PUBLIC NOTICE

US Army Corps of Engineers ®
New England District
696 Virginia Road
Concord, MA 01742-2751

Comment Period Begins: April 5, 2011
Comment Period Ends: May 5, 2011
File Number: NAE-2011-135
In Reply Refer To: Kevin R. Kotelly, P.E.
Phone: (978) 318-8703
E-mail: kevin.r.kotelly@usace.army.mil

The District Engineer has received a permit application from the applicant below to conduct work in waters of the United States as described below.

APPLICANT
G. Michael Besse

PROPOSED WORK AND PURPOSE
The project is work and structures in navigable waters for the after-the-fact permitting of culturing and harvesting of bivalve molluscs in the subtidal habitat of a 12.29 acre area known as Grant #84. Grant #84 has been in existence since 1954 and has been in operation under different sizes and configurations since that time. The current operation consists of a floating dock with two upwellers for raising bivalve mollusc seed. The seedlings are taken from the upweller and planted in either bags or cages for grow-out. The bags or cages are located either on the bottom substrate or floating at the water's surface depending on their location and the time of year. All 12.29-acres of Grant #84 are not currently in operation, but may be at some time. Please see the attached plans that outline the areas in operation and the type of cultivation activity at that location.

The work is described on the enclosed plans entitled, "Revision of Shellfish Grants 82, 83, & 84," on five sheets, and dated, February 28, 2011.

WATERWAY AND LOCATION OF THE PROPOSED WORK
This work is proposed in Bourne's Cove in Wareham, Massachusetts. The proposed location on the USGS Plymouth quadrangle sheet is at Latitude 41°43'39" and Longitude 70°41'9".

AUTHORITY
Permits are required pursuant to:
__X_ Section 10 of the Rivers and Harbors Act of 1899
____ Section 404 of the Clean Water Act
_____Section 103 of the Marine Protection, Research and Sanctuaries Act).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land

use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

ESSENTIAL FISH HABITAT

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH).

This project will impact 12.29 acres of Essential Fish Habitat (EFH) for various life stages of Atlantic cod, haddock, pollock, whiting, red hake, white hake, winter flounder, yellowtail flounder, windowpane flounder, American plaice, ocean pout, Atlantic halibut, Atlantic sea scallop, Atlantic sea herring, monkfish, bluefish, long finned squid, short finned squid, Atlantic butterfish, Atlantic mackerel, summer flounder, scup, black sea bass, spiny dogfish, and bluefin tuna. This habitat consists of subtidal open water. Loss of this habitat may adversely affect the species listed above. However, the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

SECTION 106 COORDINATION

Based on his initial review, the District Engineer has determined that little likelihood exists for the proposed work to impinge upon properties with cultural or Native American significance, or listed in, or eligible for listing in, the National Register of Historic Places. Therefore, no further consideration of the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended, is necessary. This determination is based upon one or more of the following:

a. The permit area has been extensively modified by previous work.
b. The permit area has been recently created.
c. The proposed activity is of limited nature and scope.
d. Review of the latest published version of the National Register shows that no presence of registered properties listed as being eligible for inclusion therein are in the permit area or general vicinity.
e. Coordination with the State Historic Preservation Officer and/or Tribal Historic Preservation Officer(s)

ENDANGERED SPECIES CONSULTATION
The New England District, Army Corps of Engineers has reviewed the list of species protected under the Endangered Species Act of 1973, as amended, which might occur at the project site. It is our preliminary determination that the proposed activity for which authorization is being sought is designed, situated or will be operated/used in such a manner that it is not likely to adversely affect any federally listed endangered or threatened species or their designated critical habitat. By this Public Notice, we are requesting that the appropriate Federal Agency concur with our determination.

The States of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved **Coastal Zone Management Programs**. Where applicable the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this Public Notice, we are requesting the State concurrence or objection to the applicant's consistency statement.

The following authorizations have been applied for, or have been, or will be obtained:
(X) Permit, License or Assent from State.
(X) Permit from Local Wetland Agency or Conservation Commission.
( ) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. **Comments should be submitted in writing by the above date.** If you have any questions, please contact Kevin Kotelly at (978) 318-8703, (800) 343-4789 or (800) 362-4367, if calling from within Massachusetts.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

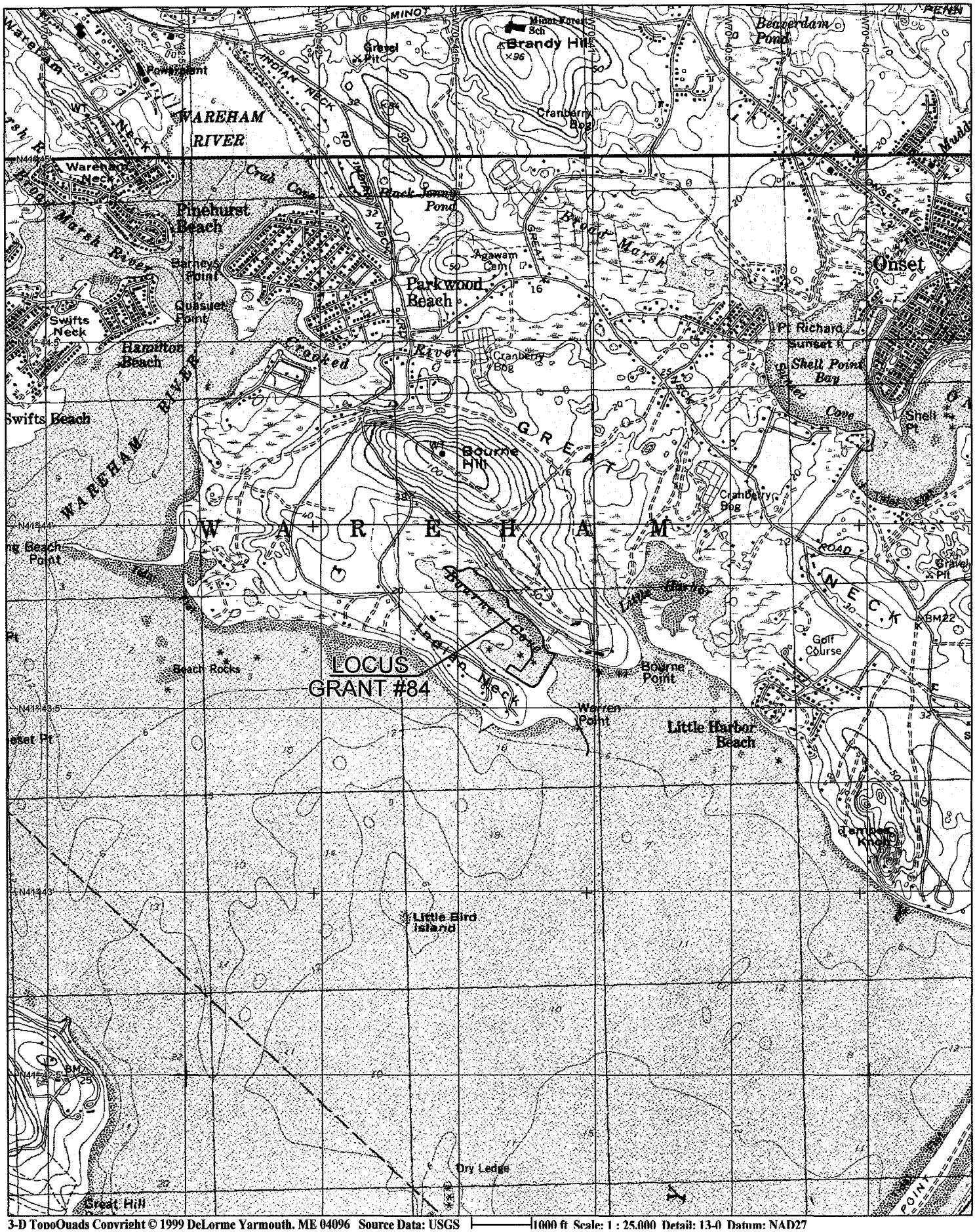
The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

THIS NOTICE IS <u>NOT</u> AN AUTHORIZATION TO DO ANY WORK.

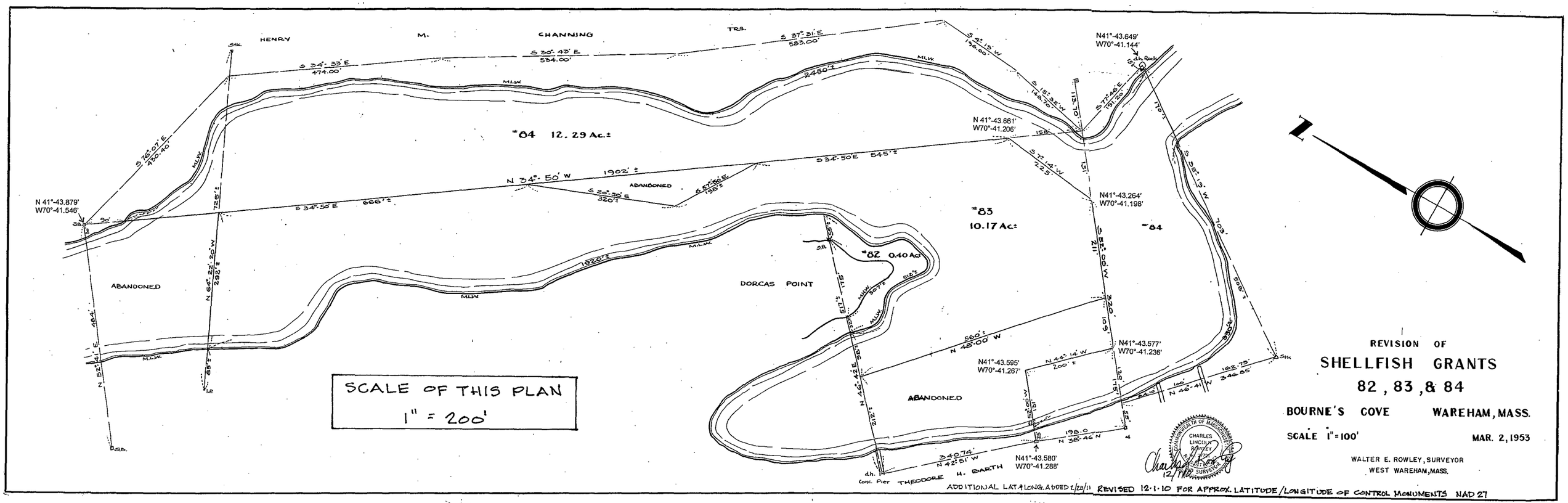
for Brian E. Valiton
Karen K. Adams
Chief, Permits and Enforcement Branch
Regulatory Division

If you would prefer not to continue receiving Public Notices, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at bettina.m.chaisson@usace.army.mil. You may also check here ( ) and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: _____
ADDRESS: _____



3-D TopoQuads Copyright © 1999 DeLorme Yarmouth, ME 04096 Source Data: USGS 1000 ft Scale: 1 : 25,000 Detail: 13-0 Datum: NAD27

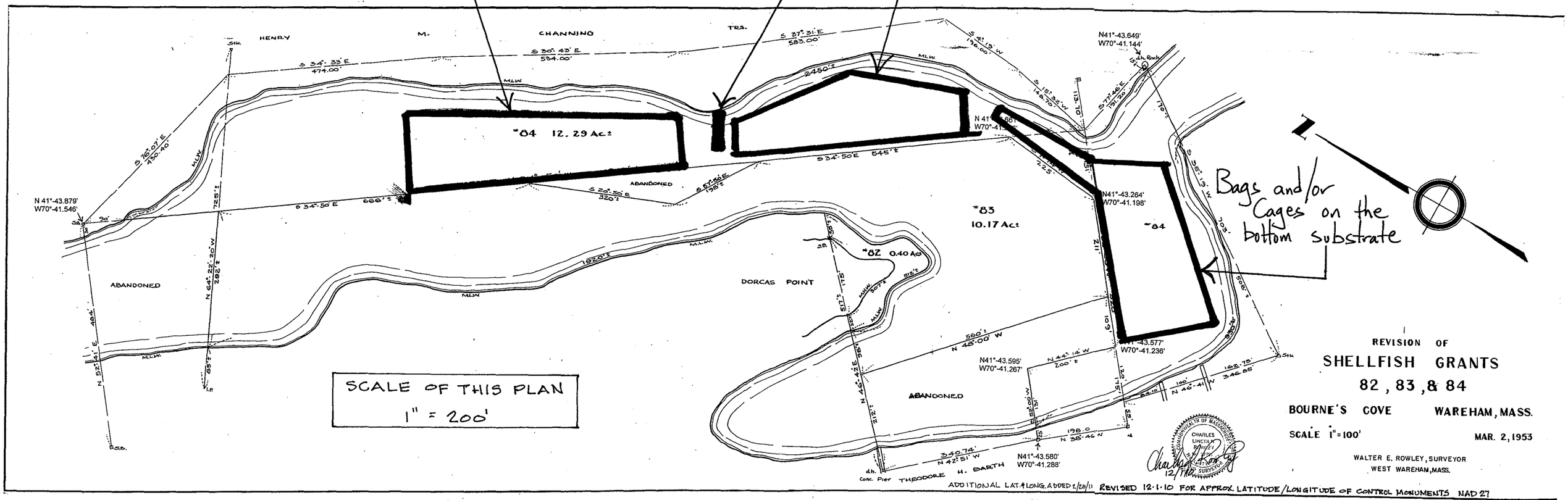

HENRY M. CHANNING TRS.
S 34°-33' E 474.00'
S 30°-43' E 534.00'
S 37°-31' E 583.00'
S 4°-13' W 196.00'
S 15°-32' W 148.70'
S 77°-46' E 191.20'
N41°-43.649' W70°-41.144'
N 41°-43.661' W70°-41.206'
S 76°-07' E 430.40'
N 41°-43.879' W70°-41.546'
S 34°-50' E 666'±
N 34°-50' W 1902'±
S 20°-50' E 320'±
S 57°-50' E 198'±
S 34°-50' E 545'±
S 7°-14' W 225'
N41°-43.264' W70°-41.198'
S 36°-13' W 703'
*84 12.29 Ac.±
*83 10.17 Ac.±
*82 0.40 Ac.±
*84
ABANDONED
DORCAS POINT
N 64°-22'-20" W 292'±
N 52°-41' E 484'
N 48°-00' W 560'±
N 44°-14' W 200'±
N41°-43.577' W70°-41.236'
N41°-43.595' W70°-41.267'
N 46°-41' W 162.75' 346.85'
N 38°-46' W 198.0
N 42°-51' W 340.74'
N41°-43.580' W70°-41.288'
THEODORE H. BARTH
Conc. Pier
SCALE OF THIS PLAN
1" = 200'
REVISION OF
SHELLFISH GRANTS
82, 83, & 84
BOURNE'S COVE WAREHAM, MASS.
SCALE 1" = 100'
MAR. 2, 1953
WALTER E. ROWLEY, SURVEYOR
WEST WAREHAM, MASS.
CHARLES LINCOLN ROWLEY
ADDITIONAL LAT. & LONG. ADDED 2/28/11 REVISED 12·1·10 FOR APPROX. LATITUDE/LONGITUDE OF CONTROL MONUMENTS NAD 27

LLLL-5

Bags and/or cages on the bottom substrate and/or water's surface

Floating Dock with Two Upwellers

Bags and/or Cages on the bottom substrate



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High Output Oyster Grow-out System

15 Cylindrical Buoy Float#

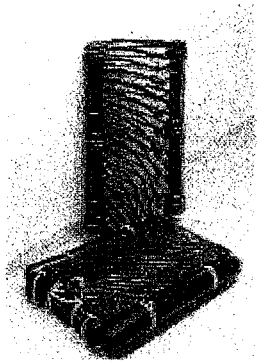
Diameter: 3"
Length: 28"
Weight: 5 o
Buoyancy: 9 ½lbs
Density: 3lbs./ft.^{2}

Polyethylene Buoy Float
Is filled with compressed air and is UV resistant and more durable than your standard foam bag float.

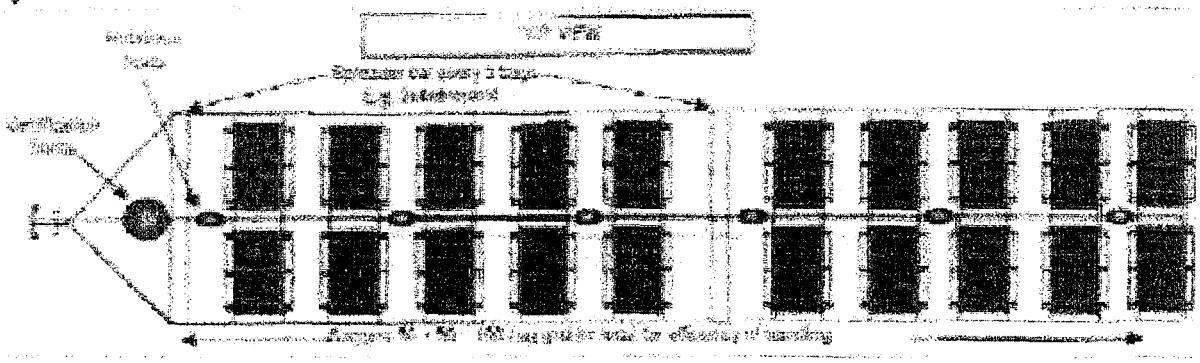
Dimensions are:
32" long x 4" wide x 3" tall.
Buoyancy is 10lbs.

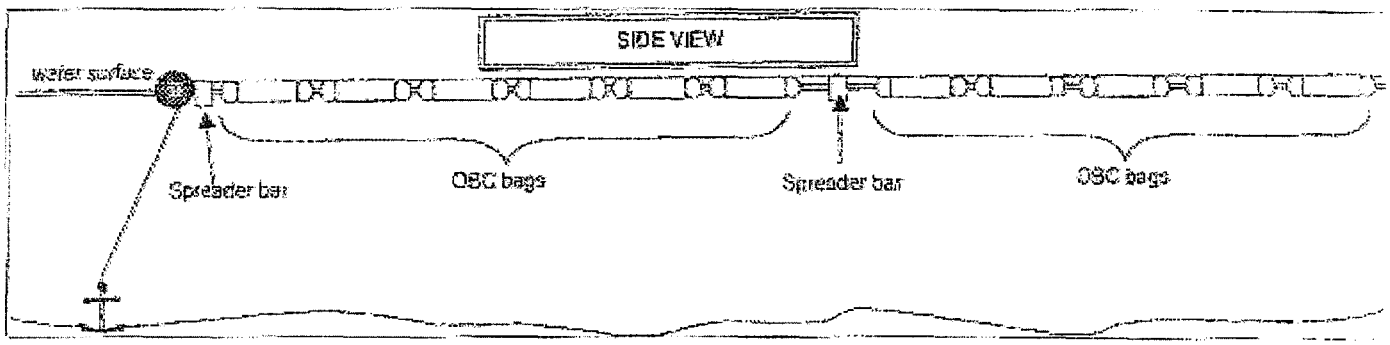
Benefits of the High Output Floating/Submersible Oyster Growout System

- Increases the Growout cycle due to early spring water surface temperature and increased food availability.
- Biofouling control - Since the surface is also the area with the highest Biofouling challenges, the grid can be flipped over to allow the sun and air to decompose the lower side fouling.
- By having the oysters at the surface the wave action agitates the cages which allows for partial shell shaping and beach hardening process.
- Designed for areas of ice, storm or high energy conditions; anchors are added to one side of the grid and it is lower below the ice zone or wave action.



Durethene bag with two cylindrical buoys





Atlantic Aquaculture

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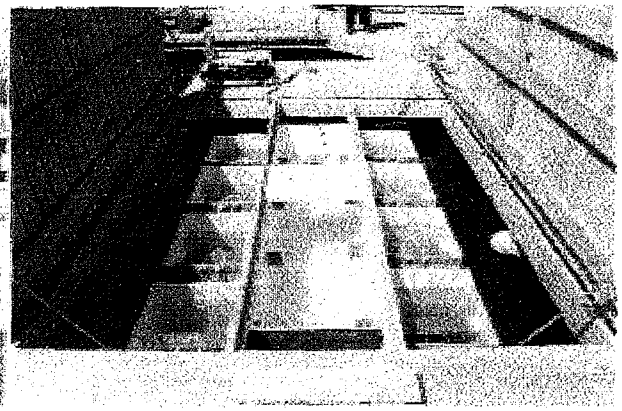
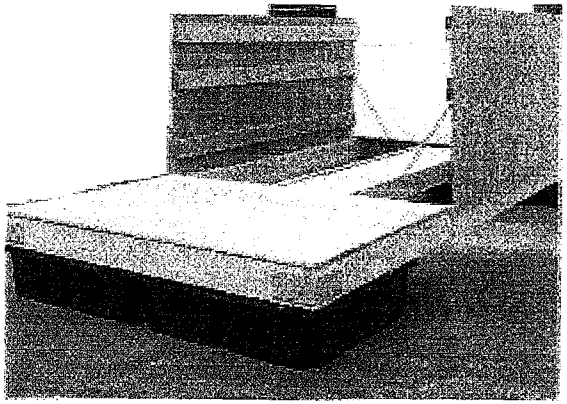
Floating Upweller Nursery System

For Nursery Culture of Oysters, Hard Shell Clams & Scallops



Upweller System Features and Benefits:

- Grow shellfish right out of the hatchery until large enough to be field planted .
- Forced upflow culture system reduces your nursery growing time by as much as two-thirds.
- Take your animals from spat to planting in one season!
- Built as a 20' x 8' dock section, it allows for dual use in marinas or private docks
- Save money in labor, equipment and production
- Long life construction with minimal operational costs
- A sliding trolley Block and Tackle system allows for easy silo removal for cleaning
- Delivered ready to use! Just drop it in the water and plug it in.
- Can be customized to meet your needs, or in kit form.
- Components easily available for replacement or as needed.



System Specifications:

- 8' x 20' pressure-treated wood dock with four doors
- Eight 2' x 2' Heavy-duty Fiberglass silos and 2' x 8' trough
- All stainless steel hardware
- Heavy-duty 1/2 HP axial-flow pump capable of 800 GPM flow rate through (Upweller) system
- Sliding bar trolley Block and Tackle lifting system for easy silo cleaning - optional
- Customized wire mesh trays available
- Capacity of up to two million animals