



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

# PUBLIC NOTICE

**Comment Period Begins: May 1, 2012**  
**Comment Period Ends: June 1, 2012**  
**File Number: NAE-2011-1344**  
**In Reply Refer To: Kevin R. Kotelly, P.E.**  
**Phone: (978) 318-8703**  
**E-mail: kevin.r.kotelly@usace.army.mil**

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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**  
Andy Roberts

## **PROPOSED WORK AND PURPOSE**

The project includes structures and work below the mean high water line of waters of the United States to perform culturing and harvesting of bivalve molluscs (oysters) in the subtidal habitat of a 4-acre area. The culturing will be performed via wire mesh cages containing oyster bags under plastic floats. The area of the floating structures may cover the entire 4-acre area, however, it is planned to phase in coverage of the area over time. This is an after-the-fact application. Approximately 3000 square feet of the 4-acre area has been in operation since July, 2011.

The structures will be floated in lines of ten with each cage attached to a sinking line. The sinking lines for each float will be attached to a horizontal longline with mushroom anchors at each end. Seed oyster will be introduced into the cages in mesh bags in June/July of each season. As they grow, they will be graded and transferred into larger mesh sized bags. Each cage will hold approximately 1200, 3-inch oysters in 6 oyster bags.

Maintenance of the cages and bags will be necessary to keep them free of biofouling by either flipping the cages to allow air drying or by pressure washing or hand scrubbing with brushes. Over the wintertime, the cages will be submerged in the water column to avoid winter ice and storms. In the spring, the cages will be re-floated.

The four corners of the grant area and each end of the longlines at the mushroom anchor will be marked with 18 inch diameter yellow floating mooring balls, except during the winter months when ice is possible, the corners of the site will be marked with winter marking sticks. Access to the site will be by boat. The work is described on the enclosed plans on six sheets.

**WATERWAY AND LOCATION OF THE PROPOSED WORK**

The project is located in Nantucket Harbor, Nantucket, Massachusetts. The following geographic coordinates describe the corner boundaries of the project:

NORTH LATITUDE			WEST LONGITUDE		
<i>Deg.</i>	<i>Min.</i>	<i>Sec.</i>	<i>Deg.</i>	<i>Min.</i>	<i>Sec.</i>
41	19	89	70	01	17
41	19	88	70	00	16
41	19	92	70	01	11
41	19	91	70	01	10

**AUTHORITY**

Permits are required pursuant to:

- 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 4-acres of Essential Fish Habitat (EFH) for Atlantic cod, haddock, winter flounder, windowpane flounder, long finned squid, short finned squid, Atlantic butterfish, Atlantic mackerel, summer flounder, scup, black sea bass, surf clam, king mackerel, Spanish mackerel, cobia, blue shark, sandbar shark, 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:

- Permit, License or Assent from State.
- 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.

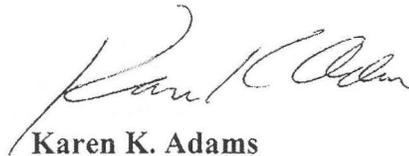
**CENAE-R-PEA**  
**FILE NO. NAE-2011-1344**

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.

In accordance with 33 CFR 325.2(a)(8), we publish monthly a list of permits issued or denied during the previous month at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg), under the heading "Monthly General and Individual Permit Authorizations." Relevant environmental documents and the SOFs or RODs are available upon written request and, where applicable, upon the payment of administrative fees. Also visit [www.nae.usace.army.mil](http://www.nae.usace.army.mil) for more information on the New England District Corps of Engineers programs.

**THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.**



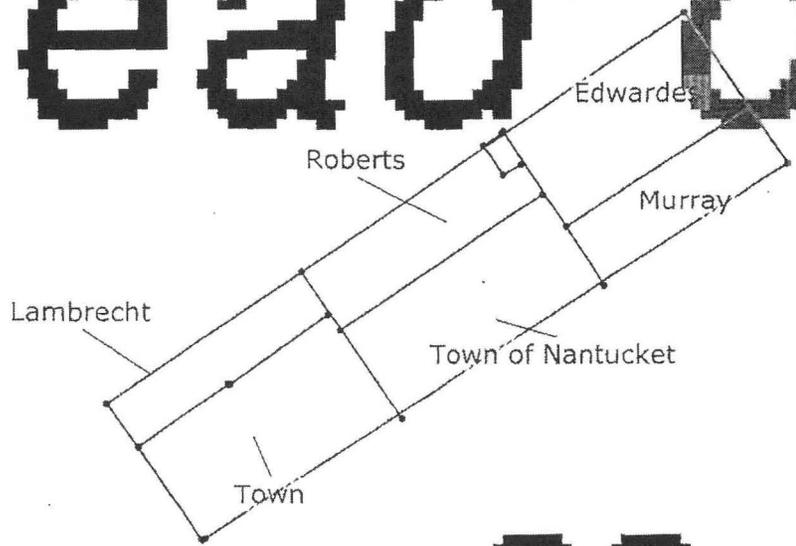
**Karen K. Adams**  
**Chief, Permits and Enforcement Branch**  
**Regulatory Division**

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](mailto: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: \_\_\_\_\_



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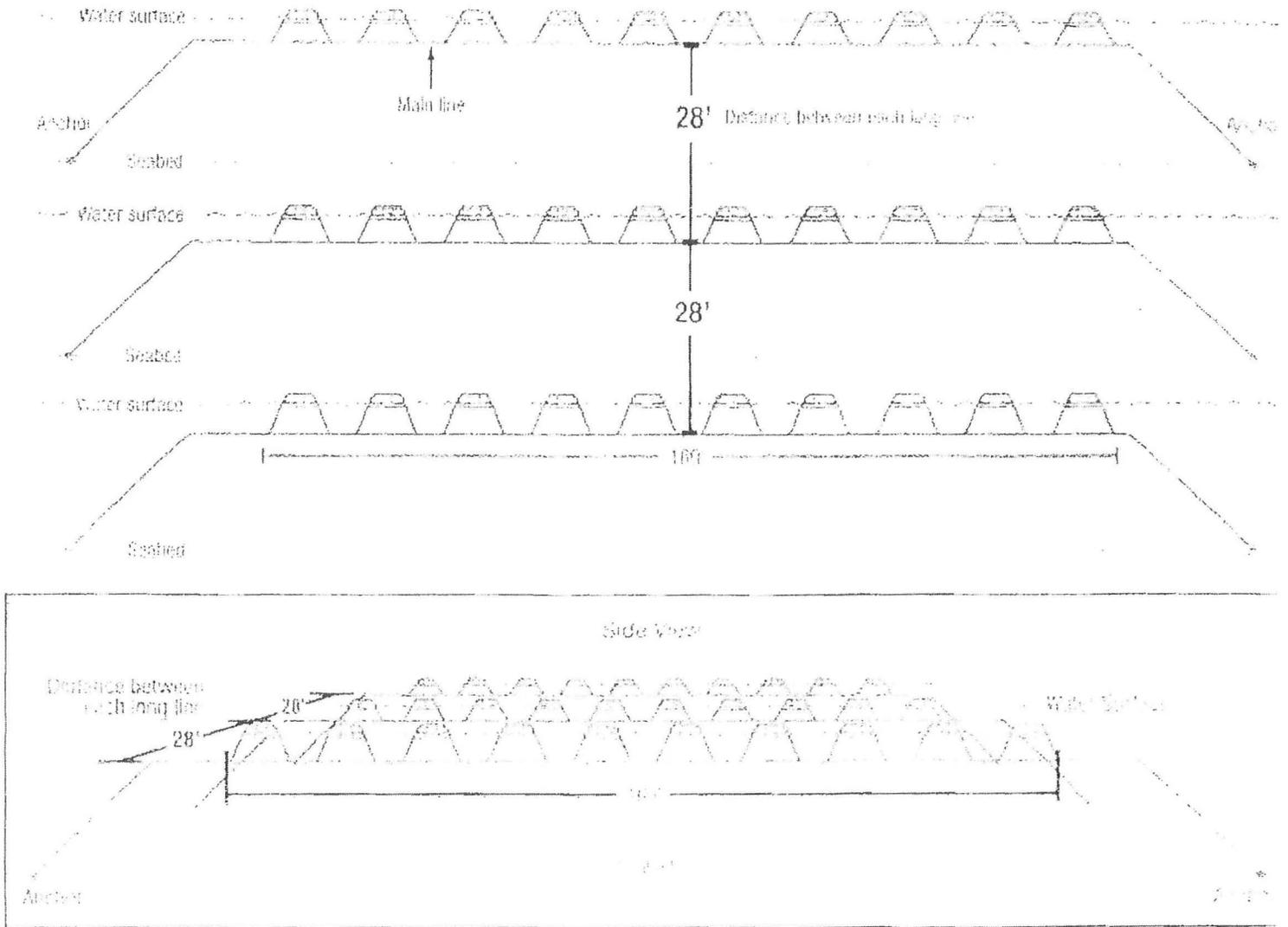


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# Block 18

## LAYOUT OF CAGES

This figure shows the layout of 3 - 10 OysterGro cages long lines on the water surface.



SCALE 1" = 30'

# BLOCK 18

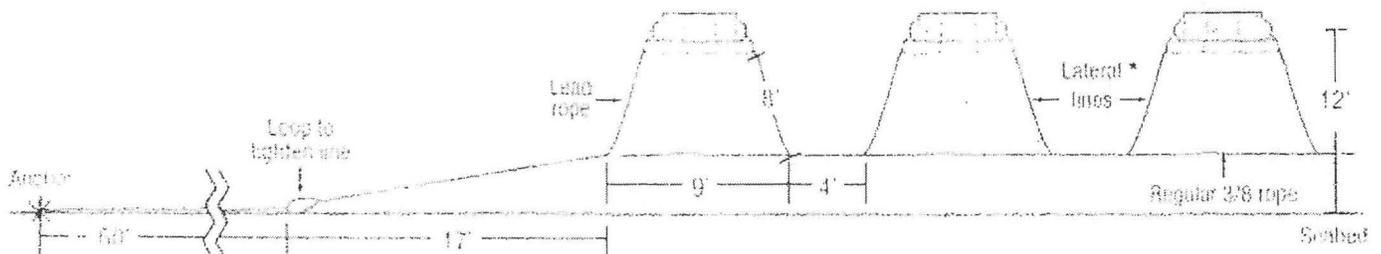
## ANCHORING + ROPE SYSTEM

Figure III -- OysterGro rope system

These diagrams show the rope system.

For water depth of 7' to 12' (ideal depth)

- Calm / protected area: 12 cages / line
- Windy area: 10 cages / line



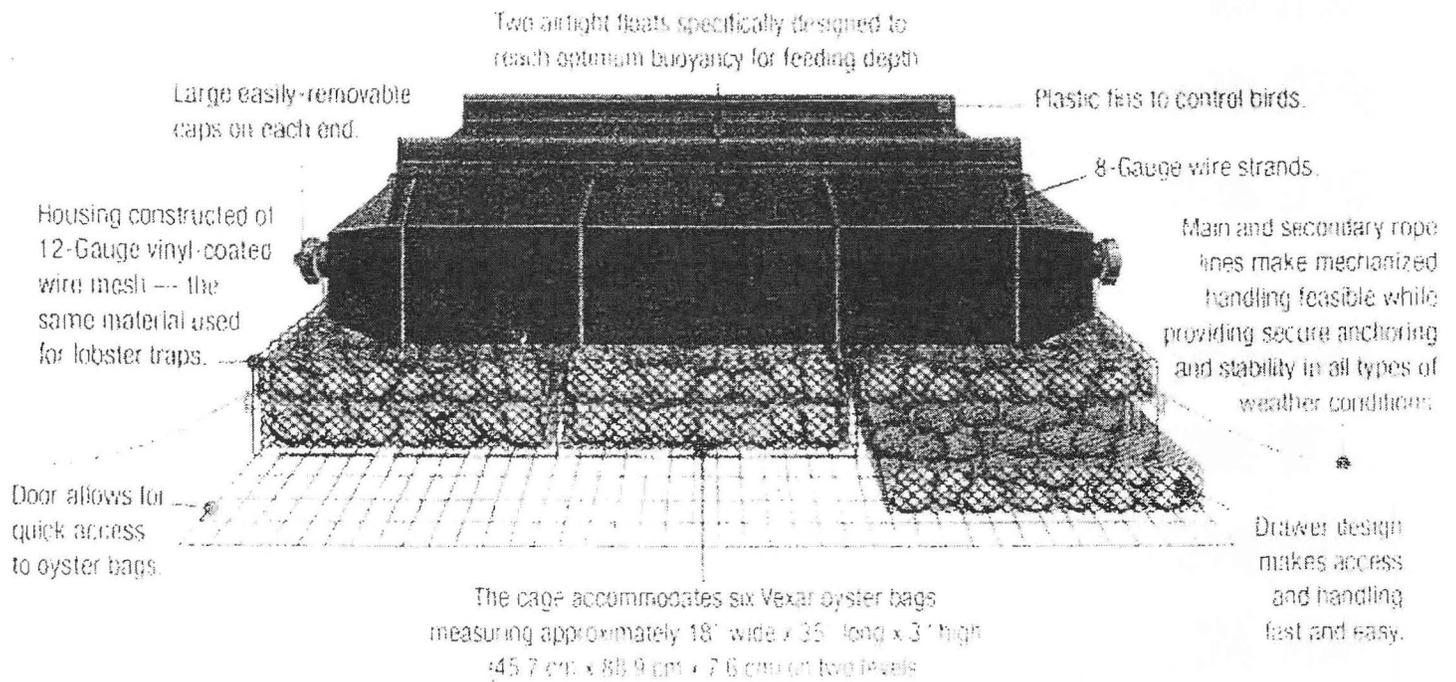
SCALE 1:10



# Block 18

## OYSTER GROW CAGE

NO SCALE



Fronts 58" x 11" x 8"

Back 68" x 40" x 9"