Joint Public Notice

U.S. Army Corps of Engineers Baltimore District

In Reply to Application Number CENAB-OP-RMN (MDNR /Fisheries Service/Man O'War Shoal Shell Dredging) 2009-61802-M04 Maryland Tidal Wetlands License # 15-WL-0757

PN 15-89 **COMMENT PERIOD: December 22, 2015 to February 18, 2016**

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC ABOUT THE WORK DESCRIBED BELOW AND TO ANNOUNCE THE DATES OF **TWO** CORPS/MARYLAND DEPARTMENT OF THE ENVIRONMENT PUBLIC HEARINGS ON THE SUBJECT APPLICATION. AT THIS TIME, NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT AUTHORIZATIONS WILL BE ISSUED. THE CORPS/MDE PUBLIC HEARINGS WILL BE HELD:

Tuesday, January 26, 2016
6:00 pm to 7:00 pm Poster Session
7:00 pm Public Hearing
Sparrows Point High School Auditorium
7400 North Point Road
Edgemere, Maryland 21219
Inclement Weather Date: Tuesday, February 2, 2016

Wednesday, January 27, 2016
6:00 pm to 7:00 pm Poster Session
7:00 pm Public Hearing
Governor Hall at Sailwinds Park
200 Byrne Street
Cambridge, Maryland 21613
Inclement Weather Date: Wednesday, February 3, 2016

The US Army Corps of Engineers, Baltimore District (Corps) and the Maryland Department of the Environment (MDE) public hearings provide members of the public the opportunity to present views, opinions, and information which will be considered by the Corps and MDE in evaluating the permit application. The purpose of the hearing is for the Corps and MDE to receive oral or written comments that will enable them to evaluate the impacts of the proposed project on the public interest. All interested parties, including representatives of Federal, State, and local governments, and private individuals and organizations, are invited to be present or be represented. Each will be given an opportunity to express their views regarding the proposed project.

Prior to each public hearing, a poster session/display will be available from 6:00 PM to 7:00 PM where project drawings can be reviewed. The applicant and Corps/MDE

representatives will also be available to answer questions. At 7:00 PM, the formal public hearing will begin with agency statements, followed by a brief statement by the applicant, the Maryland Department of Natural Resources (MDNR), followed by public testimony. Please note that a time limit of three minutes per speaker may be set, depending on the number of speakers, to ensure that all interested parties have an opportunity to voice their views. The public hearings will be recorded and transcribed.

Anyone who is hearing impaired and/or is non-English speaking who wishes to attend a specific public meeting/hearing should notify Ms. Abbie Hopkins at the address/telephone number listed near the end of this public notice. All requests for an oral, sign language, or non-English language interpreter must be received by January 11, 2016. To the extent possible and feasible, an interpreter will be provided.

The Corps has received an application for a Department of the Army Permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (33 U.S.C. 1344), to dredge five million bushels of oyster shell from the Man O'War Shoal in the Chesapeake Bay to be used for the restoration of oyster populations and oyster fisheries in the Bay. MDE has also received the same application from MDNR for a Tidal Wetlands License to be authorized by the Maryland Board of Public Works pursuant to Title 16 of the Environment Article, Annotated Code of Maryland.

APPLICANT: Maryland Department of Natural Resources, Fisheries Service
Chesapeake Shellfish Program
Tawes State Office Building, B-2
580 Taylor Avenue
Annapolis, Maryland 21401-2397

LOCATION: The Man O'War Shoal, site of the proposed oyster shell dredging, is located north of the Chesapeake Bay Bridge in the Chesapeake Bay near the mouth of the Patapsco River, Baltimore County, Maryland. The dredged oyster shell is to be planted throughout Maryland's portion of the Chesapeake Bay and its tributaries.

PURPOSE: The purpose of this project is to obtain oyster shell that is to be used to restore oyster populations and oyster fisheries in the Bay. The shell will be used to make improvements to existing oyster bars to enhance natural recruitment; to provide a foundation for hatchery-spawned seed oysters which encourages reestablishment of an abundant, self-sustaining oyster population; to provide substrate for leased bottom in support of aquaculture (oyster farming); and to provide substrate necessary to sustain oyster fisheries. The dredged oyster shell will be placed to provide substrate at sanctuary bars or other non-harvest bars, aquaculture sites, harvest reserves, and open harvest areas.

PROPOSED WORK: MDNR's request is for a five-year permit to hydraulically dredge 2 to 5 million bushels (120,000 to 300,000 cubic yards) of oyster shell as part of a comprehensive research and development effort to monitor and assess the ecological

consequences of removing shell from the shoal. MDNR may propose to ultimately remove approximately 30% of the available shell totaling approximately 30 million bushels (1.8 million cubic yards) from the Man O'War Shoal to be used for the restoration of native oyster populations and oyster fisheries. If monitoring results of the five-year test dredging show no adverse effects, MDNR will submit a joint permit application no sooner than Year 5 of the permit to continue the dredging of the shoal until the maximum 30 million bushels (1.8 million cubic yards) of shell have been removed. The evaluation of any subsequent application will be subject to the same review process undertaken for this application, which includes a public notice and public interest review. No compensatory mitigation for aquatic impacts is proposed for this application.

The dredging is to be performed as "cuts" along the shoal's periphery. Hydraulic dredging is the proposed method to obtain the shell. This involves using a cutterhead to dislodge sediment and shells from the bottom, which is then pumped through a pipe up to the dredging vessel and into a shell washer. The washing process separates shells from "fines" (shells and shell pieces less than 1" in size). The whole shells exit the washer to a barge adjacent to the dredge, and the "fines" exit to a barge on the other side of the dredge. The wash water with sediment and small bits of shells not retained as fines are discharged through a pipe at the stern of the dredge which an underwater apparatus directs downward into the cut. The sediment and shell bits backfill the cut with about 10 to 15 feet fill, and the lighter silt particles create a large plume in the Bay in the direction of the tidal flow. Maps and details of the selected dredge cut locations will be submitted to the Corps and MDE for approval prior to starting the work. The estimated number of necessary dredge cuts is nine which will impact approximately 20.7 acres of the total 214-acre shoal. Each cut will be no wider than 500 feet and will extend no more than 1/3 of the distance through the shoal, which equates to an average of 200 feet each. The cut depth depends on the thickness of shell at the cut's location but it is expected to be approximately 30 feet deep. There will be a minimum shell layer thickness of 2 feet left intact at the bottom of each dredge cut. This is illustrated on the attached plan, "Attachment 2".

The proposed work is scheduled to proceed as follows over the five-year term limits of the Corps and MDE permits:

- Year 1 – Data is to be collected seasonally on water quality, oyster populations, and fish and benthic communities at one to three proposed dredging sites and two reference shoal locations.

- Year 2 – Approximately 2 million bushels of shell will be removed by hydraulically dredging one to three locations along the shoal's perimeter. Water quality will be monitored during the dredging operation. In addition, monitoring of water quality, oyster populations, and fish and benthic communities will be performed seasonally in the dredged cut(s) and in two undisturbed reference sites at the shoal.

- Year 3 - Monitoring of water quality, oyster populations, and fish and benthic communities will continue seasonally in the dredge cut(s) and in two undisturbed

reference sites at the shoal.

- Year 4 – Results of the monitoring program will be analyzed and a report will be prepared by the end of Year 4.

- Year 5 – If the report's findings indicate that Year 2's "test dredge" has produced no adverse effects, an additional 3 million bushels of shell will be dredged using peripheral cuts.

The full MDNR permit application can be found at:
http://dnr2.maryland.gov/fisheries/Pages/oysters/permit-applications.aspx

The sites where the dredged shell is to be potentially planted are all charted natural and historic oyster bars, as authorized by current permits, #2008-00512 and #2012-61332, and mapped on the legal oyster bar charts maintained by MDNR, and possibly aquaculture sites in the Chesapeake Bay and its tributaries. These charted bars are illustrated on the attached "Attachment 1" plan. A permit application must be submitted for any new proposed planting site that has not been authorized and will be subject to a full public interest review as part of the permit evaluation. The planting of existing charted oyster bars could result in some expansion of their existing footprints resulting in the conversion of soft-bottom to hard-bottom habitat. Some of the dredged shell may be taken to on-land (upland) shell stockpile sites via tugboat and barge, to be planted in the Bay at a future date.

REVIEW PROCESS: By this public notice, the Corps and MDE are 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 and MDE to determine whether to issue, modify, condition or deny a permit or license for this proposal. To make these decisions, comments are used to assess impacts on navigation, endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed below. 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 overall public interest of the proposed activity.

All work is to be completed in accordance with the attached plans and work description.

WRITTEN COMMENTS: Written comments and information provided by interested parties must be received by the Corps and MDE by the closing date of this notice's comment period, **February 18, 2016,** to receive consideration. If you have any questions, or would like to submit written comments, please contact or write to:

Ms. Abbie Hopkins
ATTN: CENAB-OPR-M
Baltimore District, Corps of Engineers
P.O. Box 1715
Baltimore, MD 21203-1715
Phone: 410-962-6080
Email: abbie.hopkins@usace.army.mil

Questions or comments pertaining to the State's Tidal Wetlands License should be directed to:

Mr. Justin Bereznak
Tidal Wetlands Division
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Blvd., Ste. 430
Baltimore, MD 21230-1708
Phone: 410-537-3782
Email: justin.bereznak@maryland.gov

The decision whether to authorize this project will be based on an evaluation of probable impacts including cumulative impacts 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 reasonably may be expected to 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 values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and, in general, the needs and welfare of the people.

The evaluation of the impact of the work described above on the public interest will include application of the Clean Water Act Section 404(b)(1) Guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act.

SECTION 401 WATER QUALITY CERTIFICATION: The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act from the MDE, the 401 certifying agency. Any written comments concerning the work described above which relate to water quality certification must be received by the Tidal Wetlands Division, Wetlands and Waterways Program, Maryland Department of the Environment, Montgomery Park Business Center, 1800 Washington Boulevard, Suite 430, Baltimore, Maryland 21230-1708 within the comment period as specified above to receive consideration. MDE has a statutory limit of one year from the date of this public

notice to make its decision.

COASTAL ZONE MANAGEMENT PROGRAM: The applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with Maryland's federally-approved Coastal Zone Management Program (CZMP) as required by Section 307 of the Federal Coastal Zone Management Act of 1972. By this public notice the Corps is requesting MDE's concurrence or objection to the applicant's consistency certification statement. Public comments relating to consistency must be received by the Coastal Zone Division, MDE, Montgomery Park Business Center, 1800 Washington Blvd., Suite 430, Baltimore, Maryland, 21230-1708, within the comment period as specified above. It should be noted that MDE's CZMP has a statutory limit of six months from the date of this public notice in which to make its consistency determination.

The applicant must obtain any additional State and local government permits which are required.

A preliminary review of this application indicates that the proposed work will not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this proposal continues, additional information may become available which could modify this preliminary determination.

The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267), requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH).

Review of the latest published version of the National Register of Historic Places indicates that no registered properties listed as eligible for inclusion therein are located at the site of the proposed work. Currently unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by the work to be accomplished under the requested permit. As the evaluation of this proposal continues, additional information may become available which could modify this preliminary determination.

It is requested that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.

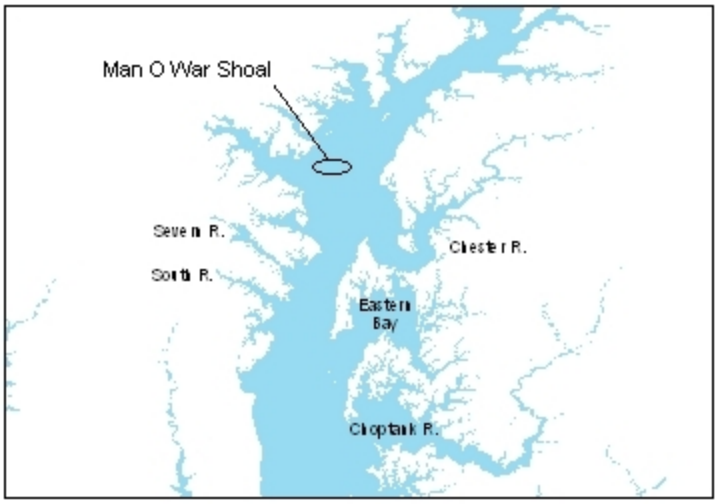
Maryland Department of Natural Resources

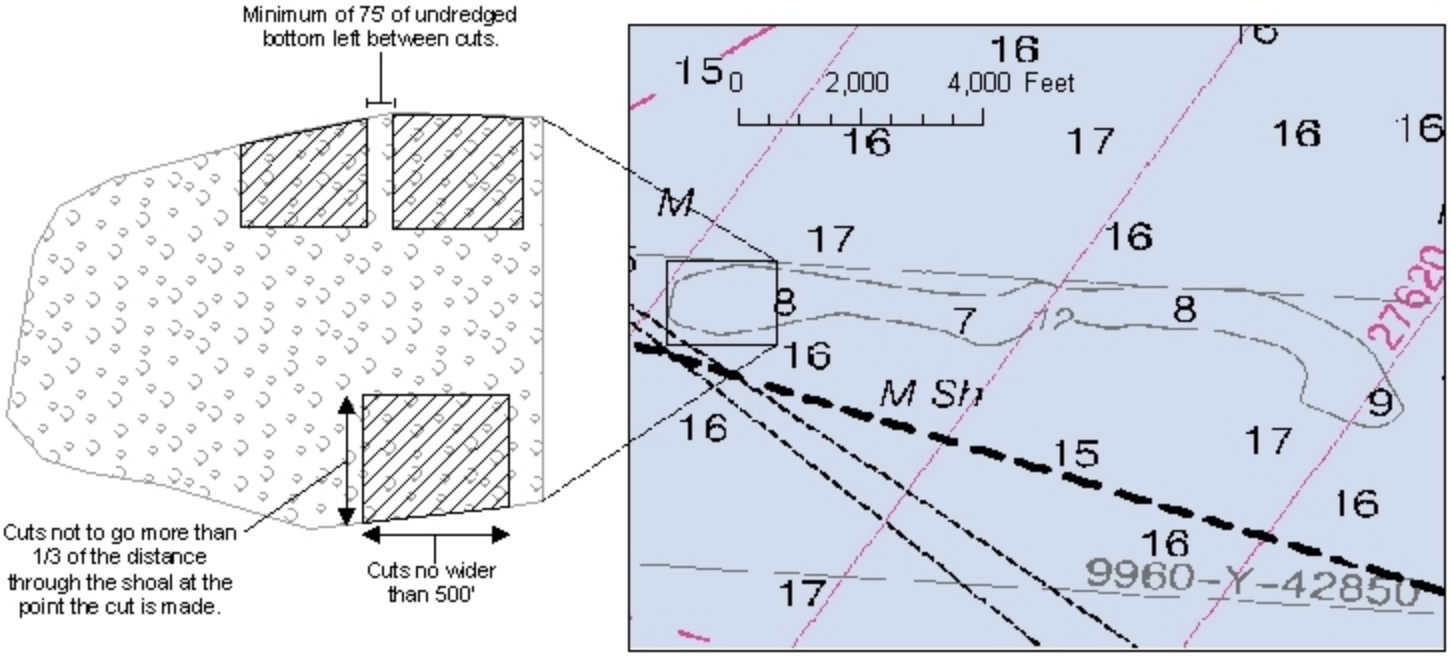
Attachment 2

Man O War Shoal Shell Dredging Permit Application Dredge Cut Diagram

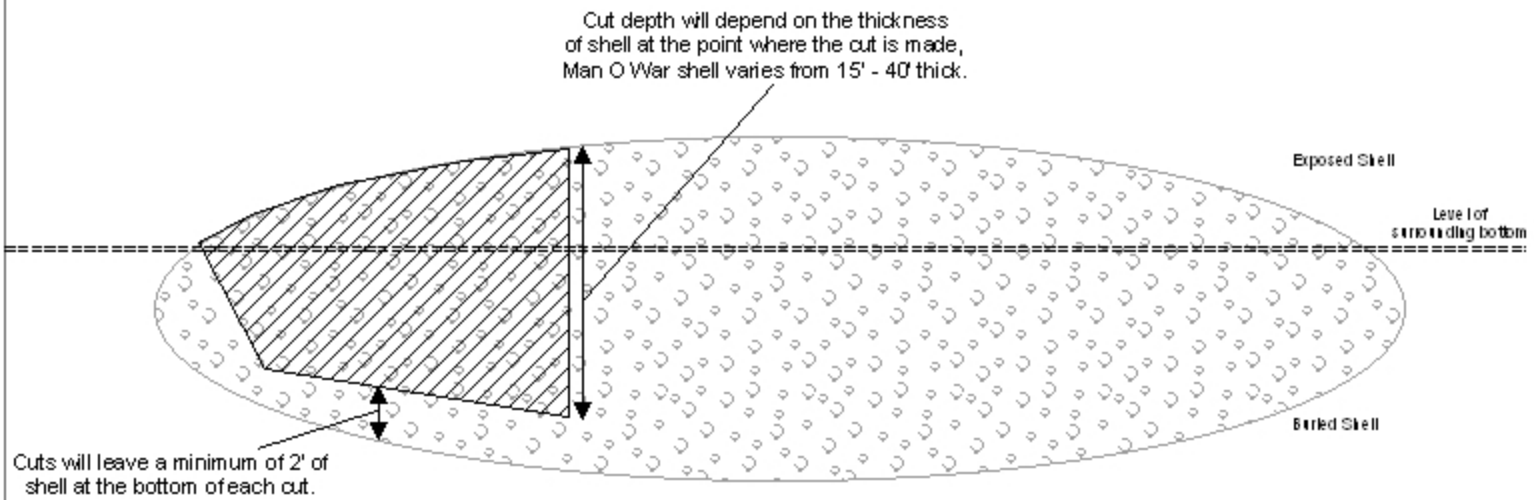
November 2009

Areas shown are only possible cut sites. Actual cut locations will be determined by surveys conducted during the year one monitoring phase of the program.





Top View



Side View

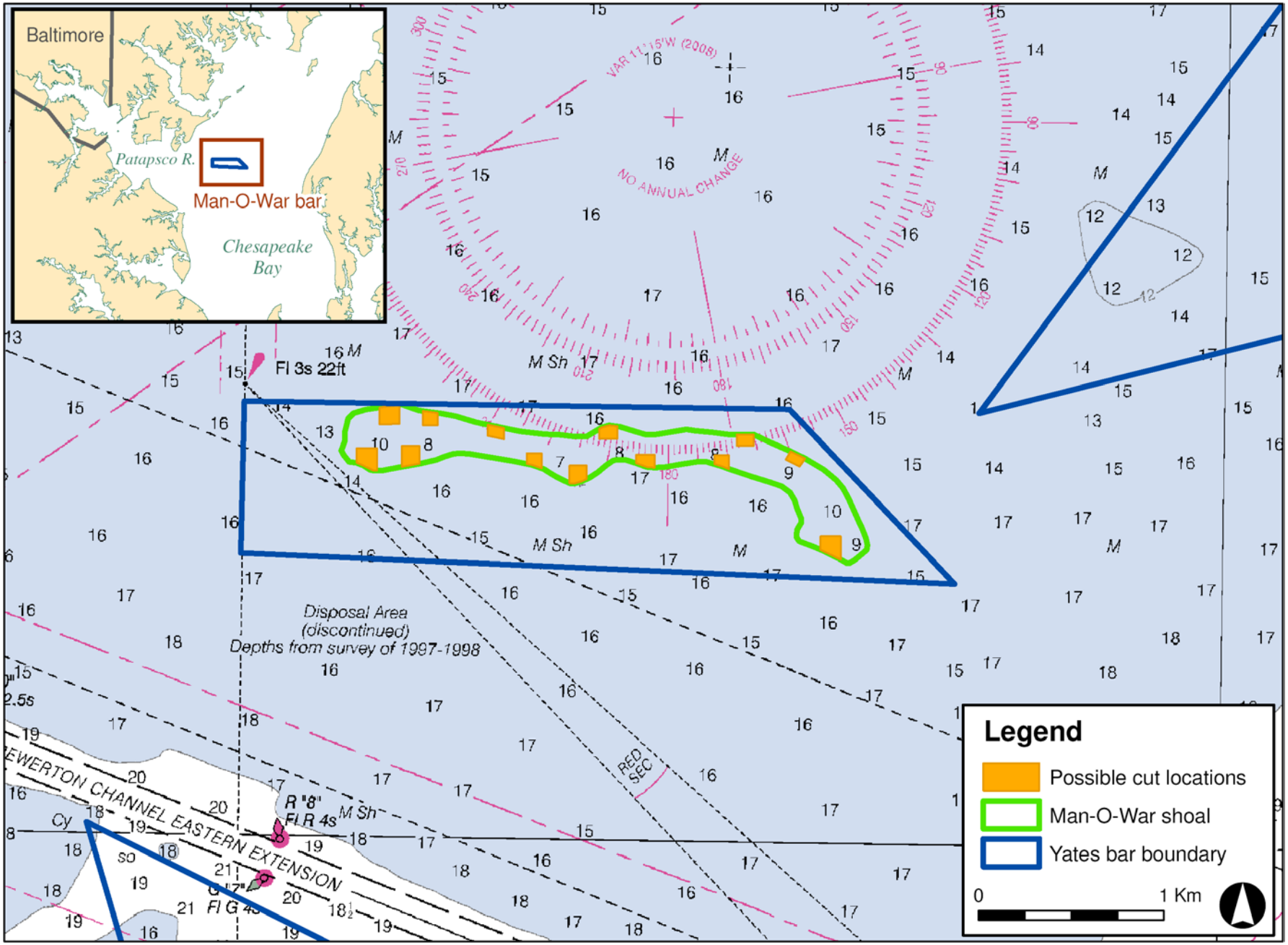
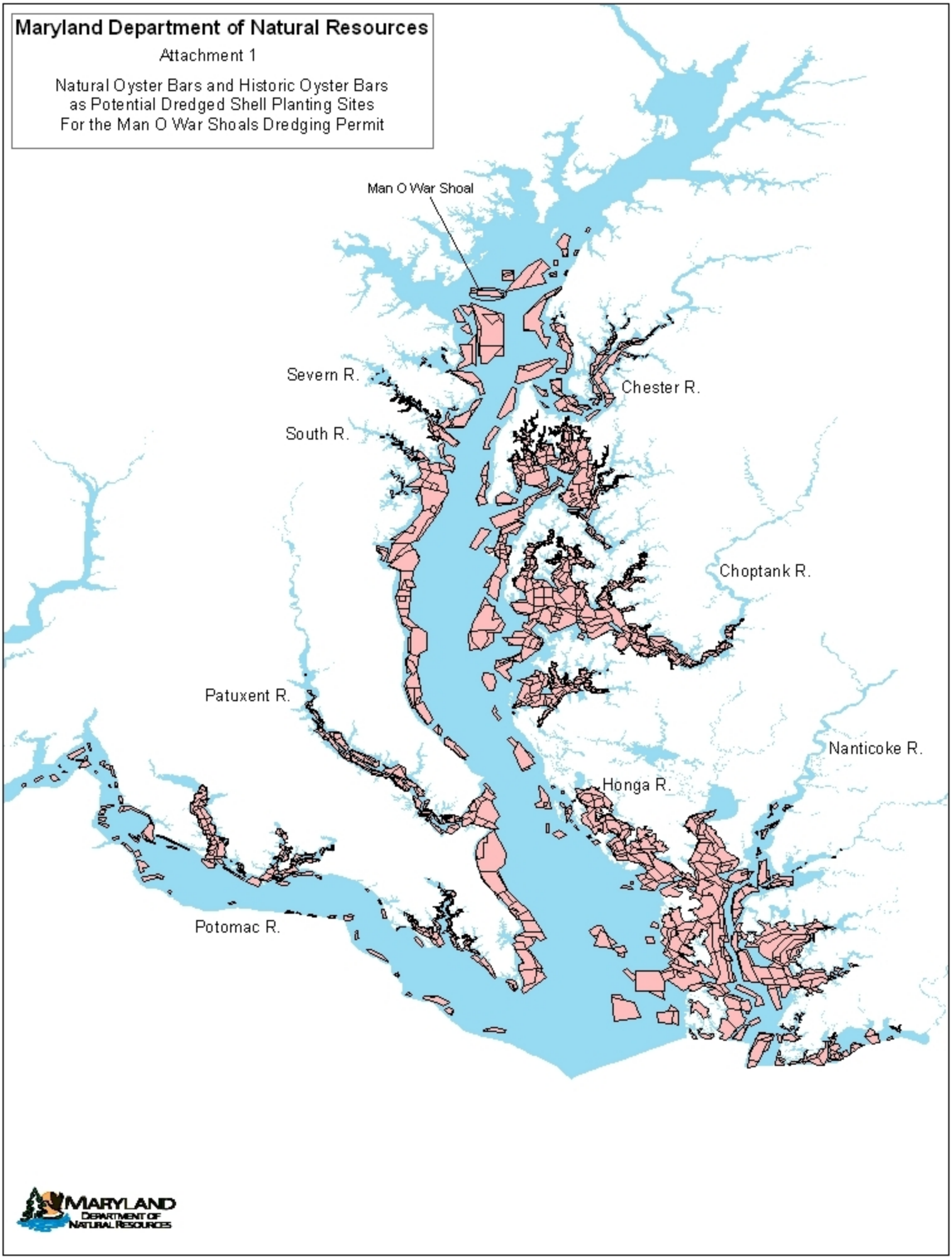


Figure 1. The location and general shape of Man-O-War shoal. Dark lines indicate the boundaries of oyster bars mapped by Yates (1911). Yellow rectangles within the outline of the shoal illustrate the types of cuts anticipated as shell is removed by dredging along the perimeter.


Maryland Department of Natural Resources
Attachment 1
Natural Oyster Bars and Historic Oyster Bars
as Potential Dredged Shell Planting Sites
For the Man O War Shoals Dredging Permit
Man O War Shoal
Severn R.
South R.
Chester R.
Choptank R.
Patuxent R.
Nanticoke R.
Honga R.
Potomac R.
MARYLAND
DEPARTMENT OF
NATURAL RESOURCES