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# PUBLIC NOTICE



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

**Comment Period Begins: April 9, 2013**  
**Comment Period Ends: May 9, 2013**  
**File Number: NAE-2013-201**  
**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**

Matthew Herr

## **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.

The propagation of oysters will be done using the OYSTER – GRO system using 3 foot (ft) by 6 ft by 9 inch (in) cages floated with 9 in by 12 in by 60 in plastic floats. The cages and floats will be anchored to the bottom with moorings and connected in strings of various lengths.

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 grant area will be appropriately marked with floating mooring balls. Access to the site will be by boat. The work is described on the enclosed plans on four sheets.

## **WATERWAY AND LOCATION OF THE PROPOSED WORK**

This work is proposed in the Head of the Harbor, Nantucket, Massachusetts. The location of the proposed project is at Latitude 41°19'49" N and Longitude 70°1'0.9" W.

## **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:

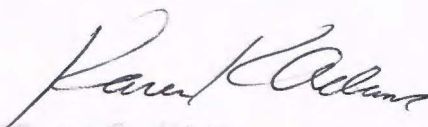
- Permit, License or Assent from State.
- Permit from Local Wetland Agency or Conservation Commission.
- Water Quality Certification in accordance with Section 401 of the Clean Water Act.

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.

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 NOT AN AUTHORIZATION TO DO ANY WORK.**

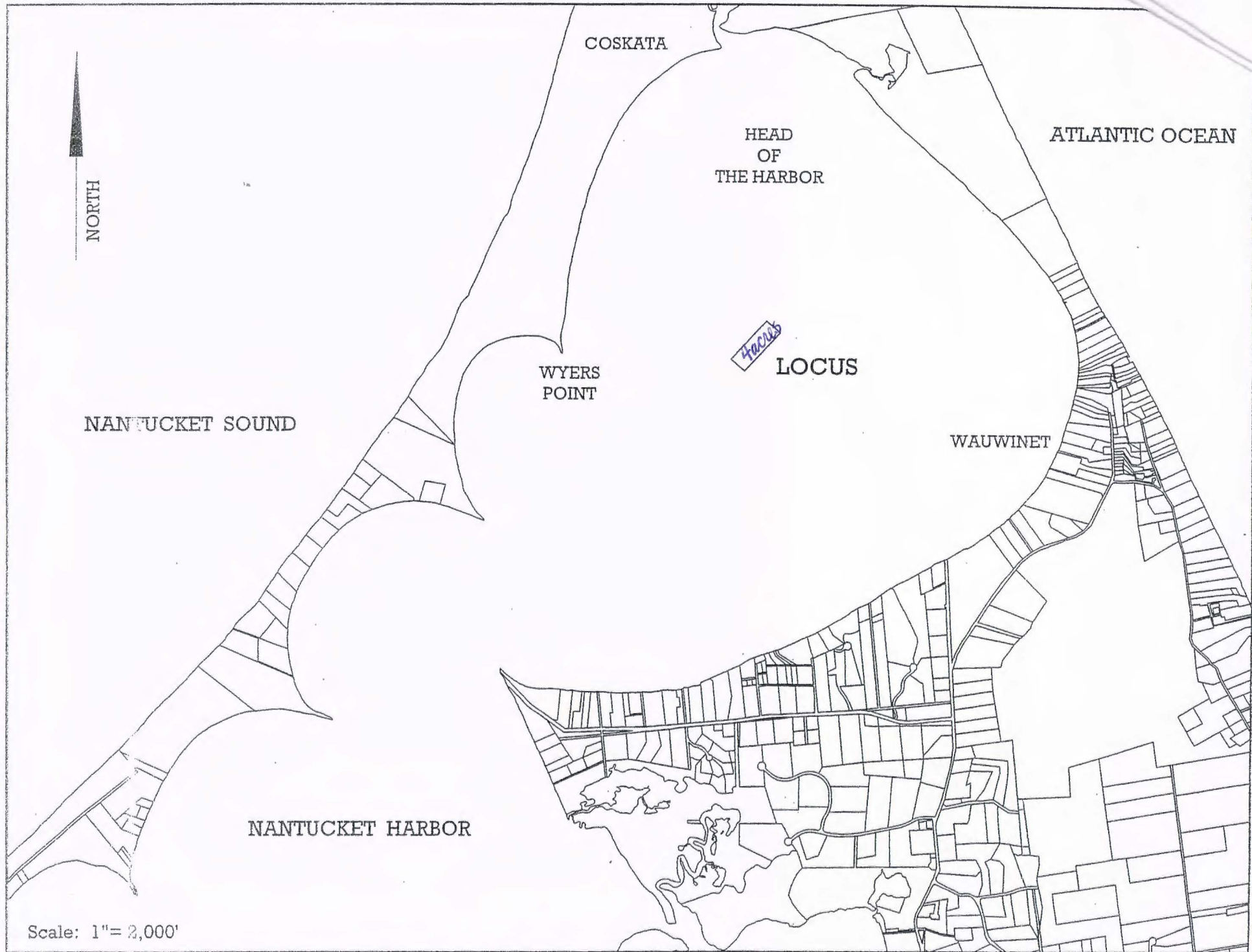


**Karen K. Adams**  
**Chief, Permits and Enforcement Branch**  
**Regulatory Division**

**CENAE-R-PEA**  
**FILE NO. NAE-2013-201**

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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HEAD  
OF  
THE HARBOR

ATLANTIC OCEAN

NORTH

WYERS  
POINT

LOCUS

LOCUS

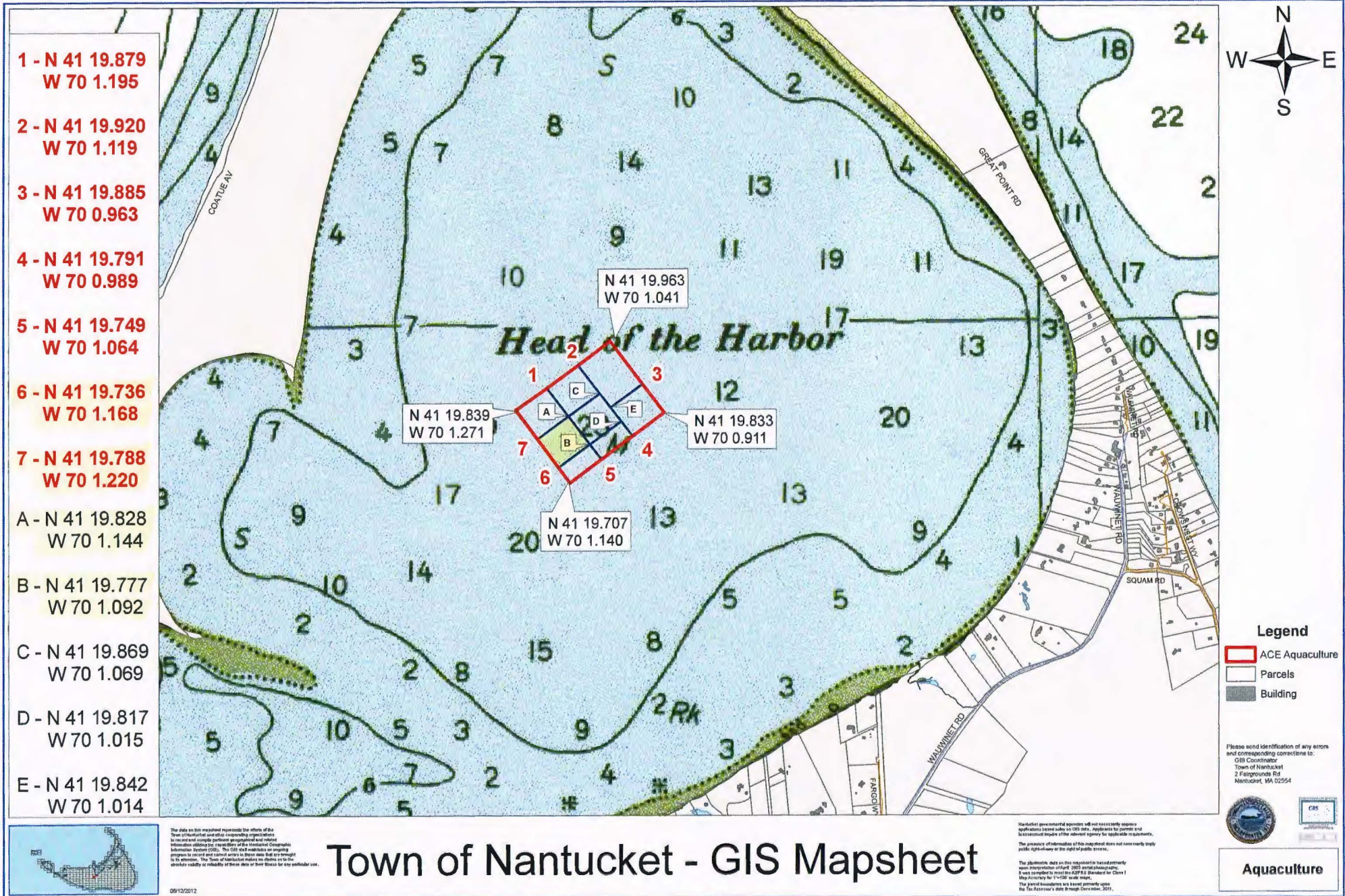
WAUWINET

NANTUCKET SOUND

NANTUCKET HARBOR

Scale: 1" = 2,000'

GPS Coordinates for Herr Lease: #6, 7, A + B (highlighted)



# Town of Nantucket - GIS Mapsheet

Aquaculture

## Block 18 "Nature of Activity"

The 4 acre section (attached map) is located in Nantucket harbor is pre-approved for aquaculture by the Massachusetts Division of Marine Fisheries. The 4 acres will be used to culture shellfish seed using methods that are currently being utilized in the same vicinity.

The grant will be marked on the four corners of the lease using winter sticks year round. Each long line will be marked with an 18-inch yellow poly-ball buoy.

The OysterGro method of floating cages has proven successful over time and will be used on this lease. Each cage can hold 6 bags (bag dimensions 18" wide x 35" long x 3" high). The cages will be floated in a series of 10 cages per line attached to sinking line. The sinking line will be attached to a horizontal long line with mushroom anchors on each end.

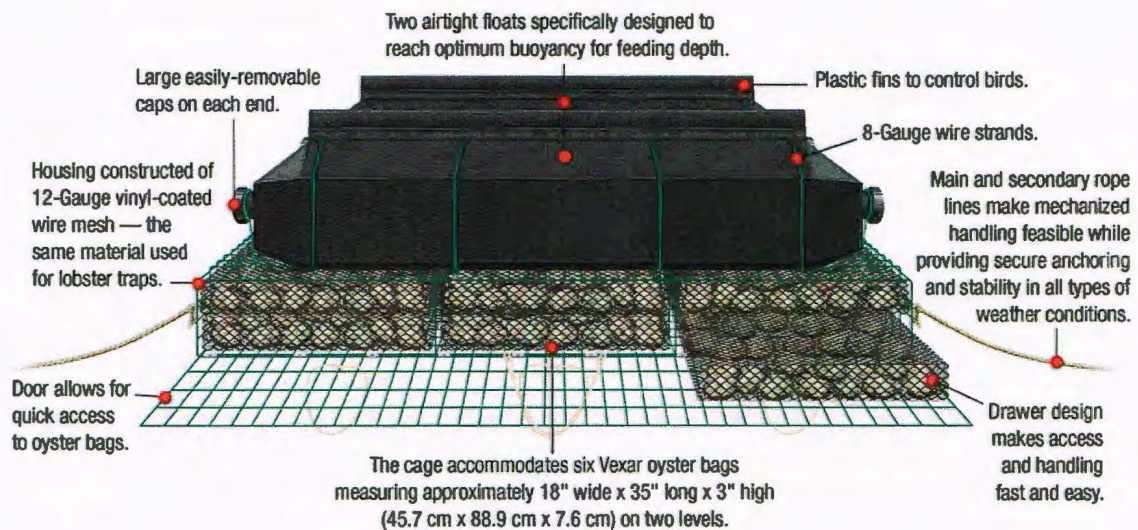
See descriptions of the OysterGro system and diagrams below:

Float Dimensions: 58"x 11"x 8"

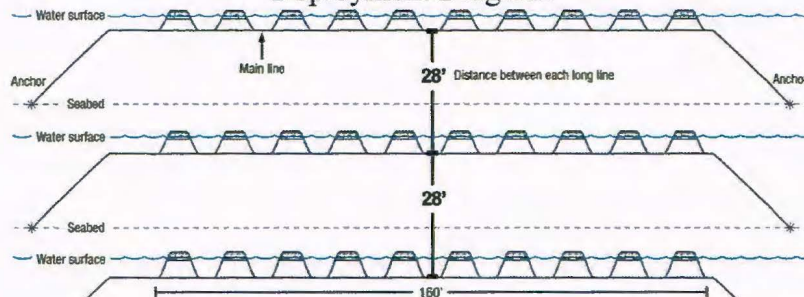
Cage Dimensions: 68"x 40"x 9"

Bag Dimensions: 18"x 35" x 3"

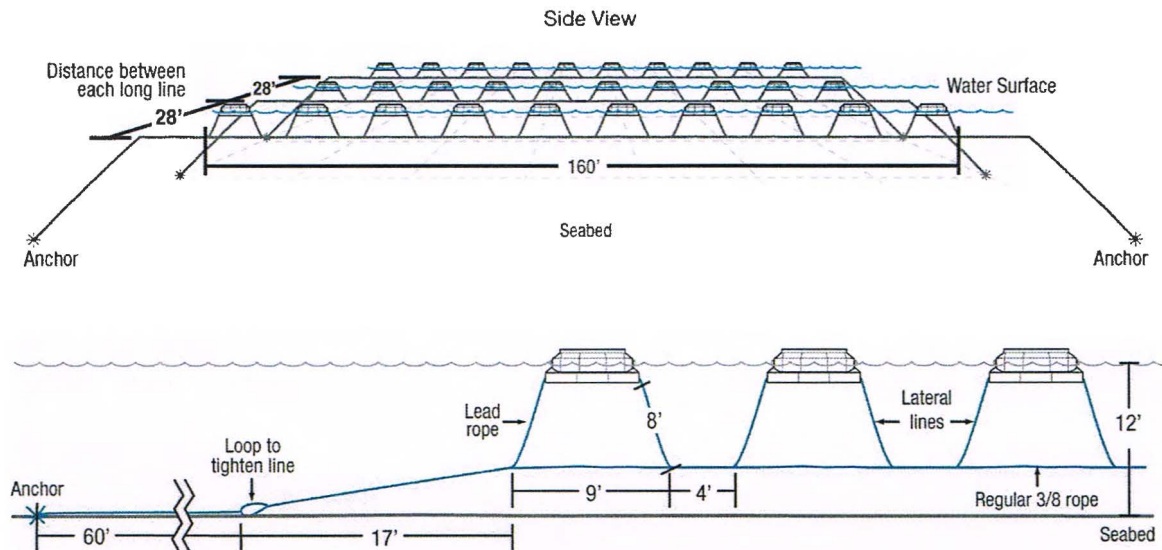
### Cage Description



### Deployment Diagram



A typical long line consists of one individual row of 10 to 12 OysterGro Units. The units are linked together with 3/8" ropes. Proper anchorage is necessary to hold the units to the seabed. The long lines are usually around 160 feet.



The shellfish seed will be introduced in June and monitored for growth until the end of October. They will be graded and transferred to clean larger mesh bags as they grow. The maximum density for a market size oyster using this system is 1,200 three inch oysters per cage or 200 per bag.

The cages will have to be cleaned on a regular basis to prevent bio-fouling organisms becoming a dominant presence. This will be done by either manual scrubbing or pressure-washing. In the winter, this system is will be submerged so that the cages sit on the bottom of the lease protected from ice and winter storm events. The cage system will be raised and re-suspended the following spring.