



P.O. Box 2245  
New Orleans, LA 70176

504.525.1528  
healthygulf.org

Mr. Munther N. Sahawneh  
Department of the Army  
U.S. Army Corps of Engineers, Mobile District  
P.O. Box 2288  
Mobile, AL 36628-0001  
Via Email: [munther.n.sahawneh@usace.army.mil](mailto:munther.n.sahawneh@usace.army.mil)

May 2, 2024

**RE: SAM-2023-00580-APS application for Ocean Springs Marina Project, Jackson County, Mississippi.**

Dear Mr. Sahawneh:

Healthy Gulf submits this comment letter on the Ocean Springs marina project on behalf of our members and supporters in Mississippi. Healthy Gulf is an environmental advocacy organization with members in the five Gulf States. Healthy Gulf's purpose is to collaborate with and serve communities who love the Gulf of Mexico by providing the research, communications, and coalition-building tools needed to reverse the long pattern of over exploitation of the Gulf's natural resources.

Healthy Gulf submits comment letters in the hope that we will be responsive to the needs of the communities we serve, respecting the interests of marginalized and oppressed people in them. We acknowledge that many Gulf South residents are confronted every day with the legacy of historical injustices as well as current environmental issues that threaten their health and well-being. We believe that the experiences, perspectives, and leadership of low-income communities and communities of color must inform our collaborative service.

Healthy Gulf opposes the granting of a Clean Water Act Section 404 permit for the purpose of dredging an approach channel and creating a marina or wharf with docking slips on Front Beach Drive in Ocean Springs, Mississippi.

### **Purpose and Need**

The purpose and need for this marina project must be viewed first in light of whether or not the community of people who live in Ocean Springs and would most use the marina facilities actually want or need the project to be built. No market research was advanced by the City to justify the new marina. The City should be required by the Corps to prove with objective research that there is a need for this marina. It is clear that among long-time and more recent residents of Ocean Springs there is a very vocal and energetic opposition to the City's plans to place any kind of harbor on the relatively

undeveloped section of beachfront that is the subject of this permit application. People who live along Front Beach Drive do not support the City's plan. The marina/pier site is on one of the two relatively undeveloped beaches along lower Biloxi Bay in Ocean Springs - both currently lack commercial development. People who live there like the way things are now and don't want to see changes. Here is one example of a resident's quote from the website "saveoceansprings.org" see link <https://saveos.org/about/stories>

*"I have lived in Ocean Springs since 1965 and my childhood was spent on Front Beach. Our beach is what attracts people to this city, and I am saddened to see what this city administration wants to do to commercialize it."*

The beach here is not wild or untouched by development, but the development one sees here is low intensity development of a degree that seems to be accepted by custom. There are private piers that belong to homeowners along this section of the Beach Drive and on another section farther to the south, and some of them have boat docks. Ocean Springs does have a harbor which is situated in a protected area southeast of this Front Beach Drive location. There are also docking and harbor facilities within sight of Front Beach - just across Biloxi Bay on the north side of Deer Island that is protected from storms coming from the south.

This site chosen by the city for the marina is much more exposed to storm tides and winds than either of the existing harbors described above. There's a reason that the harbors are tucked away or behind headlands here - in a big tropical storm or hurricane, the aftermath on a very exposed site like this would likely be that all of the City's marina and dock infrastructure could be found uprooted, rolled up and pushed across Beach Drive into people's homes, yards and driveways.

The purpose doesn't seem to be well served by the location proposed by the City, and the need for the project is not supported either by the residents who would live next to the dock or marina, or others who live in the area and want the look of Beach Drive to remain as it is. People in Ocean Springs seem to have strong disagreements with their City administration's pursuit of this marina or dock project. The opposition is great to what the mayor is proposing because people who live in this section of Ocean Springs are being asked to contemplate an expansion of the already substantial disruptions to the quiet enjoyment of their property.

#### **Project violates Section 404 (b) (1) Guidelines: Practicable Alternatives.**

There is not a discussion of alternative sites for the marina or what other areas might have been considered before deciding. The Section 404 (b) 1 Guidelines require that the applicant show their work in sorting through various alternatives before arriving at the project. The National Environmental Policy Act (NEPA) will come into play if federal money is used for this project - a strong likelihood - and NEPA requires that an applicant show an array of alternatives and give a rational explanation of how the array was reduced to the one being advanced. There are certainly more protected sites than this around Ocean Springs that would be more suited to marina and docking facilities. There are not any explanations of alternatives in the current SAM-2023-00580-APS application.

#### **Floodplains, Wetlands, and Water Quality Impacts.**

Executive Order 11988 is cited in Army Corps of Engineers Engineering Notebooks as an operative policy. It states that district engineers as a part of their public interest review, should avoid to the extent

practicable, long and short term significant adverse impacts associated with occupancy and modification of floodplains, as well as the direct and indirect support of floodplain development wherever there is a practicable alternative.

It was brought to the attention of Healthy Gulf that a wetland on the north side of and parallel to Jackson Avenue generally across the street from the marina site was filled so that the natural outlet for water was greatly restricted. More development associated with the marina or dock would rely on use a vacant piece of land at the intersection of Jackson Avenue and Front Beach Drive, which would foreclose any project to improve the interior drainage of this wetland which was apparently once a more dynamic tidal creek. The Corps and applicant should not compound what has already been done to alter the tidal creek here by foreclosing the possibility that it could be better connected to the Bay with a larger road culvert or water control structure.

The impacts to water quality along Front Beach from a marina or dock next to an already small, but very popular swimming beach, would need to be examined. If marine toilets on vessels could possibly discharge treated human wastewater into Biloxi Bay, the existing bacteria load from stormwater and from leaking sewer systems and broken lift stations could be increased by docked vessels with malfunctioning marine toilets.

Short term and long-term impacts to water quality from the dredging of an approach channel from the Biloxi Bay Navigation Channel would need to be examined and weighed. It is stated in the City's Section 404 Application that the disposal of dredge spoil would require expensive transport to a Harrison County Development Commission Upland Disposal site because no MDMR Beneficial Use Sites are available for dredge spoil disposal. Because there are swimming beaches adjacent to this site, monitoring of the dredging would need to occur so that if any sediment layers containing toxic substances are encountered and suspended during dredging, swimmers and beach users would be warned to stay out of the water. Also, a new channel dug to reach the marina area in this exposed area of beach could require frequent maintenance dredging and frequent turbidity increases along the swimming beaches in order to keep the desired depth of -6 to -8 feet MLLW. No analysis of the predicted effects of tides and longshore transport currents on a newly dredged channel are provided in the application. Considerations for the Gulfport Ship channel permitting included the effects on sand transport for Mississippi's Barrier Islands because channels and trenches intercept sand carried by currents running parallel to the islands. Sand movement along the beaches of Ocean Springs could be intercepted and disrupted by adding new channels and the consequences for these well used City beaches could be significant.

### **Public Interest Review**

Before a Section 404 permit can be issued to the project applicant, the Corps must conduct a public interest review to ensure that the foreseeable harm does not outweigh the benefits to the public interest. As explained in the first section of this comment letter, the residents of Ocean Springs are not in agreement that this marina or dock project is a benefit, especially in this site on Front Beach.

## **The Corps must comply with the National Environmental Policy Act (NEPA).**

Review of the proposed project and its impact on the environment set forth in the Corps' notice makes clear that the construction of the proposed marina would have significant impacts, both singularly and cumulatively, on the human environment. Consequently, the completion of an environmental assessment in this instance is necessary. Further, an Environmental Impact Statement may be necessary if it is determined that there are significant negative secondary, indirect and cumulative impacts foreseeably resulting from this project.

The Corps cannot look only at the impacts of the proposed marina but must also analyze impacts associated with any and all foreseeable residential development or commercial intensification planned for the surrounding neighborhood. This includes any infrastructure associated with foreseeable development, such as the conversion to a green parking lot of a deed restricted piece of land purchased with Coastal Impact Assistance Program (CIAP) funds by the State of Mississippi, and any other reasonably foreseeable impacts that will flow from urbanization or intensification of use in this area. (a parking lot is not an Authorized use as listed in the Energy Policy Act of 2005, the statute that Created CIAP codified at 43 U.S.C. Sec. 1356 (a)) The analysis should include but not be limited to the following:

### **Direct, indirect, secondary and cumulative impacts must be fully considered.**

Given the information in the public notice it appears that the City of Ocean Springs is leaving it up to commenters to describe impacts to economics, aesthetics, wetlands, fish and wildlife values, floodplain values, land use, shoreline erosion, water quality, public safety, consideration of property ownership, and in general the needs of the people.

### **Direct Impacts**

The direct impacts, both physical and biological, of this project on the existing beach are significant. Dredging a channel into a marina or dock and allowing dozens of boats to be moored just offshore of what has been a quiet public beach will change the look of the place – aesthetics, and usher in many new users of a different type to this beach. An economy will be built, based on the servicing and supply of boats with many more people coming and going during all hours. Boats leak fuel and oil, and general boat maintenance will mean that detergents, paint and solvents will be used just offshore of this beach which has been used up until now for swimming and fishing. It is contemplated that vendors will use the beach and parking areas to provide food service to people at the marina. Noise, litter, and changed lighting will be part of the new marina and the neighbors will be forced to adjust to this – consideration of the need for resident's quiet enjoyment of property is necessary as part of a review of impacts and perhaps the Army Corps should provide a survey to neighboring properties to assess owners readiness to embrace the changes that will come with a new marina or docking area along Front Beach.

### **Physical changes**

Department of Environmental Quality reports biological impairment as a reason that a stream or other waterbody's water quality doesn't meet its designated use. The state's MDEQ 2022 305 (b) water quality [report](#) to EPA and Congress is the most recent version published by MDEQ and has many examples of state waters with biological impairments. The state must write a Total Maximum Daily Load (TMDL) document for each impaired water in each major basin in Mississippi including the Coastal Streams Basin. The 2022 report section notes that Front Beach from the Ocean Springs Yacht Club to Jackson

Street **was not in attainment for primary contact** (wading, swimming) and noted that there is a TMDL completed pertaining to this section of Biloxi Bay. Despite having a Total Maximum Daily Load report written for Biloxi Bay, the scale of the bay is too large and there are too many polluted inputs for sewage bacteria to be controllable here. Adding a marina to a section of beach that isn't attaining its designated use will not improve water quality. The marina will also be subject to MDEQ Clean Water Act discharge permits for both its construction and likely for its normal operation, but controlling further inputs of pollution to water in an area that is already out of attainment for its designated use (primary contact) won't make a difference that matters. (People who let their children swim in the water off of these beaches should put alcohol in their children's ears after they get out to prevent ear infections.)

Another physical change that needs to be investigated is the movement of sand with longshore currents along the Front Beach, and whether dredging will interrupt the normal movement of sand, creating a sand deficit and a need to dredge or bring in sand to nourish the existing beach.

### **Biological changes**

There is critical habitat for fish species like the Gulf sturgeon and this beach provides habitat for birds, like the Piping plover, and for several species of sea turtles. There have been turtles nesting on some beaches recently in Jackson County, but not on Front Beach. The channel deepening and suspension of sediments and an increase of turbidity from dredging the nearby Gulfport ship channel have been investigated as an impact to Gulf sturgeon in other Army Corps Section 404 permitted projects in the past decade, so presumably in habitats near Davis Bayou and the main pass of lower Biloxi Bay, the sturgeon habitat impacts would need to be investigated for impacts from dredging operations.

### **Indirect and secondary impacts**

Indirect impacts are those which are caused by the action and are later in time or farther removed in distance but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

There are a number of potential secondary impacts or indirect impacts of this project that need consideration including: Any and all impacts of increased residential and commercial development stimulated by the building a marina or dock facilities on wetlands or other aquatic resources, levels of stormwater or runoff entering local water bodies, traffic patterns, or increased traffic on local roadways, local wastewater treatment capacity or other infrastructure should be considered by the Corps and the City of Ocean Springs.

### **Cumulative Impacts**

A cumulative impact is "the impact on the environment which results from the incremental impact of the action when added to other past present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. *Fritiofson v. Alexander*, 772 F.2d 1225, 1245 (5th Cir. 1985). The Corps must fully evaluate and analyze the impacts of all past, present and reasonably foreseeable development or activities stimulated by the proposed project that have or are expected to have impacts in the project area and the surrounding area, and the overall impact that can be expected if the individual impacts are allowed to accumulate. An action may be

significant in its own right or may be significant if “the action is related to other actions with individually significant but cumulatively significant impact.

Any existing land and water uses, existing urbanization, street drainage, traffic, wetland filling, traffic, noise, particularly the existing uses of the beach for swimming fishing, and the existing beach development and boat traffic need to be considered as the status quo or existing conditions that will be added to by new marina development and traffic.

The sewage treatment capacity for the expected growth also needs to be investigated including whether there will be a pump out station at the marina for human waste collected in closed marine systems, or whether some marine toilets will release partially treated human waste into waters at the marina.

All of these types of questions need to be investigated in a cumulative impact analysis.

**An Environmental Assessment should be written and made available for public review.**

This project definitely needs an Environmental Assessment so that Ocean Springs residents and commenters will have a chance to see how the permit applicant has approached the alternatives analysis and the reviews of direct, indirect and cumulative impacts, including the positive and negative economic effects, and water quality effects. A well-defined purpose and need section should include a survey of Ocean Springs residents and neighbors in the Front Beach section of Ocean Springs.

This project may need an Environmental Impact Statement (EIS). Larger channel dredging operations to the East in Bayou Cassotte and to the west in Gulfport have needed Environmental Impact Statements. Their costs were greater than what is anticipated here, but the Army will need to weigh which kind of environmental analysis it will require of the applicant, an EA or an EIS.

If the nature of the intentions of the City about this draft permit have changed appreciably, and the current permit does not reflect the applicant’s new intentions on the size, scale or expense of the marina or dock facility it wants to build, then this project should be re-noticed so the public and the commenters can accurately address the extent, costs and impacts of the changed project. This qualifying paragraph is included because the Ocean Springs City Council has reportedly voted to change the nature of the marina project described in the existing SAM-2023-00580-APS application.

**Healthy Gulf requests a public hearing for this permit, given the amount of interest by the public.**

Healthy Gulf appreciates the opportunity to write comments on this permit.

Sincerely,



Andrew E. Whitehurst, M.S., J.D.

Water Program Director

[andrew@healthygulf.org](mailto:andrew@healthygulf.org)

3141 W. Tidewater Ln, Madison, MS 39110

(601) 954-7236