



PUBLIC NOTICE

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

Comment Period Begins: May 23, 2017
Comment Period Ends: June 26, 2017
File Number: NAE-2016-232
In Reply Refer To: Christine Jacek
Phone: (978) 318-8026
E-mail: Christine.M.Jacek@usace.army.mil

The District Engineer has received a permit application to conduct work in waters of the United States from John Fennelly. This work is proposed in Buzzards Bay, a quarter mile East of Gooseberry Neck, Westport, Massachusetts. The site is located in the east central area of the Town of Westport approved aquaculture zone. 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	29	40.78	71	1	39.58
41	29	42.18	71	1	29.48
41	29	28.23	71	1	26.06
41	29	26.54	71	1	35.94

The proposed project involves work and structures below the mean high tide line of waters of the United States in order to create a submerged longline oyster farm located on a 25 acre lease site. The farm will consist of a suspended longline system that will hold oyster cages in the middle of the water column. The average water depth at the site is 21 feet (ft.) at mean low tide.

The submerged longlines would consist of a large rope between two bottom anchors that will be suspended off the bottom substrate with floatation buoys. Cages would be hung from the line in the middle of the water column. The site would have 32, 1 inch diameter longlines, each 726 ft. long, stretching north to south across the lease site.

Each end of the longlines would be anchored with a 12 ft. helix anchor equipped with a 2 ft. wide corkscrew into the seafloor. Installation would temporarily impact 100 square feet (SF) for about one hour while the anchor is being set. After the anchor is set, the anchor would have a footprint of 3.14 square feet (sq. ft.). A total of 48 anchors for the farm would have a permanent impact of 151 sq. ft.

Once suspended, each longline would be floated 15 ft. off the bottom creating a horizontal section of line that is 686 ft. long. The horizontal section would be maintained at a depth of 5 ft. by 5 surface buoys and 90 subsurface buoys that will be located 3 ft. below the water surface on the lines. The surface buoys would be the only visible part of the farm. Each line would have 5 surface buoys, for a total of 160 surface buoys for the farm. Metal radar reflectors attached to yellow surface buoys would mark the site corners. The radar reflectors would also have a flashing light to be seen in the dark and fog conditions.

The cages are 1 inch rubber coated wire mesh with dimensions of 2 ft. by 2 ft. by 4 ft. high. The cages would be placed 7 ft. apart on the main line with a maximum of 100 cages per line. At completion there will be 3,200 total cages. Cages will be maintained at a distance of no less than 9 ft. off the sea floor. All of the gear will be marked with the business name and permit number.

The farm would be serviced weekly by a 45 ft. workboat. Typical operation would occur between 8am and 5pm year round. The boat is equipped with a crane and hydraulics that lift a portion of a line to the surface allowing the cages to be maintained. During the spring and summer, empty cages will be filled with small oysters. As the oysters grow, the cages will be sorted and graded. Fouling organisms will be removed from the gear and oysters. Full size oysters will be harvested and brought to market.

The work is shown on the attached plans entitled, "J. Fennelly Aquaculture" on 5 sheets, and dated February 2016.

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 25 acres of EFH for Atlantic cod, haddock, red hake, winter flounder, yellowtail flounder, windowpane flounder, American plaice, ocean pout, Atlantic sea herring, bluefish, Atlantic butterfish, Atlantic mackerel, summer flounder, scup, black sea bass, king mackerel, Spanish mackerel, cobia, bluefin tuna, sand tiger shark, blue shark, dusky shark, shortfin mako shark, sandbar shark, short finned squid, long finned squid, and surf clam. 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 effects 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.

NATIONAL HISTORIC PRESERVATION ACT

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.

COASTAL ZONE MANAGEMENT

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.
- ☐ () Permit from Local Wetland Agency or Conservation Commission.
- ☐ () Water Quality Certification in accordance with Section 401 of the Clean Water Act.

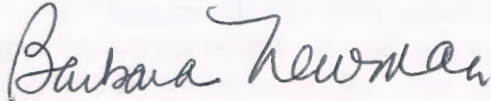
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FILE NO. NAE-2016-232

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 Christine Jacek at (978) 318-8026, (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.



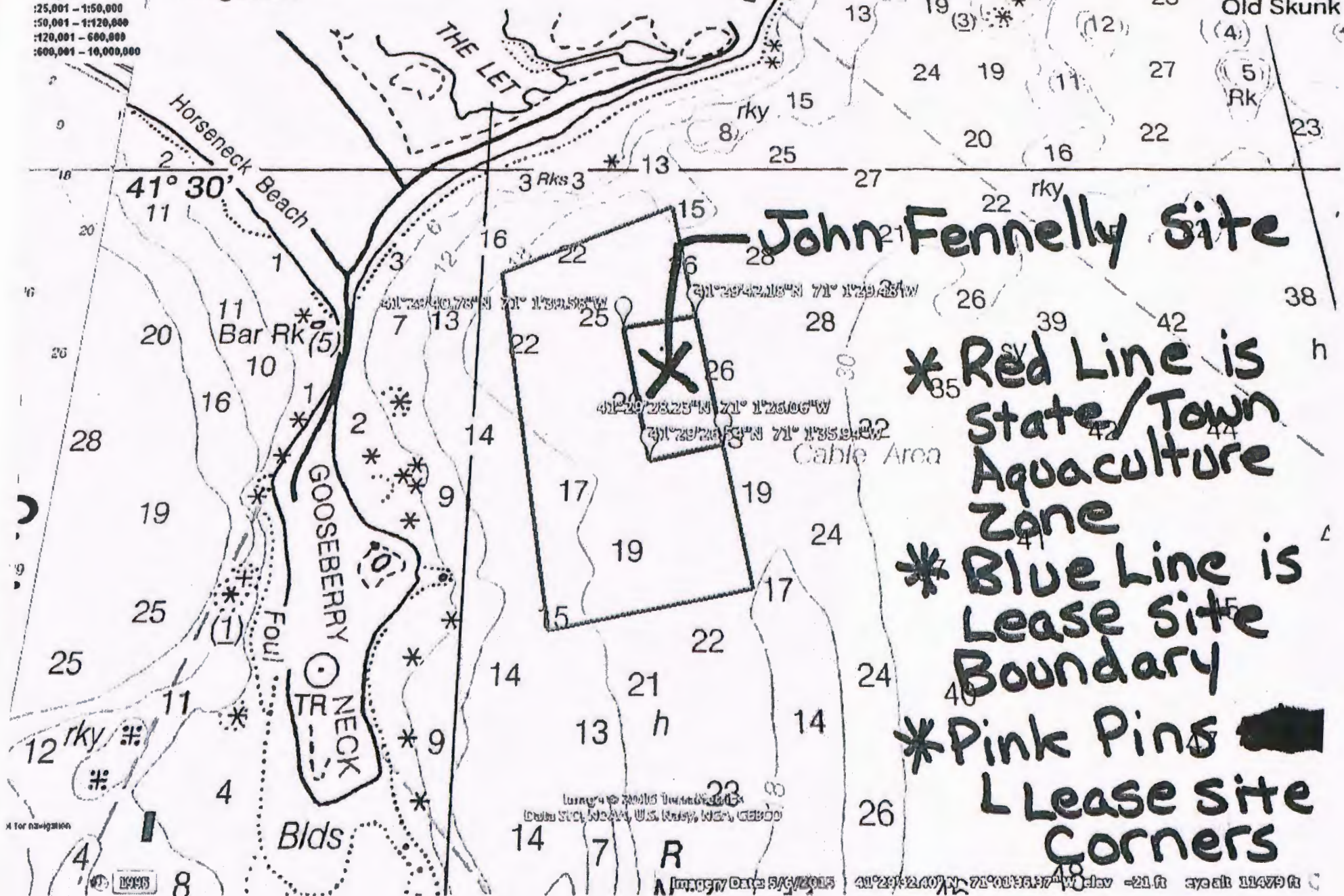
Barbara Newman
Chief, Permits & Enforcement Branch
Regulatory Division

If you would prefer not to continue receiving Public Notices by email, 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: _____
PHONE: _____

1 Scale Ranges
 1:25,000
 1:25,001 - 1:50,000
 1:50,001 - 1:120,000
 1:120,001 - 600,000
 600,001 - 10,000,000

Consult U.S. Coast Guard Light List for supplemental information concerning aids to navigation.



int Scale Ranges
 < 1:25,000
 1:25,001 - 1:50,000
 1:50,001 - 1:120,000
 1:120,001 - 600,000
 1:600,001 - 10,000,000

Legend

26 * Pink Line
 L 1 Set
 * Blue Pin
 L Screw
 Anchor
 28

1 Line
 726'

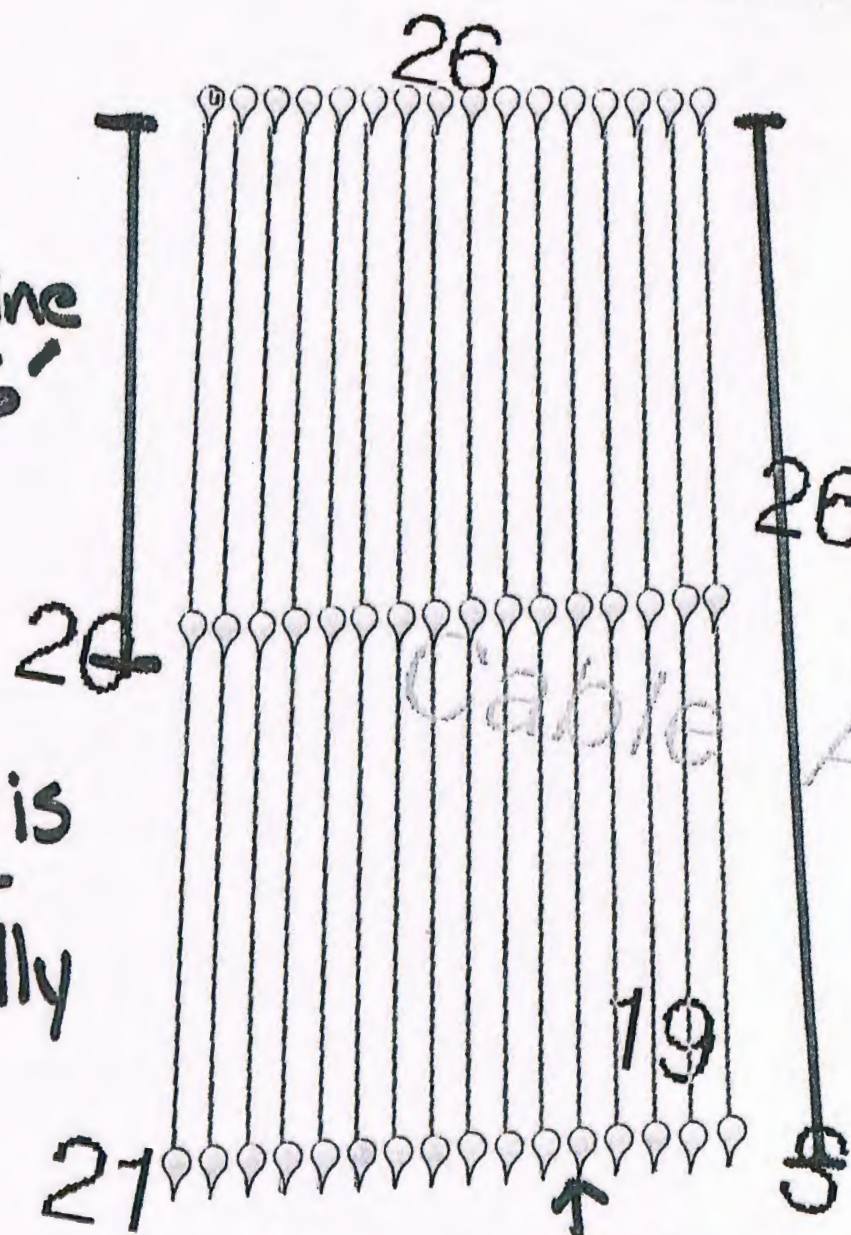
26
 1 Set
 1,452'

* Each Set is
 50' Apart
 Horizontally

28
 16 Sets
 48 Anchor.

Helix
 Screw
 Anchor

Imagery Date: 5/6/2015 41°29'31.5"N 71°00'21.42"W elev -21 ft. 37601 24001
 J. Fennelly August 2015



17

ROPE
BRIDLE

Top

Compartments
For
Oysters

4'

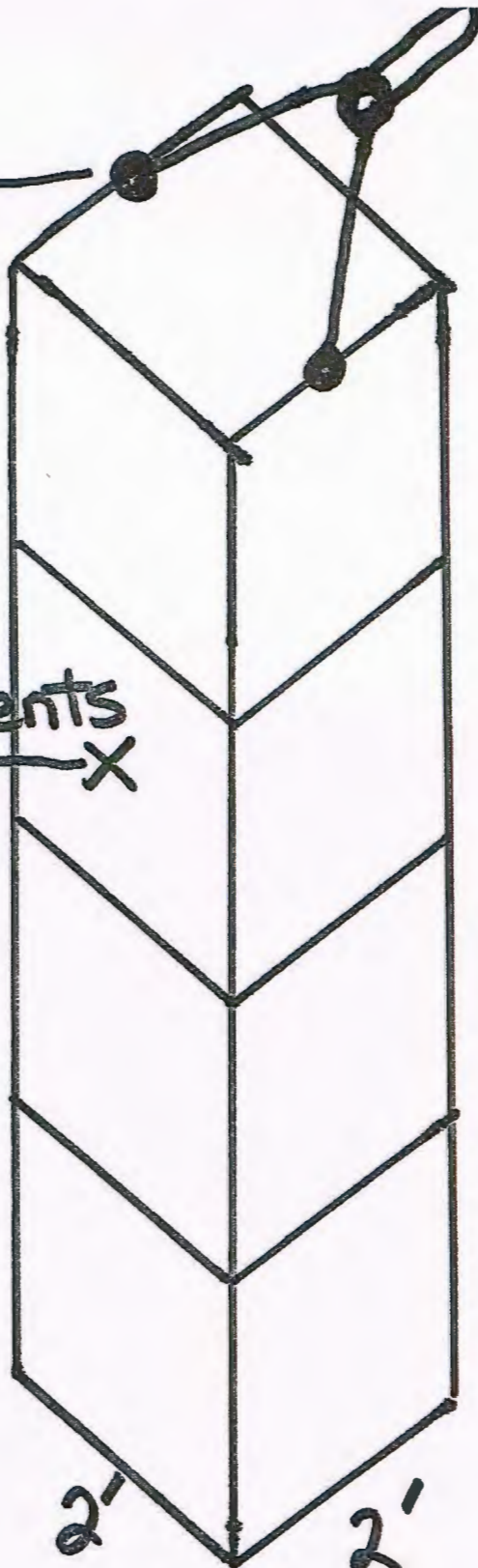
Bottom

2'

2'

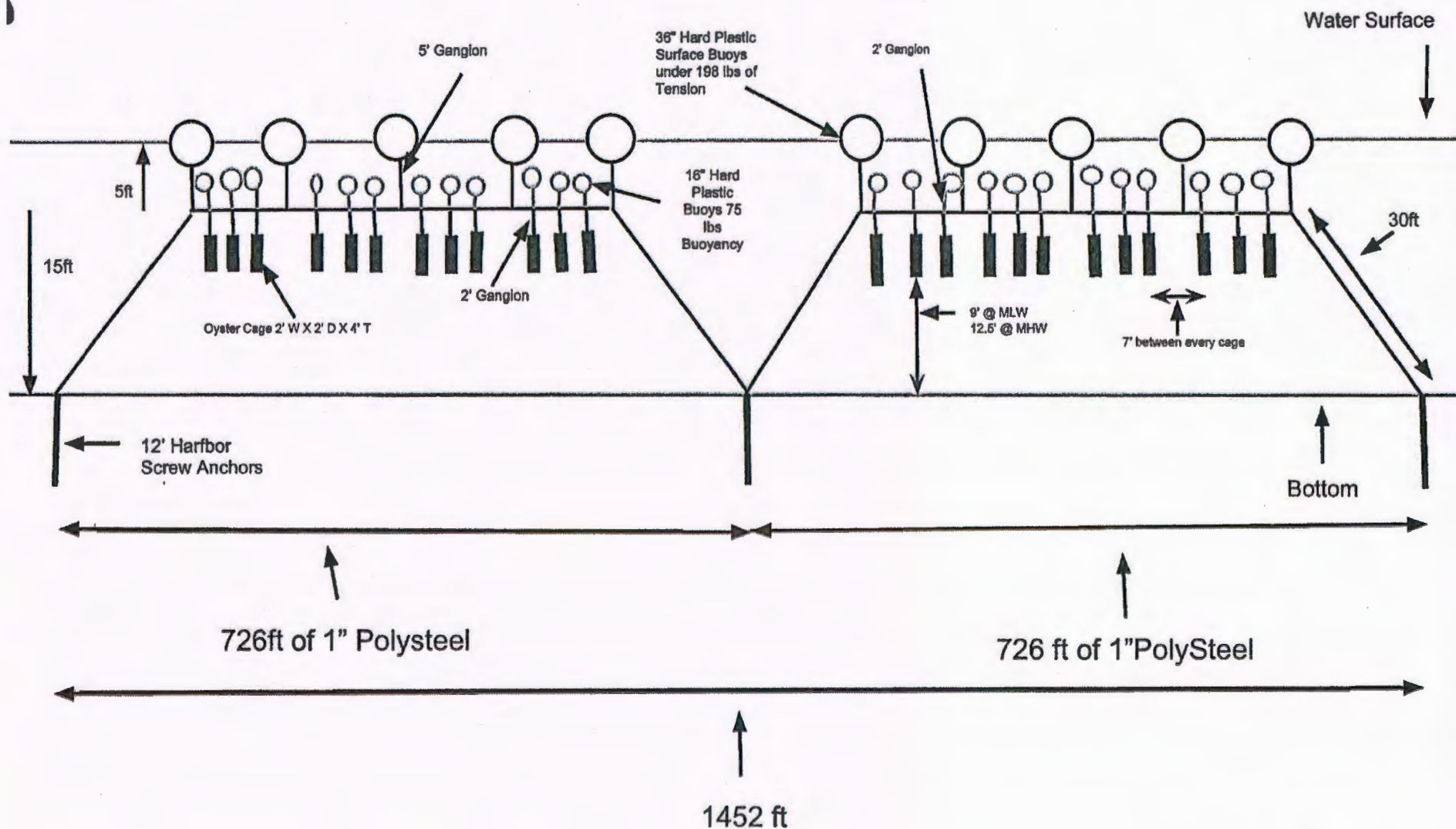
Oyster Cage

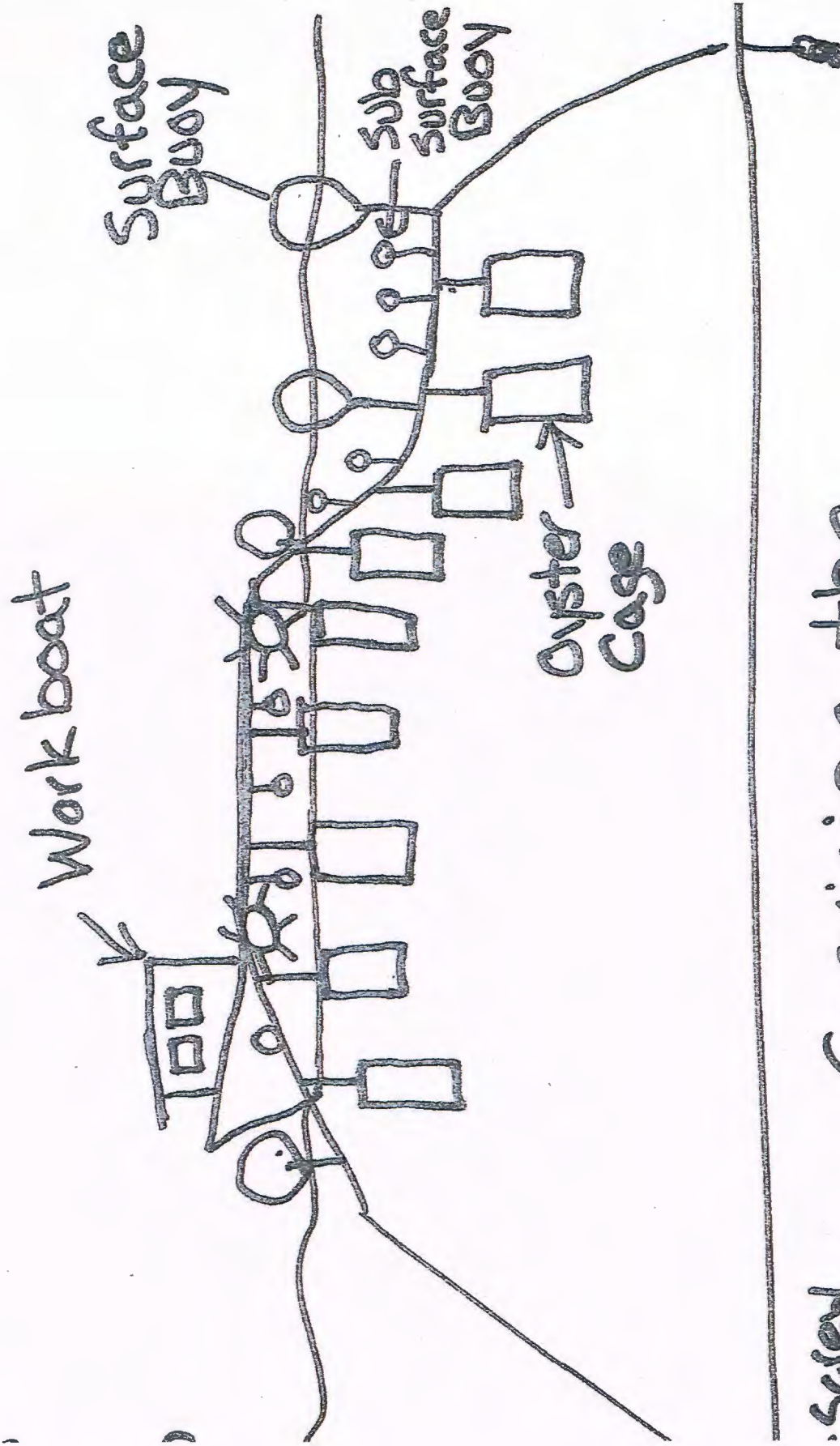
J. Fennelly Aquaculture
February 2016



Depths Given are
for Mean Low
Water
Typical Tidal
Fluctuation 3.5'

Gooseberry Oyster Farm Longline Set Westport, MA





School Anchor Servicing the Survival Lines