hickory shad is a vital resource for Striped Bass, Bluefish, Osprey and other wildlife that live, spawn or nest in and around the Chesapeake bay. A creel limit should be set on the Shad with a possible closed season during the spawn. If measures aren't taken now, the wildlife of the bay will suffer.	8/31/24 9:11 pm CommentID:227551
Shannon Albright	Hickory Shad Petition	Hickory Shad needs to be limited.	9/1/24 9:48 pm CommentID:227576
Bobby Rae Allen	Hickory Shad Limits	From the recreational angler's perspective, Hickory Shad have value in three uses: As a catch and release fish, for harvest to eat the roe, and for harvest to use for bait. None of those three uses require more than a reasonable amount of fish per angler per day to fulfill that use. Additionally, none of those three uses can happen at all if the hickory shad population gets depleted in the same fashion that American shad have. I think it is in the best interest of the recreational angler to be in support of a limit being put in place and enforced for hickory shad. Any limit at all would be a step in the right direction over the current regulations which allow for unlimited harvest of the species, but even worse do not provide any opportunity for the fish to be counted or studied to ensure sound decision-making in the future.	9/1/24 10:21 pm CommentID:227577
Kevin Smith, Virginia	Support Recreational		9/3/24 11:48 am CommentID:227582

Saltwater Sportfishing Association	Limit!	I support the recreational limit in this petition.	
Brian Collins	Preserve the Hickory Shad run in Virginia	<p>An unlimited Hickory Shad catch in Virginia waters unnecessarily puts at risk this historic run of the species. Washington D.C. Potomac waters is catch and release only to preserve this great sport fish. Please put a reasonable limit on Hickory Shad for recreational catch that preserves and grows the Hickory Shad population and migration for generations to come.</p> <p>Ensure the poor man's Tarpon catch thrill is preserved for all to experience.</p>	9/3/24 11:48 am CommentID:227583
Ken Goldsmith	Hickory Shad Petition	<ul style="list-style-type: none"> • Management of hickory shad should be consistent across Virginia. The DWR 10 per day hickory shad limit for Virginia rivers outside the Chesapeake Bay watershed is a reasonable model for beginning management of the Chesapeake Bay and tributary hickory shad spawning runs. • Conserving hickory shad will help protect against overfishing a species with an unknown population and undetermined abundance needed for a self-sustaining stock. • Unrestricted takes during hickory shad spawning runs reduces the potential for successful spawns. • Overfishing hickory shad risks depletion of the stock and jeopardizes the continued availability of a recreational fishery. • Unrecognized bycatch of American shad during unrestricted bulk takes of hickory shad undermines restoration efforts for this species. • A daily creel limit facilitates adjustment of allowed takes as conditions change. • Creel limits provide a practical measure for field inspection of hickory shad takes. • Hickory shad availability as a forage species for striped bass is diminished by unrestricted takes. 	9/3/24 1:07 pm CommentID:227586
David Levesque	Hickory shad creel limit	Overfishing hickory shad risks depletion of the stock and jeopardizes the continued availability of a recreational fishery.	9/3/24 4:15 pm CommentID:227591
Christi Medice	I support this proposal	When fish or any living thing becomes endangered because of the careless fishing and hunting, there should be a proposal in place to protect them!	9/3/24 4:47 pm CommentID:227592
Steve Atkinson, Virginia saltwater sportfishing Association.	conservation of Shad in the Bay Area.	Agree with this proposal. We need conservation of shad and the bay area.	9/3/24 6:09 pm CommentID:227593
Ernesto Rojas	Hickory shad in VA	There should be NO harvesting of hickory shad during their annual spawn run.	9/4/24 10:27 am CommentID:227603
Timothy	I am in favor		9/4/24 10:34 am

Morgan	of the proposed hickory shad regulation	We've got to begin to limit the catch of hickory shad. There are too many dependencies with by catch and predator species to take a risk by not doing so.	CommentID:227605
Parks Shackelford	Support Hickory Shad Conservation	I support a reasonable creek limit for hickory shad. Don't wait until it becomes a bigger problem.	9/4/24 10:47 am CommentID:227606
Jeremy	HickoryShad petition	The hickory Shad are a very important resource for our rivers and their ecosystem. These fish should be protected against over fishing so they can continue to full fill their role. I am an avid recreational fisher and want to ensure this resource is available for future generations thanks	9/4/24 11:18 am CommentID:227608
Dave Antos	Shad limits	I support the proposed limits to shad harvesting.	9/4/24 1:22 pm CommentID:227612
David Frazier	Hickory Shad Regs in VA	I support the proposed Hickory Shad Regulations for VA.	9/4/24 2:57 pm CommentID:227614
M Pollan	Shad Lives Matter	I support the petition to place limits on Shad harvesting	9/4/24 4:16 pm CommentID:227616
Pat Hanna	Save the Hickory's	Shad fishing is a spring- time right of passage, and a great introductory fishery for kids to get hooked! We need to protect the shad population for future generations before this becomes a bigger problem.	9/4/24 10:03 pm CommentID:227648
Philip M Pastino	Support the Hickory Shad conservation proposal.	Every Spring I hit the Occoquan River for some amazing Hickory Shad fishing. I have always practiced catch and release with this fishery and it never occurred to me that there currently are no limits imposed. I support the very generous proposal...even think the limits are too big. That said, without some level of protection, we could lose an important recreational fishery...this is at least a start.	9/5/24 4:32 pm CommentID:227671
Edey McDougal	Shad Limits	I support limits!	9/5/24 5:33 pm CommentID:227676
Brendan O'Neil	Shad limits	I support the petition to regulate the Hickory Shad population in the Commonwealth	9/6/24 12:31 am CommentID:227681
Mark Schofield	Shad Limits	I support this measure and I also support restriction on commercial elwy fishing. It is sad when I am fishing in a river off of the Chesapeake Bay with abundant fish on fish finder and then have a long liner come in completely wipe out all the fish as far up the river that they can go.....	9/6/24 8:45 am CommentID:227684
Craig Conover, Falmouth Flats Fly Fishers	consistent creel limits across Virginia	Management of hickory shad should be consistent across Virginia. The DWR 10 per day hickory shad limit for Virginia rivers outside the Chesapeake Bay watershed is a reasonable model for beginning management of the Chesapeake Bay and tributary hickory shad spawning runs.	9/7/24 7:36 am CommentID:227726
Lars Hudnall	Hickory Shad Limits	The 10 per day hickory shad limit - on the rivers outside the Chesapeake Bay - seems like a reasonable conservation effort to manage and protect the tributary hickory shad spawning runs.	9/7/24 8:23 am CommentID:227727
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Rick Hoagland	Hickory shad conservation measures	Daily limits, as suggested by the DWR biologists, should be adopted to protect the fishery and preserve its availability in the future.	9/7/24 8:30 am CommentID:227728
Charles Naples	Shad limits	I support creel limits for Hickory shad.	9/7/24 9:31 am CommentID:227729
Sam Smart Falmouth Flats Flyfisher	regulating Hickory Shad take	Hickory Shad are not a well understood species that is especially vulnerable during their spring spawning run. Since there is not good information as to their true numbers and spawning success it seem to me that the first and easiest step is to set a reasonable creel limit so that there is at least some idea of actual numbers of fish, not just educated guesses.	9/7/24 9:44 am CommentID:227730
Paul Shaw	Hickory shad	I support creel limits on our shad fishery	9/7/24 11:58 am CommentID:227731
Elmer Lumsden	Support Shad Limits	Shad Limits need Powerful Support - crooks should loose their VA license for at least 10 years	9/7/24 1:05 pm CommentID:227732
John Motsko	Support VA efforts for marine conservation	I have lived on the upper Bay (Nanticoke) for 29 years and am very concerned about the reduction of all fisheries in the Bay. As the "mouth" of the Bay I would encourage Virginia to take steps to reduce menhaden fisheries (for fertilizer) and to stop winter dredging of female crabs during their winter stay at the mouth of the Bay. Unfortunately, over the years I am disappointed with Virginia's conservation efforts, and am very concerned about the introduction of the blue catfish. Please encourage your conservationist to help the upper Bay	9/7/24 8:52 pm CommentID:227733
Charles Wyatt	Creel limit for hickory shad	I support the establishment of a creel limit for hickory shad in Virginia as petitioned.	9/8/24 5:22 am CommentID:227734
Brett Scarlett, Falmouth Flats Fly Fishers	Tight Creel Limits for the Hickory Shad	Hickory Shad are a true historic east coast sportsman's fish. Anything less than a tight creel limit in Virginia threatens the continuation of the species for generations. It is now our generation's turn to learn from the past lessons of overfishing to protect the Hickory Shad. It is far better to keep a low creel limit and expand it then to start high, or no limit, and try to lower the limit. Keep the limit low, matching that of trout, to protect the fish and the opportunity to fish for them.	9/8/24 2:04 pm CommentID:227736
Carl Dattel, Northern Virginia CCA	Hickory Shad proposed regulations	I support the proposed hickory shad regulations. A limit of 10 fish is allows consumers of the fish an ample one harvest and it helps shield remaining spawning populations from over fishing.	9/9/24 7:14 am CommentID:227738
Dave DiEugenio, Falmouth Flats Fly Fishers	Consistency in Statewide Management of Hickory Shad Across Virginia	I am a member of Fly Fisher's International, The Falmouth Flats Fly Fishers Club, and own a lifetime Virginia fishing License. The annual Shad migration on the Rappahannock each spring is an extraordinary event many in our community look forward to, plan for, and spend money in the local economy to enjoy. The only way the local resource flourishes is with consistent management statewide. Management of hickory shad should be consistent across the state of Virginia. The current approach used by the Virginia	9/9/24 11:43 am CommentID:227742

		<p>Department of Wildlife Resources (DWR) for rivers outside the Chesapeake Bay watershed could serve as a reasonable model for managing hickory shad spawning runs within the Chesapeake Bay and its tributaries.</p> <p>**Recommended Daily Limit**</p> <p>The DWR currently enforces a 10 per day limit for hickory shad in Virginia rivers outside the Chesapeake Bay watershed. This daily limit could be a suitable starting point for managing hickory shad populations within the Chesapeake Bay and its tributary systems.</p> <p>Adopting a consistent, science-based approach to hickory shad management across Virginia's waterways would help ensure the long-term sustainability of this important anadromous fish species.</p> <p>Thanks & Tight Lines!</p> <p>Dave DiEugenio</p>	
Wayne Lumsden, NOVA Chapter, CCA VA	Hickory Shad Catch Per Unit of Effort (CPUE) & Overharvesting Field Data Supports Hickory Shad Creel	<p>Virginia has five tributaries that support Hickory shad spawning. Currently Hickory Shad Catch Per Unit of Effort (CPUE) from DWR Electroshocking data in 2020 only the Rappahannock River of the five tributaries is currently slightly above average CPUE. The other tributaries are well below average CPUE and two tributaries have zero CPUE. One tributary has no CPUE data or was not Electroshocked. The Hickory Shad biomass in Virginia tributaries has not been determined.</p> <p>Observation: I generally fished the entire Hickory shad spring spawning run every year and on multiple times each week and on multiple occasions observed huge coolers of Hickory shad removed from the Rappahannock river. I am concerned that Hickory shad are being over harvested.</p> <p>No game fish should have no creel limits. If VMRC does not know how many Hickory shad are being removed from the fishery it is urgent to set Hickory shad creel limits.</p> <p>As you know over harvesting Hickory shad creel combined with bad spawns can deplete a fishery.</p> <p>Recommendation: Establish Hickory shad creel limits.</p>	9/9/24 4:58 pm CommentID:227748
John Kuriawa	Hickory Shad Comments	<p>Dear Sir or Madam,</p> <p>I am generally an advocate of treating hickory shad as a gamefish with very limited or no take allowed. The sporting species supports a vibrant springtime ritual of pursuit for thousands of Chesapeake Bay area fishermen, as well as forage for our larger and more valuable predator species, like striped bass, cobia, and redfish. If a creel limit is established, I support consistency across the Commonwealth.</p> <p>Given the difficulties many anglers face in identification of</p>	9/10/24 6:59 pm CommentID:227761

		<p>shad and herring species, particularly between American Shad and Hickory Shad, I do worry that any allowable take will result in the killing of species whose low populations should be protected, like American Shad and Blueback Herring.</p> <p>Conserving hickory shad will help protect against overfishing a species with an unknown population and undetermined abundance needed for a self-sustaining stock, and will undoubtedly contribute to the overall Chesapeake Bay forage base in support of tremendously valuable recreational and commercial fishing.</p> <p>Overfishing hickory shad risks depletion of the stock and jeopardizes the continued availability of a recreational fishery for the shad and predator species that feed on the shad. Thank you for considering my input, and I do hope management efforts are successful in sustaining and increasing Hickory Shad numbers in Virginia.</p> <p>Sincerely,</p> <p>John Kuriawa</p>	
Stan Koller	I support the proposal.	The shad are important. I support the proposal.	9/11/24 10:59 am CommentID:227768
Stuart Lee	Hickory Shad Limit	I support the effort to impose a limit on recreational catches of Hickory Shad. While many of the recreational Shad fishermen keep few Hickory Shad there are exceptions and it makes no sense to wait until the Hickory Shad are in the same dire situation as their cousins the American Shad and the herring.	9/11/24 11:36 am CommentID:227769
Clay Welch	A Whiter Shad of Pale	I support a 10 per day harvest limit on hickory shad. I have fished the mid-Chesapeake Bay and its tributaries for 50 years. IMO, the VMRC has done a poor job the past 10 years managing fishery resources. We must regulate fish populations for future generations.	9/11/24 1:50 pm CommentID:227773
Bill Moyer	Hickory Shad	I am in favor of daily bag limits on this valuable resource. Overfishing of Hickory Shad jeopardizes other fish populations in our bay and rivers.	9/11/24 1:54 pm CommentID:227774
Steve Zahn	Hickory Shad	Ten is a reasonable creel limit.	9/11/24 2:41 pm CommentID:227775
fred murray	Hickory Shad	Now is the time to impose catch limits on these fish before it is too late.	9/11/24 2:45 pm CommentID:227776
Bob Schepker	I support this	Save the Shad	9/11/24 2:50 pm

	petition		CommentID:227777
Steve Klimkiewicz	I support this petition	Overfishing hickory shad risks depletion of the stock and jeopardized the continued availability of a recreational fishery. Creel limits facilitates adjustment fo allowed takes as conditions change.	9/11/24 5:44 pm CommentID:227781
Fred Cousins	Support this petition.	I support this petition to regulate the taking of hickory shad.	9/11/24 6:50 pm CommentID:227782
Bob Pride	I agree	Limits on shad harvest make sense for ecosystem protection.	9/11/24 7:36 pm CommentID:227783
Jamie Gold	Hickory Shad Management in Virginia	<p>Hello:</p> <p>I think that management of hickory shad should be consistent across Virginia. The DWR 10 per day hickory shad limit for Virginia rivers outside the Chesapeake Bay watershed is a reasonable model for beginning management of the Chesapeake Bay and tributary hickory shad spawning runs.</p> <p>Conserving hickory shad will help protect against overfishing a species with an unknown population and undetermined abundance needed for a self-sustaining stock.</p> <p>Unrestricted takes during hickory shad spawning runs reduces the potential for successful spawns.</p> <p>Overfishing hickory shad risks depletion of the stock and jeopardizes the continued availability of a recreational fishery.</p> <p>Unrecognized bycatch of American shad during unrestricted bulk takes of hickory shad undermines restoration efforts for this species.</p> <p>A reasonable starting daily creel limit facilitates adjustment of allowed takes as conditions change.</p> <p>Creel limits provide a practical measure for field inspection of hickory shad takes.</p> <p>I am concerned that Hickory shad availability as a forage species for striped bass is diminished by unrestricted takes.</p> <p>Thank you.</p>	9/11/24 8:42 pm CommentID:227785
Brian Bremner	I support this petition	The time is now, before its too late!	9/12/24 8:28 am CommentID:227789
Mike Mason	Hickory Shad petition: I support this petition	I support this petition	9/12/24 8:55 am CommentID:227791
Larry Allen	i support this document	I support this document.	9/12/24 9:17 am CommentID:227792
Terry Riley	I support Shad Harvest Petition	I support Shad Harvest Petition	9/12/24 9:18 am CommentID:227793
Gary Green	I support this	I feel that this action is in the best interest of Virginia	9/12/24 9:26 am ¹³

	petition	sportsmen.	CommentID:227794
Capt Buddy Noland	Shad Regulations.	There needs to be catch regulations on both hickory and American shad to help provide consistent data from the intercept fishery thru the spawn. Obvious of a decline of the stocks and limited data on the health of the species.	9/12/24 9:54 am CommentID:227795
Andy Cortez	I support this petition	I support this petition to conserve Hickory Shad through new catch limits.	9/12/24 11:11 am CommentID:227796
Eric Webster	I support this petition	I support this petition to conserve Hickory Shad through new catch limits	9/12/24 11:53 am CommentID:227797
John Pearsall	Hickory Shad creel limit	I support this hickory shad creel limit petition.	9/12/24 1:44 pm CommentID:227798
Robert Thomas, Fly Fishers of Virginia and Virginia Anglers Club	Hickory Shad	I support this petition.	9/12/24 4:05 pm CommentID:227800
Don Vaught	Supporting Hickory Shad Limits	I support keeping limits on keeping Hickory Shad	9/12/24 4:17 pm CommentID:227801
Dan Honsberger	I support this petition	<ul style="list-style-type: none"> • Management of hickory shad should be consistent across Virginia. The DWR 10 per day hickory shad limit for Virginia rivers outside the Chesapeake Bay watershed is a reasonable model for beginning management of the Chesapeake Bay and tributary hickory shad spawning runs. • Conserving hickory shad will help protect against overfishing a species with an unknown population and undetermined abundance needed for a self-sustaining stock. • Unrestricted takes during hickory shad spawning runs reduces the potential for successful spawns. • Overfishing hickory shad risks depletion of the stock and jeopardizes the continued availability of a recreational fishery. • Unrecognized bycatch of American shad during unrestricted bulk takes of hickory shad undermines restoration efforts for this species. • A daily creel limit facilitates adjustment of allowed takes as conditions change. • Creel limits provide a practical measure for field inspection of hickory shad takes. • Hickory shad availability as a forage species for striped bass is diminished by unrestricted takes. 	9/12/24 4:23 pm CommentID:227802
Kevin Noreika	I support the hickory shad petition	I agree with and support the hickory shad petition.	9/12/24 4:54 pm CommentID:227803
Rick Hendrickson	Hickory Shad limit	I support this petition!	9/12/24 5:15 pm CommentID:227804
Emy Iacob. Fly Fishers of	Hickory Shad Limits	Setting limits on Hickory Shad is the responsible thing to do. Not only to preserve and protect an ecosystem but having no	9/12/24 5:48 pm CommentID:227805

Virginia		limits is just plain wreckless.	
Malcolm Myers	I support the Hickory Shad petition	I support the Hickory Shad petition.	9/12/24 6:51 pm CommentID:227806
Boyd Waters, Fly Fishing Studios	I support this	I support this	9/12/24 7:12 pm CommentID:227807
Robert Ward, Fly fishers of Va.	Hickory Shad	I support the plan	9/12/24 7:36 pm CommentID:227809
Clare Novak	I support the prop Hickory Shad Regulations	Virginia needs to better manage its Hickory Shad population and needs stronger legislation to support these efforts.	9/12/24 7:38 pm CommentID:227810
Clare Novak	I support the Hickory Shad Regulations	Virginia needs to better manage its Hickory Shad population and needs stronger legislation to support these efforts.	9/12/24 7:39 pm CommentID:227811
Tom Ebel	Hickory Shad Limit	I support this petition	9/12/24 8:35 pm CommentID:227812
Eddy Johnston	Support	I support the shad regulation changes.	9/12/24 8:36 pm CommentID:227813
Jim farrell	Creel limit	10 shad seems to a reasonable start	9/12/24 9:26 pm CommentID:227814
Michael Smith/ Fly Fishers of Virginia	I support the hickory shad regulations	I support the hickory shad regulations.	9/12/24 9:34 pm CommentID:227815
george whitley	Hickory Shad Petition	I fully support the Hickory Shad Petition.	9/12/24 10:24 pm CommentID:227816
Robbie Parker	In Support	Fully Support Hickory Shad Creel Limits	9/13/24 6:41 am CommentID:227817
Tony Scrimizzi	Creel Limit for Hickory Shad	I support creel limits for Hickory Shad	9/13/24 7:46 am CommentID:227818
Gary Andrejco	Shad petition	I support this petition	9/13/24 7:52 am CommentID:227819
Richard Driver	Totally support this	Totally support this	9/13/24 10:13 am CommentID:227820
Peter Shinnamon Fly Fishers of Virginia	Shad Limits to keep	i BELIEVE WE SHOULD LIMIT SHAD TO A MAXIMUM OF 10 PER DAY.	9/13/24 10:21 am CommentID:227821
Jeff Bates	I support the CCA's petition regarding Hickory Shad limits	I support the CCA's position regarding management of Hickory Shad limits and conservation.	9/13/24 10:36 am CommentID:227822
Doug W	I support the proposed hickory shad regulations.	I support the proposed hickory shad regulations.	9/13/24 12:06 pm CommentID:227823

Brent Hunsinger, Friends of the Rappahannock	Support	<p>Friends of the Rappahannock (FOR) appreciates the opportunity to submit comments in support of this petition.</p> <p>The hickory shad migration in the Rappahannock River remains relatively strong but faces increased pressure as runs in other rivers decline. Allowing continued unlimited harvest of this species that has an unknown stock abundance is problematic, therefore a cautious approach is warranted.</p> <p>A daily creel limit of 10 hickory shad per day is a step in the right direction of creating consistency across watersheds in Virginia and surrounding states.</p> <p>Thank you for your consideration and we ask that you support this petition.</p>	9/13/24 1:29 pm CommentID:227825
Elizabeth Gedra, CCA	Strongly Support	A great cause that will make a positive impact on the shad population.	9/13/24 1:42 pm CommentID:227826
Jim Levitan	I support the petition	I support the petition	9/13/24 2:06 pm CommentID:227827
Simon Valencia	Fishing Guide in Favor of Limiting Harvest of Hickory Shad	Every year we catch and release thousands of hickory shad, they are a crucial species for how me and the guides in my operation make a living. These fish have stream fidelity, they come back to the stream they were born. We have nearly eliminated the population of American shad from the James River, we cannot afford to lose another species to overharvesting. Ideally, keeping male fish only is an option I would favor as females are full of roe and killing one is the equivalent of killing hundreds if not thousands. Another option is setting a strict creel limit of 5 per day and prohibiting commercial fishing of which I have seen an increase in the past few years, all keeping females.	9/13/24 3:34 pm CommentID:227828
Nathan Thomson - James River Association	JRA Letter of Support	<p>The James River Association supports the petition to establish a managed recreational Hickory Shad fishery in Virginia's coastal rivers and tributaries. Hickory Shad are an essential migratory species, contributing significantly to the ecological health of our waterways and providing valued recreational fishing opportunities and the associated economic impact. By transitioning from unrestricted harvest to a regulated fishery, we can ensure that Hickory Shad populations remain robust, sustaining not only the species itself but also the communities and ecosystems that depend on them. A managed fishery informed by the best available data is a necessary step toward preserving this resource for future generations while supporting ongoing shad and herring restoration efforts.</p> <p>Additionally, any action that focuses on conserving Hickory Shad must also be mindful of the protection of American Shad, which are critically imperiled in the James River and other tributaries. Accidental harvest of American Shad remains a significant concern, and careful management is</p>	9/13/24 3:48 pm CommentID:227829

		essential to ensuring that conservation gains are not jeopardized. We must prioritize the protection of both species through regulations that promote sustainability and responsible stewardship, aligning with the broader goals of habitat restoration and species recovery. The James River Association supports this petition as a crucial measure for sustaining both the recreational and ecological benefits of Hickory Shad, while safeguarding the continued recovery of American Shad.	
Lynda Richardson, Virginia Anglers Club	Hickory Shad Regulation Proposal	I support the proposed hickory shad regulations.	9/13/24 5:06 pm CommentID:227830
James Stone	I support this proposal	This is a reasonable proposal to protect the Hickory Shad population.	9/14/24 10:44 am CommentID:227831
Anthony Mastalski	Shad harvest regulations for recreational anglers	As an avid recreational angler of Shad & Anadromous fish for the past 30 years in the Rappahannock River, I fully support the proposed Shad harvest / reduction limits as written. As a conservation advocate and informal “census” taker of Shad and Striped Bass I practice “catch & release” during the Spring spawning runs of these fish. I have experienced first hand the rise & fall of the population of these fish in our climate warming stressed environment. Any effort to regulate and/or eliminate the reduction / harvesting of these native fish is warranted and fully supported by this citizen of Virginia.	9/15/24 10:18 am CommentID:227833
Keith Kluwe	Hickory Shad Creel Limits	<ul style="list-style-type: none"> • Conserving Hickory Shad will help protect the species against overfishing. This past shad run, I caught only one American Shad, of the 50+ fish I landed. This is a perfect example of why there needs to be a creel limit. • Unrestricted takes during spawning runs reduces the potential for successful spawns. • Overfishing Hickory Shad will deplete the stock, jeopardize the recreational fishery, & undermine restoration plans for shads and herrings. I fly fish, almost exclusively catch & release, so I have less impact on the shad population. The anglers who fill coolers full of shad to cut up for bait for their crab traps is killing this fishery. • A daily creel limit facilitates adjustment of allowed takes as conditions change. • Creel limits provide a practical measure for field-level inspection. Enforcement is vital to having a successful fishery. • Hickory Shad availability as a forage species for striped bass is diminished by unrestricted takes. • Management of Hickory Shad should be consistent across Virginia. 	9/15/24 10:33 am CommentID:227834
Kevin Brugman	Hickory Shad Limits	Short and simple, shad have a long history with American independence and the Virginia story. We need to do what we can to protect them. All the surrounding states have recognized the need to protect them, it is our turn to do the	9/15/24 12:42 pm CommentID:227836

		same. Across the region, a lot of research has been done. These fish are a regional resource. It is time to protect these threatened species and our history.	
George Lenard	Hickory Shad management proposal	I am in support of the petition being brought before the VMRC by the CCA-Virginia to replace the unrestricted recreational harvest of hickory shad with a managed recreational harvest of hickory shad to include reasonable creel limits.	9/15/24 9:56 pm CommentID:227837
James Civitarese	Hickory Shad Limits	I strongly support any effort to protect and limit the number of hickory shad that can be creeled.	9/15/24 11:40 pm CommentID:227838
Dinkus Deane	I Support this Prposal	I support this proposal.	9/16/24 8:43 am CommentID:227839
Burnley Taylor	I support tightening creel limits for hickory shad	I support tightening creel limits for hickory shad	9/16/24 9:06 am CommentID:227840
John Hoffman	Hickory Shad limits	I support this proposal	9/16/24 9:18 am CommentID:227841
Capt. CDollar, Tackle Cove Outfitters	Hickory Shad Conservation	I support the petition filed by CCA Virginia and, as a professional fishing outfitter, I encourage the VMRC to take reasonable and needed action to conserve these important forage and game fish. Capt. CDollar Tackle Cove Outfitters White Stone VA	9/16/24 9:34 am CommentID:227842
Bill Ford	Hickory Shad	Support regulations and public awareness	9/16/24 9:39 am CommentID:227843
David Skove	I support the limit	This limit makes sense - keep it!	9/16/24 9:51 am CommentID:227844
Kimberly Griffin	I support this!	I support limits and support this legislation.	9/16/24 10:02 am CommentID:227845
Ben Ames, President, Northern Neck Anglers Club	Support for Hickory Shad Regulations	The Board of Directors of the Northern Neck Anglers Club, Burgess, VA, urge complete support to the Virginia Coastal Conservation Association's efforts to regulate and allow active fishing regulations for hickory shad. We fully support their position allowing effective management including an open sportfishing period and appropriate limits. We represent an angling club with over 100 members with active participants in the eastern half of Virginia.	9/16/24 10:10 am CommentID:227846
Tom Hedgpeth	Support for Hickory Shad Regulations	We fully support the quest for effective hickory shad regulations.	9/16/24 10:13 am CommentID:227847
Mark Headly	I Support Limits on Hickory Shad	I have fished for Hickory Shad since the 80's, almost entirely in the Rappahannock. As far as I knew, there was a ban on keeping all shad, in place at least in part to limit anyone keeping an American shad by mistake. It seemed like a reasonable rule, as I and my fishing buds almost never saw or caught an American shad. We did however have great fishing for hickories, returning all to the river. I didn't	9/16/24 10:29 am CommentID:227848

		realize that somewhere along the line it became legal to keep hickories, but can say that in my experience the catch rate for hickories has declined in recent years. Whether related to more people keeping them or other factors I cannot say, but I 100% support a limit on harvesting hickory shad.	
Thomas Raffetto	Hickory Shad	I support this proposal	9/16/24 11:23 am CommentID:227849
Richard Kuhlman	support of shad regulations	I support the establishment of shad regulations to better protect the future of shad runs in VA.	9/16/24 12:08 pm CommentID:227850
Paul Anikis DVM	Shad regulations	I support Shad regulations	9/16/24 12:17 pm CommentID:227851
Steven Criste	Hickory Shad Regulation Support	I support the petition filed by CCA Virginia and I encourage the VMRC to take reasonable and needed action to conserve these important forage and game fish.	9/16/24 12:58 pm CommentID:227852
Ryan Howe	In support of the hickory shad conservation proposal	In support of the hickory shad conservation proposal	9/16/24 1:00 pm CommentID:227853
MATT ENDERLE	I support creel limits on Hickory Shad	We need to be wise stewards of this natural resource.	9/16/24 1:50 pm CommentID:227855
Anonymous	Creel limits needed	Please use common sense and implement a creel limit for hickory shad before it's too late.	9/16/24 2:38 pm CommentID:227856
Alex Colonna. PHWFF	CREEL LIMITS ARE NECESSARY	Forage fishes are required to sustain healthy populations of game fish such as Striped Bass, Smallmouth Bass, and Blue, Channel and Flathead Catfish. Menhaden and Shad are very important species for this purpose, and the former is already badly managed in the Chesapeake Bay. Holding anglers accountable with creel limits seems like it would be easier to do than keeping commercial entities in check.	9/16/24 3:24 pm CommentID:227857
Stuart Shelton	Common sense for Hickory Shad	I support a creel limit and other common sense, science based efforts to protect our Hickory Shad stocks.	9/16/24 3:32 pm CommentID:227858
Scott Moore	Institute a shad regulation	I support placing a restriction on harvesting hickory shad.	9/16/24 4:22 pm CommentID:227860
Eric Goodrich	I support this regulation	I agree support these charges.	9/16/24 4:49 pm CommentID:227861
Olivia Gedra, CCA VA	Support of Hickory Shad Conservation Proposal	I support this proposal because overfishing jeopardizes the health of our waters! These fish need to be protected by the law!!!	9/16/24 5:14 pm CommentID:227862
Sam C	Supporting Hickory Shad Proposal	I support this proposal because shad conservation is important for health of the bay.	9/16/24 6:31 pm CommentID:227863
Kevin Chandler	I support the regulation	I support this regulation	9/16/24 7:07 pm CommentID:227864

FISHERIES MANAGEMENT DIVISION EVALUATION, 12/03/2024

Public Hearing:

Proposal to amend Chapter 4 VAC 20-252-10 et seq., "Pertaining to Atlantic Striped Bass," to 1) adjust the commercial Chesapeake area striped bass quota from 983,393 pounds to 914,555 pounds and 2) remove existing regulatory language that prohibits commercial striped bass harvesters from obtaining both Chesapeake area and Coastal area tags at one time.

Issues:

Amendment 1 to "Chapter 4VAC 20-252-10 et seq., "Pertaining to Atlantic Striped bass" addresses the change in Chesapeake area quota for the 2025 fishing season. On Wednesday, January 24th, 2024, the Atlantic States Marine Fisheries Commission Atlantic Striped Bass Management Board voted to approve Addendum II to Amendment 7 to the Interstate Fisheries Management Plan (FMP) for Atlantic Striped Bass. The main goal of this addendum is to reduce fishing mortality in the recreational and commercial striped bass fisheries. Addendum II implemented a smaller recreational slot size for striped bass caught in the Chesapeake Bay and its tributaries and decreased commercial striped bass quotas by 7%. Jurisdictions were required to implement compliant measures no later than May 1, 2024. Due to the 2024 Virginia Chesapeake Bay commercial striped bass season starting before the Striped Bass Management Board's vote, the Chesapeake Bay quota reduction was delayed until the 2025 commercial season. The Striped Bass Management Board approved this delay in the Chesapeake Bay's quota reduction and any quota overage during the 2024 season would require a pound-for-pound payback in 2025.

Amendment 2 to "Chapter 4VAC 20-252-10 et seq., "Pertaining to Atlantic Striped bass" addresses outdated language in Section 160F that prohibits commercial striped bass harvesters from obtaining both Chesapeake area and Coastal area tags at one time. This section was put in place in 2005 and can be removed to reflect the current participation in this fishery.

Background:

The first Amendment to this regulation pertains to the concerns about rebuilding the striped bass spawning stock biomass (SSB) to at or above the target level by the 2029 deadline were initially raised after preliminary recreational harvest rates for the 2022 fishing year which were close to double the recreational harvest of 2021. This increase in recreational harvest lowered the probability of rebuilding the stock by 2029 from 97% to less than 15%. In 2023 the ASMFC Atlantic Striped Bass Management Board approved by emergency action to implement a 31" maximum size to all existing recreational fishery regulations where a higher (or no) maximum size is applied. During the October 2023 board meeting the emergency action was extended through October 28th, 2024, or until Addendum II was implemented.

During the January ASMFC Atlantic Striped Bass Management Board meeting, board members approved reductions to the recreational and commercial striped bass fisheries and approved Addendum II. New recreational and commercial regulations aim to reduce fishing mortality to or below the target level.

Addendum II reduces commercial quotas by 7% in both the ocean and the Chesapeake Bay. This 7 percent reduction is from the 2022 commercial quotas; there are no changes to the season or size limits. The 7% quota reduction took effect starting the 2024 commercial ocean season but the 2024 Bay commercial season started before Addendum II was approved. Due to timing the Striped Bass Management Board approved delaying the quota reduction in Virginia's Bay fishery till 2025. Based on the previous year's landings the chance that commercial harvesters in the Bay catch more than the reduced quota is low. Any harvest in 2024 over the 7 percent reduced quota will require a pound-for-pound payback in 2025.

Addendum II builds upon the 2023 emergency action by changing the measures in the FMP to reduce fishing mortality in 2024 and 2025 and support stock rebuilding. This addendum aims to lower fishing mortality to the target level and increase the probability of rebuilding the stock by the 2029 deadline.

The second amendment to the regulation will remove existing regulatory language that prohibits commercial striped bass harvesters from obtaining both Chesapeake area and Coastal area tags at one time. In the most recent ten years, the number of individuals who participate in both the Chesapeake area and the Coastal area fisheries has been reduced to 10 harvesters. Section 160F prohibits any striped bass harvester from holding both Chesapeake area and Coastal area tags at the same time. The Coastal area fishery currently performs differently than it did in 2005 when this section of regulation was put into place. Currently all 10 harvesters reside on the Eastern shore, approximately a 2–3 hour drive from the main office at Fort Monroe where the tags are stored. The varying spring weather conditions make it difficult for harvesters to know whether they will need to fish Chesapeake area quota or Coastal area quota on any given day and can cause a hardship for individuals who must make multiple trips to the main office to switch out tags. Staff has consulted with law enforcement on this issue and have agreed that section 160B, which will remain in the regulation, will cover any law enforcement needs pertaining to this issue.

Staff Recommendation:

Staff recommends the Commission approve amendments to Chapter 4 VAC 20-252-10 et seq., "Pertaining to Atlantic Striped Bass," to 1) adjust the commercial Chesapeake area striped bass quota from 983,393 pounds to 914,555 pounds and 2) remove existing regulatory language that prohibits commercial striped bass harvesters from obtaining both Chesapeake area and Coastal area tags at one time.



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 November 14, 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 Tuesday, December 3, 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., Thursday, November 28, 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 4VAC20-252-10 et seq., “Pertaining to Atlantic Striped Bass”

The Commission proposes to amend Chapter 4VAC20-252-10 et seq., “Pertaining to Atlantic Striped Bass” to 1) adjust the commercial Chesapeake area striped bass quota from 983,393 pounds to 914,555 pounds and 2) remove existing regulatory language that prohibits commercial striped bass harvesters from obtaining both Chesapeake area and Coastal area tags at one time.

The purpose of these amendments is to 1) comply with the ASMFC Addendum II to Amendment 7 to the Fisheries Management Plan for Atlantic Striped Bass and to 2) reduce regulatory and administrative burden on commercial striped bass harvesters.

VMRC DOES NOT DISCRIMINATE AGAINST INDIVIDUALS WITH DISABILITIES; THEREFORE, IF YOU ARE IN NEED OF REASONABLE ACCOMMODATIONS BECAUSE OF A DISABILITY, PLEASE ADVISE MICHELE GUILFORD (757-247-2206) NO LATER THAN FIVE WORK DAYS PRIOR TO THE MEETING DATE AND IDENTIFY YOUR NEEDS.

An Agency of the Natural and Historic Resources Secretariat

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VIRGINIA MARINE RESOURCES COMMISSION
“PERTAINING TO ATLANTIC STRIPED BASS”
CHAPTER 4 VAC 20-252-10 ET SEQ.

PAGE 1 OF 18

PREAMBLE

This chapter establishes a limited commercial and recreational fishery for striped bass in Virginia. The provisions of this chapter are intended to comply with all Federal and interstate requirements for fishing for striped bass. This chapter also authorizes the aquaculture of striped bass and hybrid striped bass and sets forth the conditions required for their culture.

This chapter is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-204.1 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4 VAC 20-252-10 et seq., which was promulgated ~~June 27, 2023~~ March 26, 2024 and made effective ~~July 1, 2023~~ April 1, 2024. The effective date of this chapter, as amended, is ~~April 1, 2024~~ January 1, 2025.

4 VAC 20-252-10. Purpose.

The purpose of this chapter is to provide for the continued sustained yield from the recovered striped bass stocks in Virginia and to limit the growth of the number of commercial participants in this fishery. The provisions pertaining to aquaculture serve to prevent the escape of cultured hybrid striped bass into the natural environment and to minimize the impact of cultured fish in the market place on the enforcement of other provisions of this chapter.

This regulation is not intended to create any property right in anyone, and the commission reserves the right to change this regulation at any time it deems it necessary because of biological conditions and to change the regulation in all other respects at any time it deems it necessary to carry out its statutory mission.

4 VAC 20-252-20. Definitions.

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

“Bait” means any whole or part of any marine or aquatic organism, live or dead.

"Chesapeake Bay area" means the commercial fishing area that includes the Chesapeake Bay and its tributaries and the Potomac River tributaries.

"Chesapeake Bay and its tributaries" means all tidal waters of the Chesapeake Bay and its tributaries within Virginia, westward of the shoreward boundary of the Territorial Sea, excluding the coastal area and the Potomac River tributaries as defined by this section.

“PERTAINING TO ATLANTIC STRIPED BASS”**CHAPTER 4 VAC 20-252-10 ET SEQ.**

“Circle Hook” means a non-offset, non-stainless steel hook with the point turned sharply and straight back toward the shank.

"Coastal area" means the area that includes Virginia's portion of the Territorial Sea, plus all of the creeks, bays, inlets, and tributaries on the seaside of Accomack County, Northampton County (including areas east of the causeway from Fisherman Island to the mainland), and the City of Virginia Beach (including federal areas and state parks, fronting on the Atlantic Ocean and east and south of the point where the shoreward boundary of the Territorial Sea joins the mainland at Cape Henry).

"Commercial fishing," "fishing commercially," or "commercial fishery" means fishing by any person where the catch is, or is intended for sale, barter, trade, or any commercial purpose.

“Great Wicomico-Tangier Striped Bass Management Area” means the area that includes the Great Wicomico River and those Virginia waters bounded by a line beginning at Dameron Marsh at NAD 83 North Latitude 37-46.9535, West Longitude 76-17.1294; extending to the southernmost point of Tangier Island, and north to a point on the Virginia–Maryland state boundary at NAD 83 North Latitude 37-57.0407, West Longitude 75-58.5043, and then westerly along the Virginia-Maryland state boundary to Smith Point.

"Potomac River tributaries" means all the tributaries of the Potomac River that are within Virginia's jurisdiction beginning with, and including, Flag Pond extending upstream to the District of Columbia boundary.

"Recreational fishing," "fishing recreationally," or "recreational fishery" means fishing by any person, whether licensed or exempted from licensing, where the catch is not or is not intended for sale, barter, trade, or any commercial purpose.

“Recreational Vessel” means any vessel, kayak, charter vessel, or headboat participating in the recreational striped bass fishery.

"Share" means a percentage of the striped bass commercial harvest quota.

"Spawning reaches" means sections within the spawning rivers as follows:

1. James River from a line connecting Dancing Point and New Sunken Meadow Creek upstream to a line connecting City Point and Packs Point.
2. Pamunkey River from the Route 33 Bridge at West Point upstream to a line connecting Liberty Hall and the opposite shore.
3. Mattaponi River from the Route 33 Bridge at West Point upstream to the Route 360 bridge at Aylett.

“PERTAINING TO ATLANTIC STRIPED BASS”**CHAPTER 4 VAC 20-252-10 ET SEQ.**

4. Rappahannock River from the Route 360 Bridge at Tappahannock upstream to the Route 1 Falmouth Bridge.

“Snout” means the most forward projection from a fish’s head that includes the upper and lower jaw.

“Spear” or “spearing” means to fish while the person is fully submerged under the water’s surface with a mechanically aided device designed to accelerate a barbed spear.

"Striped bass" means any fish or any hybrid of the species *Morone saxatilis*.

“Total length” means the length of a fish measured from the most forward projection of the snout, with the mouth closed, to the tip of the longer lobe of the tail (caudal) fin, measured with the tail compressed along the midline, using a straight-line measure, not measured over the curve of the body.

4 VAC 20-252-30. General prohibitions and requirements.

A. It shall be unlawful for any person while aboard any boat or vessel or while fishing from shore or pier to alter any striped bass or to possess any altered striped bass such that its total length cannot be determined.

B. It shall be unlawful for any person to gaff or attempt to gaff any striped bass at any time.

C. It shall be unlawful to place, set, or fish any gill net within 300 feet of any bridge, bridge-tunnel, jetty, or pier during any open recreational striped bass season in the Chesapeake Bay and its tributaries, except during the period midnight Sunday through midnight Wednesday.

D. During the period April 1 through May 31, inclusive, it shall be unlawful for any person to set or fish any anchored gill net or staked gill net, for any purpose, within the spawning reaches of the James, Pamunkey, Mattaponi, and Rappahannock Rivers. Drift or float gill nets may be set and fished within the spawning reaches of these rivers during this period, provided that the person setting and fishing the net remains with the net during the time it is fishing and all striped bass that are caught shall be returned to the water immediately.

E. Any license or permit issued by the commission to fish for striped bass, recreationally or commercially, shall authorize any commission personnel or their designees to inspect, measure, weigh, or take biological samples from any striped bass in possession of the licensee or permittee.

F. Nothing in this chapter shall preclude any person, who is legally eligible to fish, from possessing any striped bass tagged with a Virginia Institute of Marine Science (VIMS) tag. Possession of VIMS-tagged striped bass shall not count towards the personal recreational possession limit. Permitted commercial striped bass individual transferable quota (ITQ) holders shall not be required

“PERTAINING TO ATLANTIC STRIPED BASS”**CHAPTER 4 VAC 20-252-10 ET SEQ.**

to apply a tamper evident, numbered tag provided by the commission; in order to possess any striped bass tagged with a VIMS-inscribed tag. It shall be unlawful for any person to retain any VIMS-tagged striped bass except to provide the VIMS-tagged striped bass to a VIMS representative. Under no circumstance shall any VIMS-tagged striped bass be stored for future use or sale or delivered to any person who is not a VIMS representative.

4 VAC 20-252-40. Severability.

Any provision of this chapter that is held invalid by a court of competent jurisdiction shall not affect the validity of other provisions of this chapter which can be given effect without the invalid provision.

4 VAC 20-252-50. Concerning recreational fishing: general.

A. It shall be unlawful for any person fishing recreationally to take, catch, or attempt to take or catch any striped bass by any gear or method other than hook-and-line, rod and reel, hand line, or spearing.

B. Any person fishing recreationally shall use non-offset, corrodible, non-stainless steel circle hooks when fishing with bait.

C. When fishing from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by the applicable personal possession limit. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit.

D. When fishing from a boat or vessel where the entire catch is held in a common hold or container, the captain or operator of the boat or vessel shall be responsible for any minimum or maximum size limits.

E. It shall be unlawful to combine possession limits when there is more than one area or season open at the same time.

F. It shall be unlawful for any person while actively fishing pursuant to a recreational fishery to possess any striped bass that are smaller than the minimum size limit or larger than the maximum size limit for the area and season then open and being fished.

G. It shall be unlawful for any person fishing recreationally to transfer any striped bass to another person, while on the water or while fishing from a pier or shore.

“PERTAINING TO ATLANTIC STRIPED BASS”

CHAPTER 4 VAC 20-252-10 ET SEQ.

4 VAC 20-252-55. (Repealed.)

4 VAC 20-252-60. (Repealed.)

4 VAC 20-252-70. (Repealed.)

4 VAC 20-252-80. Chesapeake Bay and its tributaries spring/summer striped bass recreational fishery.

A. The open season for the Chesapeake Bay and its tributaries spring/summer striped bass recreational fishery shall be May 16 through June 15 inclusive.

B. The minimum size limit shall be 19 inches total length.

C. The maximum size limit shall be 24 inches total length.

D. The daily possession limit shall be one fish per person.

4 VAC 20-252-85. [Repealed]

4 VAC 20-252-90. Chesapeake Bay and its tributaries fall striped bass recreational fishery.

A. The open season for the Chesapeake Bay and its tributaries fall striped bass recreational fishery shall be October 4 through December 31, inclusive.

B. The minimum size limit shall be 19 inches total length.

C. The maximum size limit shall be 24 inches total length.

D. The daily possession limit shall be one fish per person.

4 VAC 20-252-100. Potomac River tributaries summer/fall striped bass recreational fishery.

A. The open season for the Potomac River tributaries summer/fall striped bass recreational fishery shall correspond to the open summer/fall season as established by the Potomac River Fisheries Commission for the mainstem Potomac River and shall be May 16 through July 6 and August 21 through December 31.

B. The minimum size limit shall be 19 inches total length.

C. The maximum size limit shall be 24 inches total length.

D. The daily possession limit shall be one fish per person.

VIRGINIA MARINE RESOURCES COMMISSION
“PERTAINING TO ATLANTIC STRIPED BASS”
CHAPTER 4 VAC 20-252-10 ET SEQ.

PAGE 6 OF 18

4 VAC 20-252-110. Coastal area striped bass recreational fishery.

A. The open seasons for the coastal area striped bass recreational fishery shall be January 1 through March 31 and May 16 through December 31, inclusive.

B. The minimum size limit shall be 28 inches total length.

C. The maximum size limit shall be 31 inches total length.

D. The daily possession limit shall be one fish per person.

4 VAC 20-252-115. (Repealed.)

4 VAC 20-252-120. Concerning commercial fishing: general.

A. It shall be unlawful for any person to engage in the commercial fishery for striped bass without first having the necessary commercial fisherman's registration license and appropriate gear license as required by Title 28.2 of the Code of Virginia, and the special permit to fish for striped bass established in 4 VAC 20-252-130, except as provided in subsection G of 4 VAC 20-252-160.

B. It shall be unlawful for any person fishing commercially to possess any striped bass taken outside any open commercial season or area, or with gear inapplicable to the season and area, as specified in 4 VAC 20-252-140. Any striped bass caught contrary to this provision shall be returned to the water immediately.

C. It shall be unlawful for any person while actively fishing pursuant to a commercial fishery to possess any striped bass that is less than the minimum size limit applicable for the area and season then open and being fished. Any striped bass caught that does not meet the applicable minimum size limit shall be returned to the water immediately.

D. All striped bass in the possession of any person for the purpose of sale must be identified with a tamper-evident sealed tag that has been approved and issued by the appropriate authority in the jurisdiction of capture. Whole striped bass shall have tags attached directly to the fish. Processed or filleted striped bass must be accompanied by the tags removed from the fish when processed. Any person who possesses any amount of striped bass in excess of the maximum number allowed for a licensed recreational fisherman as described in 4 VAC 20-252-60 through 4 VAC 20-252-110, inclusive, shall be considered as possessing all striped bass for the purpose of sale. When any person possesses striped bass in excess of the maximum number allowed a licensed recreational fisherman, all striped bass of said person shall be tagged, and the possession of any untagged striped bass shall be prima facie evidence of a violation of this chapter and subject to the provisions of 4 VAC 20-252-160 H and I and 4 VAC 20-252-230.

“PERTAINING TO ATLANTIC STRIPED BASS”**CHAPTER 4 VAC 20-252-10 ET SEQ.**

E. When the striped bass are in the possession of any person, other than the original harvester, for the purpose of resale, the striped bass shall be accompanied by a bill of sale which shall include the name of the seller, the permit or license number of the seller if such permit or license is required in the jurisdiction of harvest, the date of sale, the pounds of striped bass in possession, the location of catch and the gear type used to harvest the striped bass. If the striped bass product for sale is fillets, the bill of sale shall also specify the number of fillets.

4 VAC 20-252-130. Entry limits, permits, and reports.

A. There is established a special permit for engaging in either the Chesapeake Bay area commercial fishery for striped bass or the coastal area commercial fishery for striped bass. It shall be unlawful for any person to engage in either commercial fishery for striped bass without first having obtained the permit from the commission and meeting the following conditions:

1. The person shall be a licensed registered commercial fisherman.
2. The person shall have reported all prior fishing activity in accordance with 4VAC20-610 and shall not be under any sanction by the Marine Resources Commission for noncompliance with the regulation.

B. Permits for the commercial harvest of striped bass in the Chesapeake Bay area or coastal area shall be issued to any registered commercial fishermen holding striped bass quota shares issued under the provisions of 4VAC20-252-150 and 4VAC20-252-160.

C. Permits shall be in the possession of the permittee while catching, harvesting, selling or possessing striped bass. Failure to have the appropriate permit in possession shall be a violation of this chapter.

D. It shall be unlawful for any person, business, or corporation, except for licensed restaurants, to purchase from the harvester any quantity of striped bass greater than 10 pounds in total weight taken from Virginia's tidal waters for the purpose of resale without first obtaining a striped bass buyer's permit from the commission, except as described in subsection E of this section. Such permit shall be completed in full by the permittee and kept in possession of the permittee while selling or possessing striped bass. Failure to have the appropriate permit in possession shall be a violation of this chapter.

E. Restaurants shall not be required to obtain a striped bass buyer's permit from the commission but shall be required to certify and maintain a record of any striped bass purchased from any harvester for a period of not less than one year.

F. All permitted commercial harvesters of striped bass shall report to the commission in accordance with 4VAC20-610. In addition to the reporting requirements of 4VAC20-610, all permitted commercial harvesters of striped bass shall record and report daily striped bass harvest by specifying the number of tags used on striped bass harvested for each day in either the Chesapeake

“PERTAINING TO ATLANTIC STRIPED BASS”**CHAPTER 4 VAC 20-252-10 ET SEQ.**

Bay area or coastal area and reporting the daily total whole weight of striped bass harvested in either the Chesapeake Bay area or coastal area. Daily striped bass tag use on harvested striped bass and daily total whole weight of harvested striped bass from either the Chesapeake Bay area or coastal area, within any month, shall be recorded on forms provided by the commission and shall accompany the monthly catch report submitted no later than the fifth day of the following month.

G. Any permitted commercial harvester of striped bass who self markets his striped bass to a restaurant, person, or out-of-state market shall be required to prepare a receipt describing each sale greater than 10 pounds in total weight. Each receipt shall be a record and report of the date of transaction, name and signature of buyer, address and phone number of buyer, number and total weight of striped bass sold, and name and signature of harvester. Copies of each receipt shall be submitted to the commission no later than the fifth day of the following month.

H. Any buyer permitted to purchase striped bass harvested from Virginia tidal waters shall provide written reports to the commission of daily purchases and harvest information on forms provided by the Marine Resources Commission. Such information shall include the date of the purchase, buyer's name, and harvester's Commercial Fisherman Registration License number. In addition, for each different purchase of striped bass harvested from Virginia waters, the buyer shall record the weight of whole fish and number and type of tags (Chesapeake Bay area or coastal area) that applies to that harvest. These reports shall be completed in full and submitted monthly to the Marine Resources Commission no later than the fifth day of the following month.

I. Failure of any person permitted to harvest, buy, or sell striped bass, to submit the required written report for any fishing day shall constitute a violation of this chapter.

4 VAC 20-252-135. Gill net mesh size and tending restrictions: exemptions.

A. Any registered commercial fisherman who is harvesting striped bass from the coastal area in accordance with 4 VAC 20-252-130 A and C and sets or fishes any gill net in the coastal area shall be prohibited from using a gill net mesh size greater than nine inches in stretched mesh.

B. Any registered commercial fisherman who is harvesting striped bass from the coastal area in accordance with 4 VAC 20-252-130 A and C and sets or fishes any gill net in the coastal area shall be exempt from the maximum gill net mesh size requirements during November and December as described in 4VAC20-430-65 A and B.

C. Any registered commercial fisherman who is harvesting striped bass from the coastal area in accordance with 4VAC20-252-130 A and C and sets or fishes any gill net seven inches or greater in stretched mesh in the Coastal area shall be exempt from the tending requirements described in 4 VAC 20-430-65 E and F during the months of November and December.

D. Any registered commercial fisherman who is harvesting striped bass from the coastal area in accordance with 4VAC20-252-130 A and C shall display an optic yellow flag issued by the

“PERTAINING TO ATLANTIC STRIPED BASS”**CHAPTER 4 VAC 20-252-10 ET SEQ.**

commission while fishing for striped bass in the coastal area and while transiting the coastal area before and after a striped bass fishing trip. This flag shall be prominently displayed on the starboard side of the vessel.

E. Any registered commercial fisherman who is harvesting striped bass from the Chesapeake Bay area in accordance with 4VAC20-252-130 A and C and sets or fishes any gill net in the Chesapeake Bay area shall be prohibited from using a gill net greater than seven inches in stretched mesh with the exception of restricted areas as defined in 4VAC20-751-20.

4 VAC 20-252-140. Commercial seasons, areas, and size limits.

Except as may be adjusted pursuant to 4VAC20-252-150, the open commercial striped bass fishing seasons, areas, and applicable size limits shall be as follows:

1. In the Chesapeake Bay area, the open commercial season shall be from January 16 through December 31, inclusive. The minimum size limit shall be 18 inches total length during the periods of January 16 through December 31. The maximum size limit shall be 28 inches from March 15 through June 15.
2. In the coastal area, the open commercial season shall be January 16 through December 31, inclusive. The minimum size limit shall be 28 inches total length.

4 VAC 20-252-150. Individual commercial harvest quota.

A. The commercial harvest quota for the Chesapeake Bay area shall be determined annually by the Marine Resources Commission in compliance with the Atlantic States Marine Fisheries Commission. The total allowable level of all commercial harvest of striped bass from the Chesapeake Bay and its tributaries and the Potomac River tributaries of Virginia for all open seasons and for all legal gear shall be ~~983,393~~ 914,555 pounds of whole fish. At such time as the total commercial harvest of striped bass from the Chesapeake Bay area is projected to reach ~~983,393~~ 914,555 pounds, and announced as such, it shall be unlawful for any person to land or possess striped bass caught for commercial purposes from the Chesapeake Bay area.

B. The commercial harvest quota for the coastal area of Virginia shall be determined annually by the Marine Resources Commission in compliance with the Atlantic States Marine Fisheries

“PERTAINING TO ATLANTIC STRIPED BASS”**CHAPTER 4 VAC 20-252-10 ET SEQ.**

Commission. The total allowable level of all commercial harvest of striped bass from the coastal area for all open seasons and for all legal gear shall be 116,282 pounds of whole fish. At such time as the total commercial harvest of striped bass from the coastal area is projected to reach 116,282 pounds, and announced as such, it shall be unlawful for any person to land or possess striped bass caught for commercial purposes from the coastal area.

C. For the purposes of assigning tags to a person for commercial harvests in the Chesapeake Bay area as described in 4VAC20-252-160, the individual commercial harvest quota of striped bass in pounds shall be converted to an estimate in numbers of fish per individual harvest quota based on the average weight of striped bass harvested by the permitted person during the previous fishing year. The number of striped bass tags issued to each person will equal the estimated number of fish to be landed by that individual harvest quota, plus a number of striped bass tags equal to 10% of the total allotment determined for each person.

D. For the purposes of assigning tags to a person for commercial harvests in the coastal area of Virginia as described in 4VAC20-252-160, the individual commercial harvest quota of striped bass in pounds shall be converted to a quota in numbers of fish per individual commercial harvest quota, based on the reported average coastal area harvest weight of striped bass harvested by the permitted person during the previous fishing year, except as described in subsection E of this section. The number of striped bass tags issued to each person will equal the estimated number of fish to be landed by that individual harvest quota, plus a number of striped bass tags equal to 10% of the total allotment determined for each person.

E. For any person whose reported average coastal area harvest weight of striped bass in the previous fishing year was less than 12 pounds, a 12-pound minimum weight shall be used to convert that person's harvest quota of striped bass, in pounds of fish, to harvest quota in number of fish.

4 VAC 20-252-155. Individual transferable shares monitoring and penalties.

A. Any initial overage by any person of an individual commercial harvest quota during any calendar year shall be considered a first offense, with penalties prescribed according to the severity of the overage as described in subdivisions 1 through 5 of this subsection.

1. Any overages that are less than 76 pounds shall result in a warning being issued.
2. Any overages that range from 76 to 250 pounds shall result in a one-year deduction of that overage from that individual commercial harvest quota during the following calendar year.
3. Any overages that range from 251 to 475 pounds shall result in a one-year deduction of two times that overage from that individual commercial harvest quota during the following calendar year.

“PERTAINING TO ATLANTIC STRIPED BASS”

CHAPTER 4 VAC 20-252-10 ET SEQ.

4. Any overages that range from 476 to 725 pounds shall result in that overage being permanently deducted from that individual commercial harvest quota and a one-year suspension of that person from the commercial fishery for striped bass.

5. Any overages that are greater than 725 pounds shall result in the revocation of that individual striped bass permit, and that person shall not be eligible to apply for a like permit for a period of two years from the date of revocation.

B. Any second overage by any person of an individual commercial harvest quota within five years of a previous offense shall result in penalties prescribed according to the severity of the overage as described in subdivisions 1 through 4 of this subsection.

1. Any overages that are less than 76 pounds shall result in a one-year deduction of the overage from that individual commercial harvest quota during the following calendar year.

2. Any overages that range from 76 to 250 pounds shall result in a one-year deduction of two times the overage from that individual commercial harvest quota during the following calendar year.

3. Any overages that range from 251 to 475 pounds shall result in the overage being permanently deducted from the individual commercial harvest quota and a one-year suspension of that person from the commercial fishery for striped bass.

4. Any overages that are greater than 475 pounds shall result in the revocation of that individual striped bass permit, and that person shall not be eligible to apply for a like permit for a period of two years from the date of revocation.

C. Any third overage by any person of an individual commercial harvest quota within five years of two previous offenses shall result in penalties prescribed according to the severity of the overage as described in subdivisions 1 through 3 of this subsection.

1. Any overages that are less than 76 pounds shall result in a one-year deduction of two times the overage from that individual commercial harvest quota during the following calendar year.

2. Any overages that range from 76 to 250 pounds shall result in the overage being permanently deducted from that individual commercial harvest quota and a one-year suspension of the person from the commercial fishery for striped bass.

3. Any overages that are greater than 250 pounds shall result in the revocation of that individual striped bass permit, and that person shall not be eligible to apply for a like permit for a period of two years from the date of revocation.

“PERTAINING TO ATLANTIC STRIPED BASS”**CHAPTER 4 VAC 20-252-10 ET SEQ.**

D. Any fourth overage by any person of an individual commercial harvest quota within five years of three previous offenses shall result in penalties prescribed according to the severity of the overage as described in subdivisions 1 and 2 of this subsection.

1. Any overages that are less than 76 pounds shall result in the overage being permanently deducted from that individual commercial harvest quota and a one-year suspension of the person from the commercial fishery for striped bass.
2. Any overages that are greater than 75 pounds shall result in the revocation of that individual striped bass permit, and that person shall not be eligible to apply for a like permit for a period of two years from the date of revocation.

4 VAC 20-252-160. Individual transferable shares; tagging.

A. For each person permitted under the provisions of 4VAC20-252-130 to harvest striped bass commercially, a weight quota shall be issued to permitted fishermen in amounts equal to the percentage share of the Chesapeake Bay area and coastal area striped bass harvest quota they hold. Tags issued for Chesapeake Bay area harvest quota shall only be used for striped bass harvests in the Chesapeake Bay area, and tags issued for the coastal area harvest quota shall only be used for striped bass harvests in the coastal area.

B. It shall be unlawful for any person, onboard any vessel, to possess any striped bass tags, in Virginia waters, according to the following provisions:

1. It shall be unlawful for any person, onboard any vessel, to set, place or fish any gear that can harvest striped bass, in the Chesapeake Bay area, when in possession of coastal area striped bass tags issued by the Marine Resources Commission or striped bass tagged with coastal area tags.
2. It shall be unlawful for any person to possess Virginia coastal area striped bass tags in the Chesapeake Bay area, or striped bass tagged with coastal area tags, except when transiting the Chesapeake Bay area.
3. It shall be unlawful for any person to possess striped bass tags issued for previous years for the Chesapeake Bay area, coastal area, or any other jurisdiction.
4. It shall be unlawful for any person to possess Potomac River Fisheries Commission striped bass tags in Virginia waters, except when transiting the Virginia tributaries of the Potomac River to land in Virginia and as provided by 4VAC20-252-160C.
5. It shall be unlawful for any person to possess any non-Virginia jurisdictional striped bass tags, in Virginia waters, or striped bass tagged with any non-Virginia jurisdictional striped bass tags, except as provided by 4VAC20-252-160B.4 and 4VAC20-252-160C.

“PERTAINING TO ATLANTIC STRIPED BASS”

CHAPTER 4 VAC 20-252-10 ET SEQ.

6. Any violation of this subsection shall result in the confiscation and impoundment of all striped bass tags or striped bass on the vessel.

C. It shall be unlawful for any person, onboard any vessel, to possess any striped bass tags in the Great Wicomico-Tangier Striped Bass Management Area, except current year striped bass tags issued by the jurisdictions of the Virginia Marine Resources Commission, State of Maryland or the Potomac River Fisheries Commission and according to the following provisions:

1. It shall be unlawful for any person, onboard any vessel, to possess more than one jurisdiction's tags, or more than one jurisdiction's tagged striped bass, in the Great Wicomico-Tangier Striped Bass Management Area.

2. It shall be unlawful for any person, onboard any vessel, to place, set or fish any gear that can harvest striped bass, in the Great Wicomico-Tangier Striped Bass Management Area, when in possession of any striped bass tags not issued by the Virginia Marine Resources Commission.

3. Any violation of this subsection shall result in the confiscation and impoundment of all striped bass tags or striped bass on the vessel.

D. Shares of the commercial striped bass quota held by any permitted fisherman may be transferred to any other person who is a licensed registered commercial fisherman; such transfer shall allow the transferee to harvest striped bass in a quantity equal to the share transferred. Any transfer of striped bass commercial shares shall be limited by the following conditions:

1. Shares of commercial striped bass quota shall not be permanently transferred in any quantity less than 500 pounds, or 100% of unused permanent shares, in any year, from February 1 through October 31. Permanent transfers of shares of commercial striped bass quota shall be prohibited during the period of November 1 through January 31.

2. Shares of commercial striped bass quota shall not be temporarily transferred in any quantity less than 500 pounds, from February 1 through October 31, or less than 200 pounds, from November 1 through December 15. Temporary transfers of shares of commercial striped bass quota shall be prohibited from December 16 through January 31.

3. No licensed registered commercial fisherman shall hold more than 2.0% of the total annual Chesapeake Bay area commercial striped bass harvest quota or more than 11% of the total annual coastal area commercial striped bass harvest quota.

4. No transfer of striped bass commercial harvest quota shall be authorized by the commission unless transferor and transferee provide up-to-date records of all commercial landings of striped bass and striped bass tag use to the commission prior to such transfer.

VIRGINIA MARINE RESOURCES COMMISSION
“PERTAINING TO ATLANTIC STRIPED BASS”
CHAPTER 4 VAC 20-252-10 ET SEQ.

PAGE 14 OF 18

5. No transfer of striped bass commercial harvest quota shall be authorized unless such transfer is documented on a form provided by the Virginia Marine Resources Commission, notarized by a lawful Notary Public, and approved by the commissioner.

E. Transfers of Chesapeake Bay area or coastal area striped bass commercial quota from one person to another may be permanent or temporary. Transferred quota from the Chesapeake Bay area striped bass commercial quota shall only be used by the transferee for striped bass harvested from the Chesapeake Bay area, and transferred quota from the coastal area striped bass commercial quota shall only be used by the transferee for striped bass harvested from the coastal area. Permanent transfers of commercial quota shall grant to the transferee that transferred percentage of the quota for future years, and the transferor loses that same transferred percentage of the quota in future years. Temporary transfers of individual striped bass commercial harvest quota shall allow the transferee to harvest only that transferred percentage of the quota during the year in which the transfer is approved. Transferors are solely responsible for any overage of the transferred percentage of the quota by the transferee. Thereafter, any percentage of the transferred striped bass commercial quota, less any overage incurred by the transferee, reverts back to the transferor.

~~F. The commission will issue striped bass tags to permitted striped bass commercial fishermen as follows: those fishermen permitted only for Chesapeake Bay area or coastal area harvests of striped bass will receive their allotment of tags prior to the start of the fishing season. Any permitted fisherman eligible for both Chesapeake Bay area and coastal area tags shall receive only one type of area-specific tag allotment, of his choosing, prior to the start of the fishing season, and his other type of area-specific tags will be distributed when it has been determined from the commission's mandatory harvest reporting program that the fisherman has used all of his first allotment of tags and has not exceeded his individual harvest quota. The commissioner may authorize the distribution of the second allotment of area-specific tags to a fisherman eligible for both Chesapeake Bay area and coastal area tags prior to that fisherman's complete use of his first allotment of tags, provided that fisherman surrenders any remaining tags of his first allotment of tags.~~

VIRGINIA MARINE RESOURCES COMMISSION
“PERTAINING TO ATLANTIC STRIPED BASS”
CHAPTER 4 VAC 20-252-10 ET SEQ.

PAGE 15 OF 18

~~G.~~ F. Striped bass tags are valid only for use by the permittee to whom the tags were allotted. The permittee shall be on board the boat or vessel when striped bass are harvested and tags are applied. Nothing in this subsection shall prevent a permitted commercial hook-and-line fisherman from using three crew members who are not registered commercial fishermen to assist in the harvest of his allotment of striped bass.

~~H.~~ G. At the place of capture, and before leaving that place of capture, tags shall be passed through the mouth of the fish and one gill opening, and interlocking ends of the tag shall then be connected such that the tag may only be removed by breaking. Failure to comply with these provisions shall be a violation of this chapter.

~~I.~~ H. It shall be unlawful to bring to shore any commercially caught striped bass that has not been tagged at the place of capture by the fisherman with a tamper evident, numbered tag provided by the commission. It shall be unlawful to possess striped bass in a quantity greater than the number of tags in possession. If a permittee violates this section, the entire amount of untagged striped bass, as well as the number of tags equal to the amount of striped bass in his possession, shall be confiscated. Any confiscated striped bass shall be considered as a removal from that permittee's harvest quota. Any confiscated striped bass tags shall be impounded by the commission. Upon confiscation, the marine police officer shall inventory the confiscated striped bass and may redistribute the catch by one or a combination of the following methods:

“PERTAINING TO ATLANTIC STRIPED BASS”**CHAPTER 4 VAC 20-252-10 ET SEQ.**

1. The marine police officer shall secure a minimum of two bids for purchase of the confiscated striped bass from approved and licensed seafood buyers. The confiscated fish will be sold to the highest bidder, and all funds derived from such sale shall be deposited to the Commonwealth pending court resolution of the charge of violating the possession limits established in this chapter. All of the collected funds and confiscated tags will be returned to the accused upon a finding of innocence or forfeited to the Commonwealth upon a finding of guilt.

2. The marine police officer shall provide the confiscated striped bass to commission staff for biological sampling of the catch. Upon receipt of confiscated striped bass, commission staff will secure a minimum of two estimates of value per pound for striped bass from approved and licensed seafood buyers. The confiscated tags and the estimated value of confiscated striped bass provided for biological sampling will be reimbursed to the accused upon a finding of innocence or retained by the commission upon a finding of guilt.

~~J.~~ I. Altering or attempting to alter any tag for the purpose of reuse shall constitute a violation of this chapter.

~~K.~~ J. Prior to receiving any commercial season's allotment of striped bass tags, a permitted commercial harvester shall be required to have returned all unused tags from the previous commercial season to the commission within 30 days of harvesting their individual harvest quota, or by the second Thursday in January, whichever comes first. Any unused tags that cannot be turned in to the commission shall be accounted for by the harvester submitting an affidavit to the commission that explains the disposition of the unused tags that are not able to be turned into the commission. Each person shall be required to pay a processing fee of \$25, plus \$0.13 per tag, for any unused tags that are not turned in to the commission.

~~L.~~ K. Any person with remaining unused striped bass commercial quota in the current year requesting additional commercial season striped bass tags shall provide up-to-date records of landings

CHAPTER 4 VAC 20-252-10 ET SEQ.

and account for all previously issued tags prior to receiving an additional allotment of tags. The harvester shall submit an affidavit to the commission that explains the disposition of the tags that are not accounted for and shall be required to pay a processing fee of \$25, plus \$0.13 per tag, for such tags to the commission.

~~M.~~ L. For the commercial fishing season, one type of tag shall be distributed to Chesapeake Bay area permittees and one type of tag shall be distributed to coastal area permittees. For the Chesapeake Bay area, the tag shall only be used on striped bass 18 inches or greater in total length. For the coastal area, the tag shall only be used on striped bass 28 inches or greater in total length. The possession of any improperly tagged striped bass by any permitted striped bass fisherman shall be a violation of this chapter.

4 VAC 20-252-170. Aquaculture of striped bass; permit required.

~~A.~~ It shall be unlawful for any person to operate a striped bass aquaculture facility without first obtaining a permit from the Marine Resources Commission (commission). This permit shall authorize and define the limits of activities concerning the purchase, possession, sale, giving, receiving, and transportation of striped bass or hybrid striped bass. Any person in violation of any permit condition issued under this section may have the permit revoked at any time upon review by the commission. If the commission revokes any person's permit for an aquaculture facility, then that person shall not be eligible to apply for a like permit for a period of two years from the date of revocation.

4 VAC 20-252-180. (Repealed.)

4 VAC 20-252-190. (Repealed.)

4 VAC 20-252-200. (Repealed.)

4 VAC 20-252-210. (Repealed.)

4 VAC 20-252-220. Penalty.

“PERTAINING TO ATLANTIC STRIPED BASS”

CHAPTER 4 VAC 20-252-10 ET SEQ.

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 20-252-230. Sanctions.

A. Any person failing to submit any report required by this chapter shall be denied any striped bass permit for the following year.

B. It shall be unlawful for any person with a pending violation of this chapter or found guilty of violating any provision of this chapter to receive or transfer striped bass commercial harvest quota as described in 4VAC20-252-160.

C. It shall be unlawful for any person with a pending violation of this chapter or found guilty of violating any provision of this chapter to receive additional tag distributions as described in 4VAC20-252-160.

D. Any person found guilty of violating any provision of this chapter may have his permit or license revoked at any time upon review by the commission as provided for in § 28.2-232 of the Code of Virginia. If the commission revokes any person's permit for an aquaculture facility, then that person shall not be eligible to apply for a like permit for a period of two years from the date of revocation.

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 December 3, 2024.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

BY: _____

**Jamie L. Green
Commissioner**

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

Notary Public

FISHERIES MANAGEMENT DIVISION EVALUATION, 12/3/24

RECOMMENDATION: Recommendation on funding proposals from the Commercial Fishing Advisory Board

**BACKGROUND
AND ISSUES:**

The Marine Fishing Improvement Fund (MFIF) is made up of sales of Virginia commercial fishing licenses. The Commercial Fishing Advisory Board (CFAB) advises the Commission on expenditures from the MFIF.

The Commercial Fishing Advisory Board (CFAB) met virtually on November 6, 2024 to review the several applications for funding from the MFIF. Project managers from each of the four proposals presented brief presentations to the board.

- A. Federal Assistance (Sportfish Restoration) Matching Funds, Federal FY 2025. P. Geer. \$204,822 (**\$153,616 from VSRFDF, \$51,206 from MFIF**).
- B. Estimating Relative Abundance of Young-of-Year American Eel in the Virginia Tributaries of Chesapeake Bay. M. Fabrizio, T. Tuckey, VIMS. \$32,983. (**\$16,492 from VSRFDF, and \$16,491 from MFIF**).
- C. Boat Scarring Effects on Submerged Aquatic Vegetation in Virginia: Monitoring and Recovery Patterns – year 23. Christopher Patrick, VIMS. \$21,919 (**\$10,960 from VSRFDF, and \$10,959 from MFIF**).
- D. Biological Monitoring of River Herring in Virginia. Eric Hilton, VIMS, **\$40,000 from MFIF**.

Projects A, B, and C have been historically split funded – meaning they are partially funded by both the recreational and commercial license funds. The recreational portion of these programs have already been approved by both the Recreational Fishing Advisory Board and the Commission earlier this fall. After discussion and review, the CFAB voted to recommend that the Commission fund all four of the projects.

RECOMMENDATION: The Commercial Fishing Advisory Board recommended funding all four programs totaling \$118,656 from the Marine Fishing Improvement Fund.