



**DEPARTMENT OF THE ARMY**  
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT  
JACOB K. JAVITS FEDERAL BUILDING  
26 FEDERAL PLAZA  
NEW YORK NEW YORK 10278-0090

REGULATORY BRANCH

SUBJECT: Department of the Army Nationwide Permit Verification NAN-2021-00422-EBR Issued to Frank M. Flower and Sons, Inc. for Shellfish Aquaculture Activities in the Oyster Bay-Cold Spring Harbor Estuary, Town of Oyster Bay, Nassau County, New York

Mr. Dwight Relyea  
Frank M. Flower and Sons, Inc.  
2 Bayview Avenue  
Oyster Bay, New York 11771

Dear Mr. Relyea:

On April 19, 2021, the New York District of the U.S. Army Corps of Engineers received a request for Department of the Army authorization to conduct ongoing commercial shellfish aquaculture activities involving seeding, cultivation, and the mechanized harvesting of shellfish continuously throughout the calendar year on underwater lands leased from the Town of Oyster Bay within the Oyster Bay-Cold Spring Harbor Estuary in the Town of Oyster Bay, Nassau County, New York.

The proposed activities include conducting ongoing commercial shellfish aquaculture activities involving seeding, cultivation, and the mechanized harvesting of shellfish continuously throughout the calendar year. These aquaculture operations include activities associated with the mechanized harvesting of hard clams (*Mercenaria mercenaria*) and oysters (*Crassostrea virginica*) from leased underwater land areas totaling approximately 200-acres per year. The harvested areas will be re-planted with seedlings and left undisturbed for a period ranging between two (2) to four (4) years to allow grow-out of the shellfish to market size. Specifically, hard clams will be harvested from soft-bottom substrate areas using a vessel towed harvesting sled equipped with a hydraulically assisted (water jets) harvesting scrape and basket. Oysters will be harvested from hard-bottom substrates areas using a Venturi suction dredge. The locations of the work activities are depicted in the attached map.

Based on the information submitted to this office and accomplishment of any required notification in accordance with the applicable federal requirements, our review of the subject work indicates that an individual Department of the Army permit is not required. It appears that the activities within the jurisdiction of this office could be accomplished under Department of the Army Nationwide General Permit Number 48, COMMERCIAL SHELLFISH MARICULTURE ACTIVITIES in accordance with Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). The nationwide permits are prescribed as a Reissuance of Nationwide Permits in the Federal Register dated January 13, 2021 (86 FR 2744). The subject work may be performed without further authorization

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from this office provided it complies with Sections A through D, Number 48, COMMERCIAL SHELLFISH MARICULTURE ACTIVITIES; New York District regional conditions; and the following work-specific Special Condition listed below.

### SPECIAL CONDITION

**(A) Material other than hard clams and oysters collected during the mechanized harvesting operations shall be instantaneously returned to the immediate harvested area.**

Nationwide permits do not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.

This determination covers only the work described in the submitted material. Any major changes in the project may require additional authorizations from the New York District of the U.S. Army Corps of Engineers.

This verification is valid until March 14, 2026, unless the nationwide permit is modified, reissued, or revoked. This verification will remain valid until March 14, 2026, if the activity complies with the terms of any subsequent modifications of the nationwide permit authorization. If the nationwide permits are suspended, revoked, or modified in such a way that the activity would no longer comply with the terms and conditions of a nationwide permit, and the proposed activity has commenced, or is under contract to commence, the permittee shall have 12 months from the date of such action to complete the activity.

In order for us to better serve you and others, please complete our Customer Service Survey located at:

<http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx>

Any inquiries should be directed to William T. Bruno, of my staff, at 917-790-8516. Please be sure to have the above eighteen-character file number readily available when you call.



Stephan A. Ryba  
Chief, Regulatory Branch

Enclosure (1)

1. Location Map

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Copies furnished:

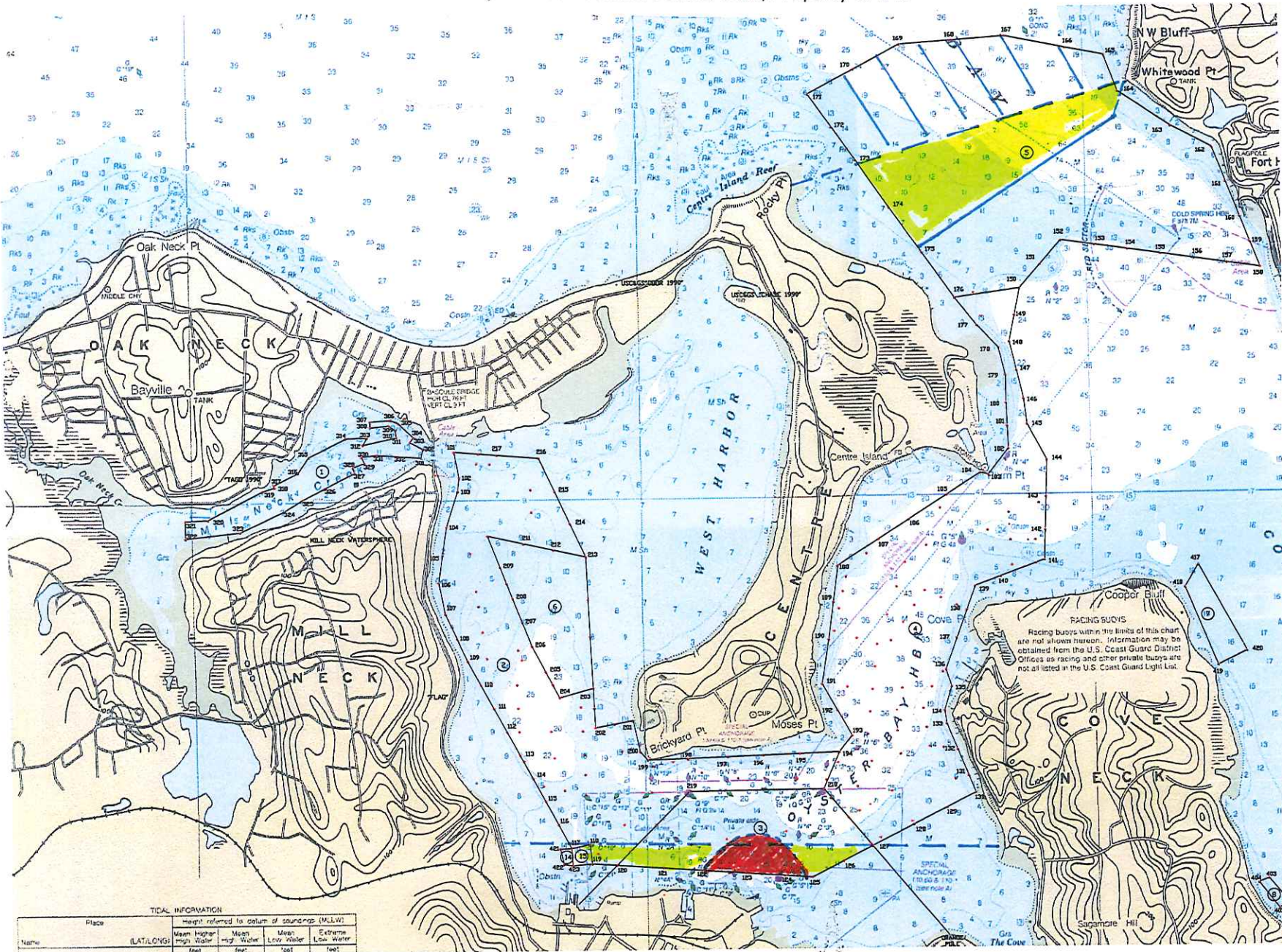
1. J. Cammarata
2. NYSDEC Region 1
3. NYSDOS
4. Office of Town Attorney, Oyster Bay

# USACE FILE: NAN-2021-00422-EBR

Red Area – Oyster Bay Sewer District Exclusion Zone

Yellow Area – Leased land outside of Wildlife Refuge

Striped Area – Former Leased Land, Property of NYS



TIDAL INFORMATION

Place	height referred to datum of soundings (M.L.W.)			
	Mean Higher High Water	Mean High Water	Mean Low Water	Extreme Low Water
Name	(LAT./LONG.)	feet	feet	feet