



# PUBLIC NOTICE

US Army Corps  
of Engineers

New York District

Jacob K. Javits Federal Building

New York, N.Y. 10278-0090

ATTN: Regulatory Branch

**In replying refer to:**

**Public Notice Number:** NAN-2012-00092-EYO

**Issue Date:** 16 MAR 2012

**Expiration Date:** 16 APR 2012

To Whom It May Concern:

The New York District, Corps of Engineers has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

PERMIT APPLICANT: Urban Assembly New York Harbor School  
10 South Street Slip 7  
New York, NY 10004

ACTIVITY: To construct seasonal floating and fixed structure for aquaculture purposes.

WATERWAY: Wallabout Basin, Off Of Wallabout Federal Navigation Channel, Off Of The East River

LOCATION: Foot of Morton Street, Brooklyn Navy Yard, Borough of Brooklyn, Kings County, New York.

A detailed description and plans of the applicant's activity are enclosed to assist in your review. The decision whether to issue a permit will be based on an evaluation of the probable impact 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, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership 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 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.

ALL COMMENTS REGARDING THE PERMIT APPLICATION MUST BE PREPARED IN WRITING AND MAILED TO REACH THIS OFFICE BEFORE THE EXPIRATION DATE OF THIS NOTICE, otherwise, it will be presumed that there are no objections to the activity.

Any person may request, in writing, before this public notice expires, that a public hearing be held to collect information necessary to consider this application. Requests for public hearings shall state, with particularity, the reasons why a public hearing should be held. It should be noted that information submitted by mail is considered just as carefully in the permit decision process and bears the same weight as that furnished at a public hearing.

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Our preliminary determination is that the activity for which authorization is sought herein is not likely to affect any Federally endangered or threatened species or their critical habitat. However, pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the District Engineer is consulting with the appropriate Federal agency to determine the presence of and potential impacts to listed species in the project area or their critical habitat.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act (Public Law 104-267), requires all Federal agencies to consult with the National Oceanic and Atmospheric Administration Fisheries Service (NOAA/FS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed work, fully described in the attached work description, could cause the disruption of habitat for various lifestages of some EFH-designated species as a result of a temporary increase in turbidity during construction. However, the New York District has made the preliminary determination that the site-specific adverse effects are not likely to be substantial because it is expected that fish populations would avoid the small area of disturbance. Further consultation with NOAA/FS regarding EFH impacts and conservation recommendations being conducted and will be concluded prior to the final decision.

Based upon a review of the latest published version of the National Register of Historic Places, there are no known sites eligible for, or included in, the Register within the permit area. Presently unknown archeological, scientific, prehistorical, or historical data may be lost by work accomplished under the required permit.

Reviews of activities pursuant to Section 404 of the Clean Water Act will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 (b) of the Clean Water Act and the applicant will obtain a water quality certificate or waiver from the appropriate state agency in accordance with Section 401 of the Clean Water Act prior to a permit decision.

Pursuant to Section 307 (c) of the Coastal Zone Management Act of 1972 as amended [16 U.S.C. 1456 (c)], for activities under consideration that are located within the coastal zone of a state which has a federally approved coastal zone management program, the applicant has certified in the permit application that the activity complies with, and will be conducted in a manner that is consistent with, the approved state coastal zone management program. By this public notice, we are requesting the state's concurrence with, objection to, or waiver of the applicant's certification. No permit decision will be made until one of these actions occur. For activities within the coastal zone of New York State, the applicant's certification and accompanying information is available from the Consistency Coordinator, New York State Department of State, Division of Coastal Resources and Waterfront Revitalization, Coastal Zone Management Program, 41 State Street, Albany, New York 12231, Telephone (518) 474-6000. Comments regarding the applicant's certification, and copies of any letters to this office commenting upon this proposal, should be so addressed.

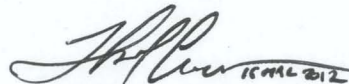
In addition to any required water quality certificate and coastal zone management program concurrence, the applicant has obtained or requested the following governmental authorization for the activity under consideration:

- New York State Department of Environmental Conservation

It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice. If you have any questions concerning this application, you may contact this office at (917) 790-8425 and ask for Larry C. Young.

In order for us to better serve you, please complete our Customer Service Survey located at: <http://www.nan.usace.army.mil/business/buslinks/regulat/index.php?survey>.

For more information on New York District Corps of Engineers programs, visit our website at <http://www.nan.usace.army.mil>

  
Richard L. Tomer  
Chief, Regulatory Branch

Enclosures



**WORK DESCRIPTION**

The permit applicant, Urban Assembly New York Harbor School, has requested a Department of the Army permit to construct regulated floating structures to support aquaculture in the Wallabout Basin, off of Wallabout Federal Navigation Channel, off the East River, at the foot of Morton Street in the Brooklyn Navy Yard in the Borough of Brooklyn, Kings County, New York, as shown in the enclosed permit application drawings.

The regulated construction of the aquaculture structure would involve seasonally (April 1<sup>st</sup> thru October 30<sup>th</sup>) constructing and occupying an approximately 0.028-acre area in the center of Wallabout Basin, thus preventing commercial navigation in this dead-end basin of the former U.S. Navy's Brooklyn Navy Yard. The permit applicant states that the many-part large floating structure would be removed seasonally so that it does not breakup because of winter weather and seas and become a source of drift and floating debris. The floating structure, if permitted, would be permanently removed from the waterway prior to October 30, 2015. The permit applicant reports the Wallabout Basin's existing water depths range from 10 feet to 14 feet measured from the datum elevation of Mean Low Lower Water, approximately the low-tide elevation and the bottom substrate to be predominately mud.

Approximately two hundred 2-foot-long by 2-foot-wide by 7-foot-high off-bottom high density polyethylene (*plastic*) growing cages, in vertical sets of seven, as shown on the enclosed permit application drawings, would be hung from a single six-hundred-foot-long three-strand-twisted one-inch-diameter polypropylene line. The six-hundred-foot-long floating structure would be retained in place by polypropylene anchor lines at each end which would extend farther outward from the six-hundred-foot-long floating structure. Each anchor line (two in total) would be secured by a 100-pound Danforth anchor and the applicant stated that no chain sweep is expected to occur. Each growing cage would contain seven (7) plastic growing trays measuring approximately 2 foot by 2 foot by 1 foot. Each growing cage would be supported by an individual 2-foot-diameter plastic float ball.

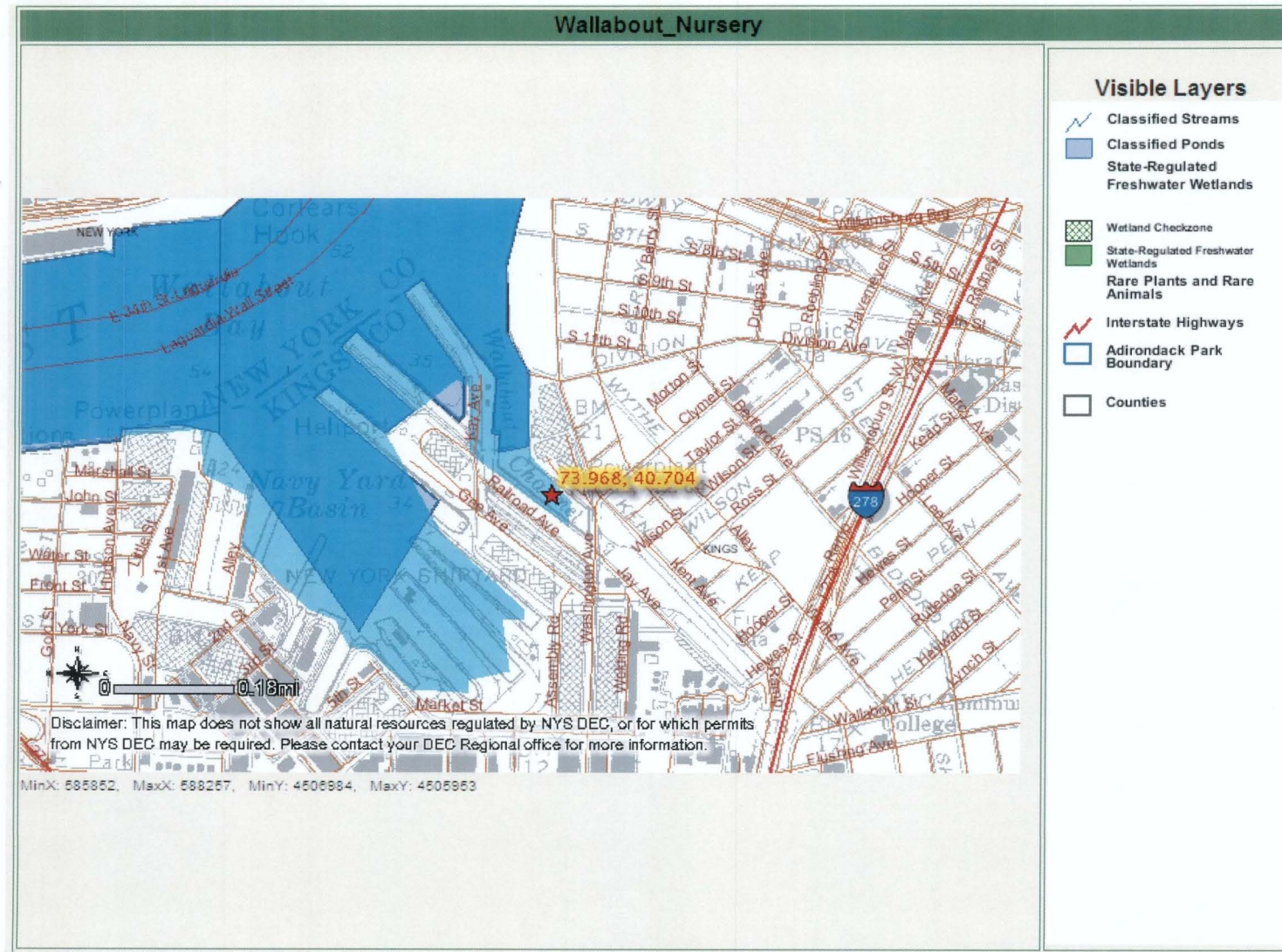
The permit applicant's stated purpose for this regulated construction is to grow approximately 2,000,000 eastern oysters (*Crassostrea Virginica*) for educational and research purposes. The permit applicant further states that they have avoided, minimized, and mitigated for impacts to the maximum extent practicable.

Should issuance of the requested Department of the Army permit be found not contrary to the public interest, the issued permit will be conditioned so that the permittee shall each year remove the permitted structure for the period November 1<sup>st</sup> thru March 30<sup>th</sup>, and permanently removed it, in total, prior to October 30<sup>th</sup>, 2015.



## URBAN ASSEMBLY NY HARBOR SCHOOL WALLABOUT BASIN OYSTER NURSERY

### APPENDIX 1: LOCATION MAP



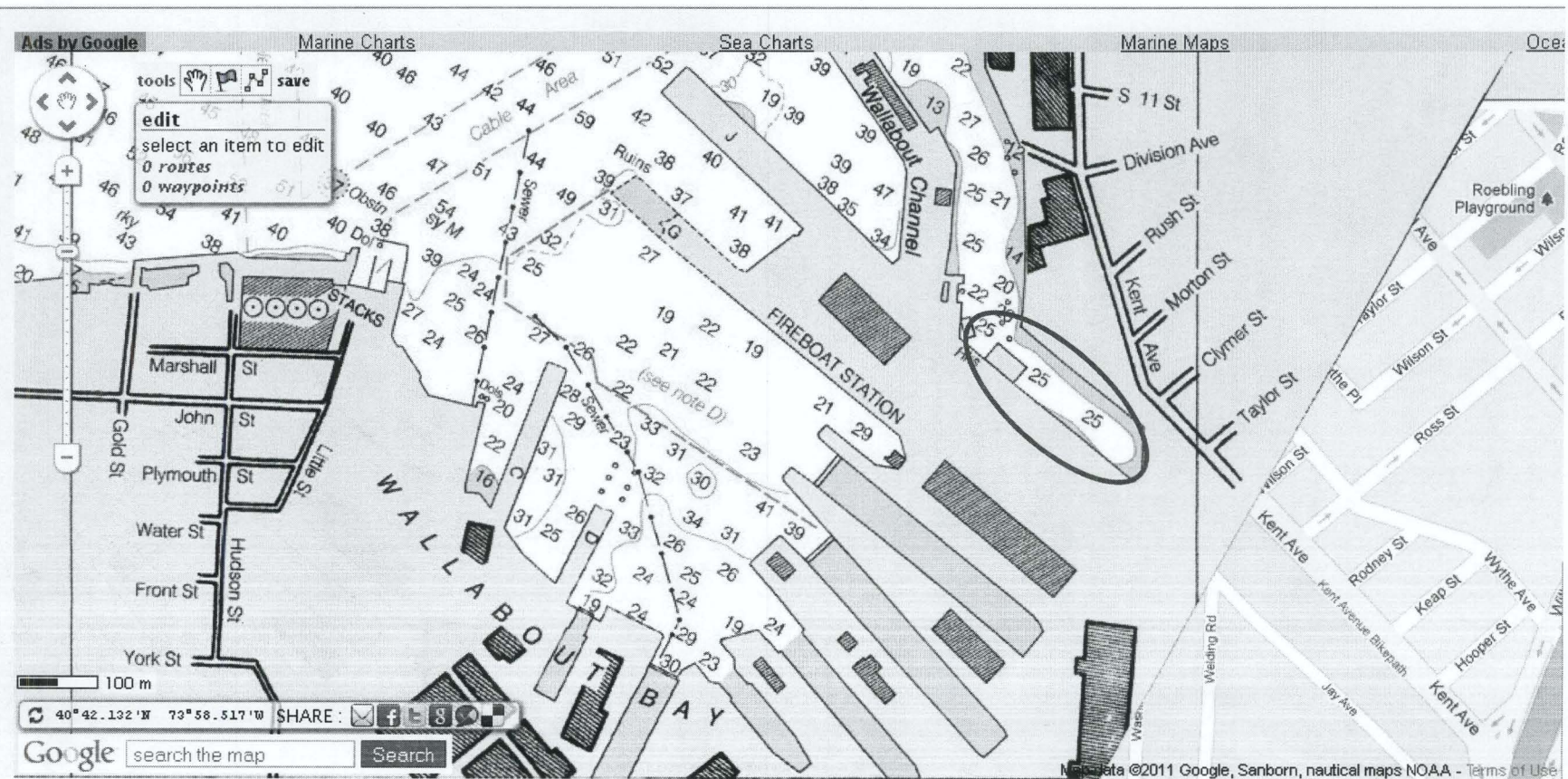
**FIGURE 1. Location of Proposed Wallabout Basin Oyster Nursery (Source: NYS DEC Environmental Resource Mapper, 2011)**

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NAUTICAL CHART SHOWING LOCATION OF PROPOSED PROJECT (Source: charts, NOAA map server, GeoGarage, 2011)



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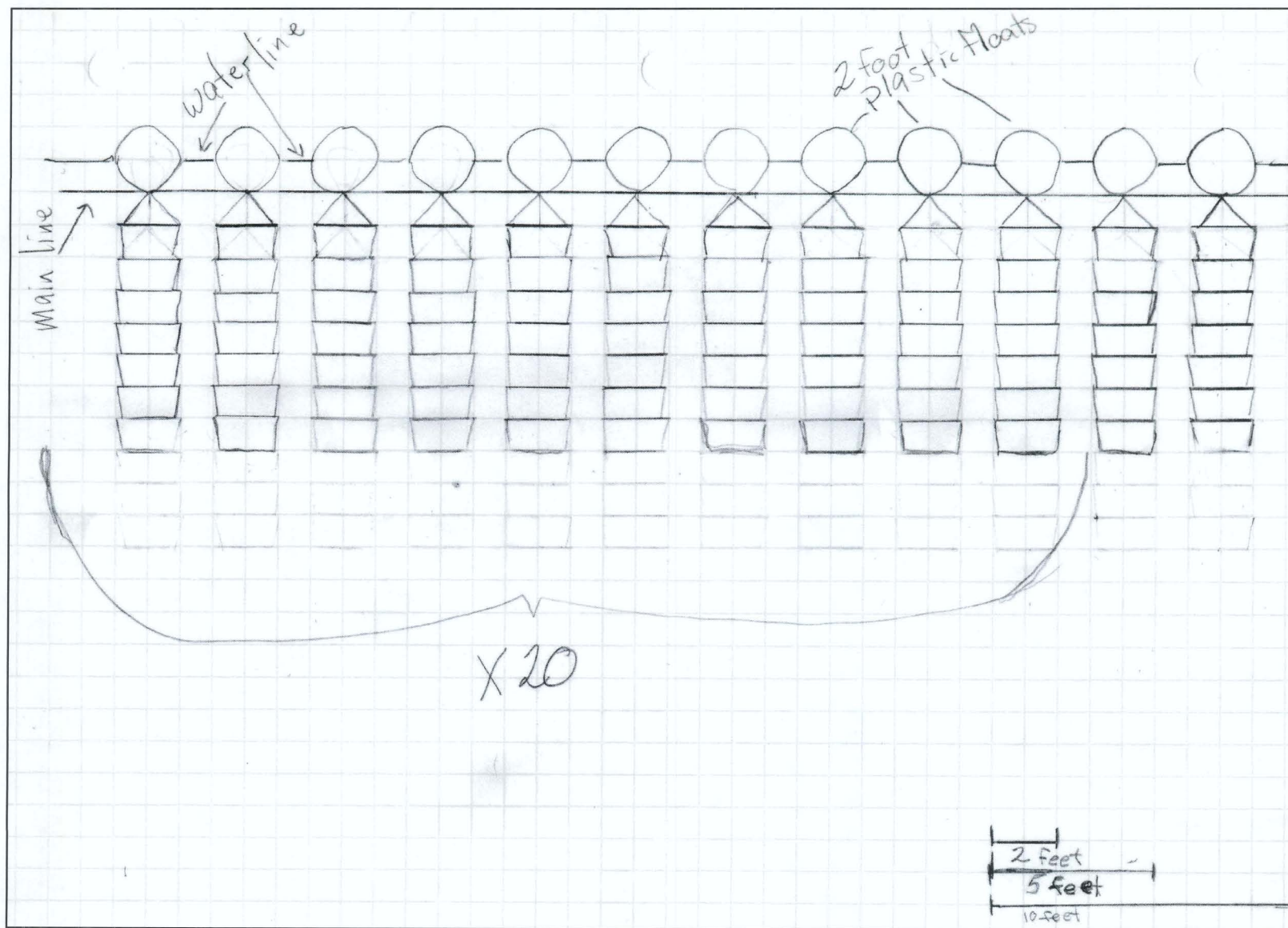


Figure 3. Cross section view of 12 of 200 cages (drawing is to scale).

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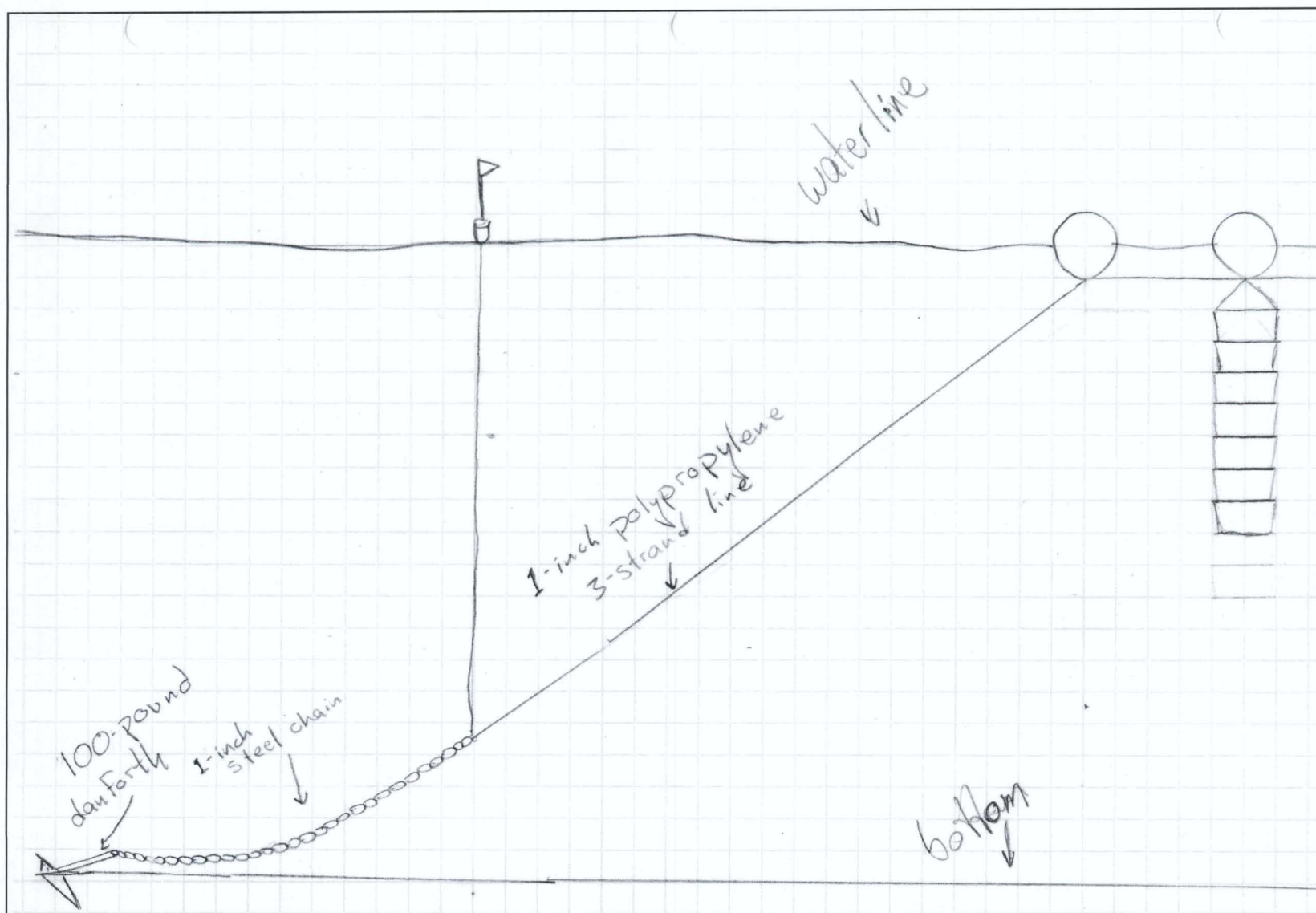


Figure 4. Cross section view of ground tackle. The same configuration is used on both ends of the longline and hanging cages (drawing is to scale).

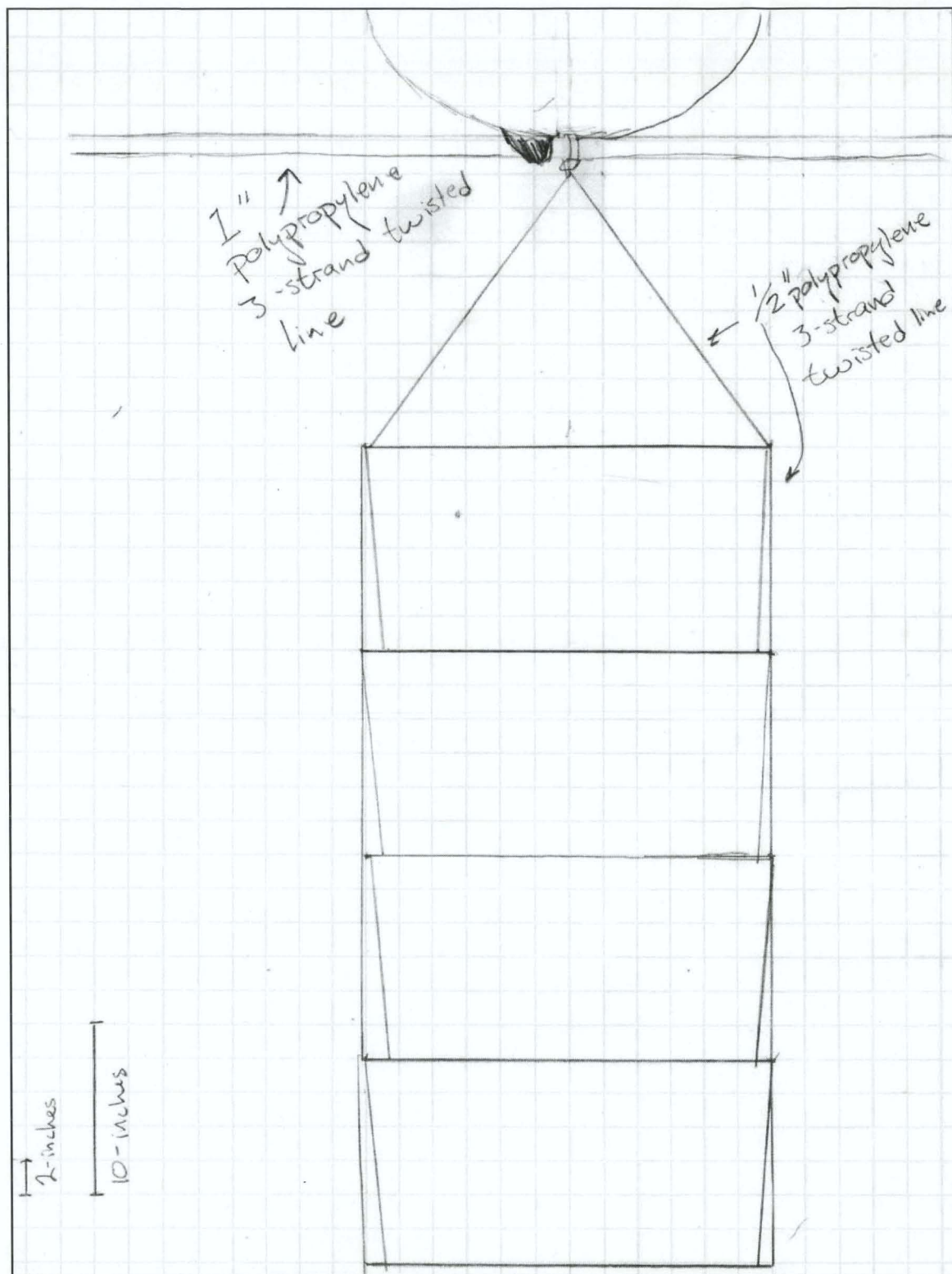


Figure 5. Cross section view: Blowup of four of seven tiers in one cage (drawing is to scale)

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