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May 1, 2024

Via mail and email to:

USACE  
District Engineer, Mobile District,  
Regulatory Division, Mobile  
Post Office Box 2288  
Mobile, Alabama 36628-0001,  
Attention: Munther N. Sahawneh  
[munther.n.sahawneh@usace.army.mil](mailto:munther.n.sahawneh@usace.army.mil)

Via hand delivery and email to:

Mississippi Department of Marine Resources  
1141 Bayview Avenue  
Biloxi, Mississippi, 39530

Via email and fax to:

MDEQ Office of Pollution Control  
Office of Pollution Control  
Post Office Box 2261  
Jackson, Mississippi 39225  
(601) 961-5674

Re: **USACE PUBLIC NOTICE NO. SAM-2023-00580 APS** Proposed Impacts to Waters of the U.S. Associated with Construction of a Marina, Including Piers, Bulkheads, and Dredging for the Marina and Access Channel, Ocean Springs, Jackson County, Mississippi

APPLICANT: City of Ocean Springs

LOCATION: The project is located at Biloxi May, 400 Front Beach Drive, Ocean Springs, Jackson County, Mississippi. Section 30/25, Township 7 South, Range 8/9 West; Latitude 313.4053000 N, Longitude -88.830952 W.

Dear Mr. Sahawneh,

We are submitting these comments in response to the USACE Public Notice **USACE PUBLIC NOTICE NO. SAM-2023-00580 APS** April 4, 2024, “Proposed Impacts to waters of the U.S. Associated with Construction of a Marina, Including Piers, Bulkheads, and Dredging for the Marina and Access Channel, Ocean Springs, Jackson County, Mississippi.” As we are filing this via email on May 1, 2024, prior to the deadline of May 2, 2024, it is timely filed. After reviewing this application as well as the associated Environmental Assessment (EA) submitted jointly to the Mississippi Department of Marine Resources, USACE, and Mississippi Department of Environmental Quality Office of Pollution Control (MDEQ), and which we are attaching, **we request that an Environmental Impact**

**Statement (EIS) be undertaken to address our concerns, and that a public hearing be called so that the public can weigh in on this project.**

It must be noted that on Tuesday, April 18<sup>th</sup>, 2024, the Ocean Springs Board of Aldermen voted to eliminate the proposed marina from the Front Beach development project, and there was discussion of installing a “finger pier” instead. However, the present permit application notice has not been withdrawn. Therefore, we will comment on the current application, but we request USACE make note of the fact that the City of Ocean Springs is apparently considering a different structure for the site, and still intends to dredge. Coverage of the BOA meeting and the alteration of the plans can be found here: [https://www.oceanspringsweeklyrecord.com/local\\_politics/ocean-springs-board-scrap-plans-for-citys-front-porch-after-citizen-input/article\\_cd302760-fdb9-11ee-bf2c-2fbf98d7d2e3.html?fbclid=IwZXh0bgNhZW0CMTAAAR1\\_g2ONYAVmD3mkVg8AeKMMY7nk2cpoLL\\_LizMmUEwHanCwDNdrcXCFw\\_aem\\_ATbvUkWfxUHjyzoSJbOVbvR7ZR65IFn7vdnRxpQ\\_1-sZhy-tfSpFVQpnrYnr283ECT07MRVcR7X\\_OkHd9Rzw4baP](https://www.oceanspringsweeklyrecord.com/local_politics/ocean-springs-board-scrap-plans-for-citys-front-porch-after-citizen-input/article_cd302760-fdb9-11ee-bf2c-2fbf98d7d2e3.html?fbclid=IwZXh0bgNhZW0CMTAAAR1_g2ONYAVmD3mkVg8AeKMMY7nk2cpoLL_LizMmUEwHanCwDNdrcXCFw_aem_ATbvUkWfxUHjyzoSJbOVbvR7ZR65IFn7vdnRxpQ_1-sZhy-tfSpFVQpnrYnr283ECT07MRVcR7X_OkHd9Rzw4baP).

**In the event a finger pier is approved for development at the site, and dredging is to take place in support of that:** Oyster reefs must take priority in this area, as we discuss in greater detail in later this letter. A finger pier and boat channel must not be designed in such a way that dredging over the oyster reefs is required to build and maintain it. Persistent re-dredging will stir up silt that suffocates oysters and other fauna, and must be must not be allowed to occur. Boats near shore will also stir up suffocating silt. Therefore, the finger pier and any dredging associated with it must work with the existing depths and probably extend out from shore at least 300 feet before boats can be accommodated on individual boardwalks for receiving and removing passengers, as recently envisioned in the altered marina project proposal. Furthermore, according to the news coverage provided above, a bulkhead is planned for the subject property, also known as “the Fayard property.” Bulkheads require maintenance, are destined to fail, are extremely expensive, and ultimately require replacing. Moreover, they provide no habitat or support for aquatic life, but in fact destroy habitat. However, a living shoreline will last indefinitely, prevent erosion more effectively, and provide habitat for native species. An EIS must be done to establish impacts to reefs, fauna, vegetation, and benthic life if a bulkhead, finger pier, and channel are proposed for permitting.

After reviewing the present USACE application, as well as the Application with Environmental Assessment (EA) submitted to Mississippi Department of Marine Resources (MDMR) in the same matter, we find the Applicant has not established that the “need” they assert is justified. Meanwhile, the Applicant has not adequately investigated the following:

- Impacts to oyster reefs, essential fish habitat, aquatic vegetation and the benthic layer;
- Impacts to tidal flows and the resulting erosion of the structure
- Impacts to endangered and threatened species to be found in the area.

Therefore, we request an Environmental Impact Statement (EIS) from the Applicant, and that a public hearing be called so that the public can give input on this project. We find that the best alternative is the No Action alternative described in the EA.

**The “Need” for this Project has not been substantiated.**

• **According to the Environmental Assessment submitted to the Mississippi Department of Marine Resources, “The existing park facilities in downtown Ocean Springs are very limited and**

**insufficient for the growing volume of pedestrians using this part of the City.”** It must be considered how adding an 88-slip marina will affect traffic on Front Beach, Jackson St., and Washington Ave. Washington Ave. particularly must be considered because it is a major thoroughfare for pedestrian traffic, yet is also a road used to access Front Beach by car. At Jackson St., surely new marina of 88 slips would dramatically increase auto traffic, which is already congested during summer months. The Application states at item 3.1 that the marina will result in “expanding public uses” of the area, which clearly indicates increased traffic and congestion. However, no traffic study is provided to inform the public of what changes in car traffic would result or to substantiate how traffic would be relieved by a new parking lot. The Applicant must be required to provide concrete numbers in an Environmental Impact Statement (EIS).

• **The Applicant asserts in their EA provided to MDMR that the nearby Ocean Springs Inner Harbor facility is 100% full, with no existing capacity, and the waitlist for vessels presently is longer than 18 months.** This information is not substantiated and possibly creates a false image of boat storage capacity in the nearby region. Anecdotally, Bay St. Louis built a marina similar to this proposed project following Katrina, but is currently around 30 to 40% empty. Upon information and belief, other marinas in the area have available slips, but the Ocean Springs Harbor is at capacity simply because it is the cheapest marina or harbor. If this is indeed the case, then there is no “public need” for all boats in Jackson County to be stored at a new marina when there are already several marinas and harbors in nearby Coastal cities. Furthermore, upon information and belief, the Ocean Springs Harbor is at capacity for large boats, but not for smaller boats, such as cat boats. Therefore, Applicant must substantiate this claim in an EIS.

There are already numerous options for boat storage locally, which tends to undercut the idea that there is a tremendous “need” for this marina, or a finger pier, especially when luxury and recreational craft are what will most likely be moored there:

- Gulfport Small Craft Harbor, 1133 20th Ave, Gulfport, MS 39501
- Biloxi Small Craft Harbor, 679 Beach Blvd, Biloxi, MS 39530
- Rough Water Marina, 321 US-90, Gautier, MS 39553
- Mary Walker Marina, 3308 Mary Walker Dr, Gautier, MS 39553
- Allen’s Marine, 620 Ingalls Ave, Pascagoula, MS 39567
- Biloxi Beach RV and Boat Storage, 276 Iberville Dr, Biloxi, MS 39531
- Biloxi Secure RV and Boast Storage, 15820 Lemoyne Blvd, Biloxi, MS 39532
- Pelican Point Marina, 200 E 8th St, Biloxi, MS 39530
- Dry Dock Boat and RV Storage, 10255 Gorenflo Rd, D'Iberville, MS 39540
- Boat Lifts and Supply, 15555 Three Rivers Rd, Biloxi, MS 39532
- Dry Dock Boat Storage, 1408 Cowan Rd Suite A, Gulfport, MS 39507
- Seaway Marine Center, 13247 Seaway Rd, Gulfport, MS 39503

Information must be provided by the City demonstrating why other marinas would not be viable for boat storage for those on the waiting list maintained at the Ocean Springs Harbor. An EIS must address this question.

**An option that must be explored is whether and how the current Ocean Springs Harbor can be expanded to accommodate additional boats. An EIS must undertake this question.**

We would propose that 100% occupancy and an 18-month waiting list is preferable to 99% occupancy or any lesser amount of demand at a publicly owned marina. Because this is a public facility built with public money, every effort should be made to avoid empty slips and build a facility that will be at or near capacity at all times in the interest of fiscal responsibility. If the 88-slip marina is

added to the existing facilities and then it is 50% occupied or only 60% occupied, for which dredging and spoil deposition must recur at regular intervals, plus salaries be paid for marina personnel and moneys expended for upkeep, this results in a burden on the the tax payers. This will be noticed when maintenance is undertaken in as little as ten years without hurricanes. This is a public facility, not a private venture undertaken by profit seekers, so all due respect should be paid to the interests of the taxpayers who are ultimately funding it. Let's not waste their money.

- **According to the City's EA, the "existing bulkhead on the site is failing, with corrosion of the steel sheet piles and failure of multiple tie backs. Failure of the bulkhead on this heavily filled site would result in shoreline avulsion and a discharge of material into Biloxi Bay."** There are other remedies to this situation than constructing a massive 88—slip marina, and the City of Ocean Springs should pursue them. Please see below.

- **Applicant's EA states that, "This site was historically (before Hurricane Katrina) used for the mooring of vessels and has had a developed, armored shoreline for over 50 years. The historic and current land use is comparable with the current redevelopment plan."** However, no information is offered that concretely compares what is proposed with what existed before; moreover, current use of the area is primarily residential on the east side of the road and recreational on the west side, and no longer industrial or commercial. Ocean Springs residents remember the seafood processing plant, and it was smaller by far than the massive project being proposed here, and therefore is **not comparable** except in that there were fishing boats moored at the plant at times. The Applicant must concretely demonstrate in what way the proposed project is "comparable" with the earlier facility through an EIS.

### **The Economic Need for this Project Has not Been Established**

**Economic Need.** Federal money, public money, upon information and belief in the amount of anywhere from \$12,000,000 to \$20,000,000, will be spent on this marina. However, this marina is doomed to destruction in the certain event of a severe hurricane, and then **even more public money** will have to be spent to repair it.

It should be added that an 88-slip marina will benefit only the engineers who design it, the contractors who build it, a handful of well-to-do yacht owners, perhaps restaurant owners, who will see marginally increased patronage, and hotel and lodging providers, but it will do little or nothing for the average Ocean Springs resident who does not own a boat, but will have to put up with increased traffic, destruction of their popular Front Beach recreational area, and further impingement on the natural resources that collectively concern us all. Ocean Springs restaurants and lodging facilities already enjoy substantial patronage.

In their EIS, and providing hard economic data, the Applicant must research and explain how, in a City that is already booming with tourism money, this massive expenditure of public funds translates to the economic benefit of the general public and not just to a minority of businesses and boat owners. An additional question we think should be answered in an Environmental Impact Statement is how a new, massive public marina might actually create economic hardship for the private marinas already in place.

### **The Environmental Impacts to the Shoreline, Habitat, and Adjacent Waters Far Outweigh Any Economic Benefit That Might be Derived from the Proposed Marina**

To substantiate the grave environmental impacts to the Front Beach and adjacent waters, we will refer to the comments provided to MS Department of Marine Resources by Mr. Joe Jewell. Mr. Jewell is a scientist with expertise in our Coastal marine ecology. His comments were submitted in response to the MDMR Public Notice of January 12, 2024, “An Application For Coastal Wetlands Permit and Water Quality Certification In An Application By The City Of Ocean Springs For Construction Of A Marina On Front Beach Drive In Ocean Springs,” and are attached.

### **Impacts to Essential Fish Habitat, Oyster Reefs, and the Benthic Community**

#### ***Comments concerning the proposed 88-slip marina in Ocean Springs, Mississippi are as follows: Relevant to MS Administrative Code Title 22 Part 23 Chapter 8***

*Mr. Jewell states the following at “Section 102.01 Comments”: “The proposed marina structure will be located in the central area of Davis Bayou in such a manner that it will cause maximum environmental and marine resource damage to the surrounding critical marine habitat. Large expanses of saltwater grasses are located south of proposed area and to the east and west of the proposed project area. These marsh grasses provide essential fish habitat for all major recreational and commercial finfish species. Additionally, oysters and benthic community will be adversely impacted both long- and short-term. There are no alternatives to the destruction of this habitat; once lost there is fundamentally no way to regain it.*

*Destruction to these critical marine habitats is in violation both materially and in principle to the Magnuson Stevens Conservation Act (MSCA) 1976 – as amended. Protecting Essential Fish Habitat (EFH) is core to the establishment of the MSCA as stated: prevent overfishing, rebuild overfished stocks, increasing long-term economic and social benefits, ensuring a safe and sustainable supply of seafood, and protecting habitat (necessary for fish to spawn, breed, feed and mature). Areas such as Davis Bayou provide essential fish habitat and are nursery areas for all major marine fish species. As these fish populations mature, many move offshore into adjacent federal waters where they are managed by rules and regulation established by the federally mandated Gulf of Mexico Fisheries Management Council.”*

An Environmental Impact Statement must, therefore, address the following questions:

- What will be the nature and extent of environmental and marine resource damage to the surrounding critical marine habitat, marsh grasses that are essential fish habitat, oysters, and the benthic layer?
- How long will these damages persist?
- What remedy exists to the damages, if any?
- How will remedies be applied, and at what cost?
- How can destruction of the oyster reef be justified when there is an ongoing oyster mortality crisis likely caused in large part by openings of the Bonnet-Carré Spillway, which diverted massive amounts of fresh water into the Mississippi Sound, and is a matter that is currently under scientific investigation?
- How will the critical fish habitat and estuary of Davis Bayou be impacted by the proposed structure?
- What are the alternatives to building a marina at this site to avoid these impacts?

### **Erosion of Structure and Impacts to Adjacent Habitat**

At Section 102.02 of his **Comments**, **Mr. Jewell states the following, with regard to interaction between the marina, its protections, and tides:**

*The proposed project will be constructed near the mouth of Davis Bayou at a point where is (sic) flows into Biloxi Bay. The location of the marina will disrupt the natural ebb and flow of the tides. Rising and falling tides will be forced south around the structure. Tidal flow will undercut one side of the structure and deposit these sediments into the Davis Bayou channel, adjacent oyster reefs and Biloxi Bay. This will require constant maintenance and upkeep of the structure and the access channel. These associated maintenance activities will, in turn, have constant negative environmental impacts that are not addressed in the original project proposal.*

*This more southerly flow will impact critical wetlands to the south. This impact will cause eroding and ultimate destruction of the saltwater marsh, reduce critical habitat of most of our recreational and commercial species including but not limited to: all three major species of shrimp, crabs, and finfish...Much of the undercut sediment will be transported into the Davis Bayou channel, onto adjacent oyster reefs and out into Biloxi Bay. This will then result in continuous dredging projects for the lifespan of this marina. Applicant has acknowledged this by further proposing a 292 foot steel bulkhead along with a 128 foot riprap structure and reef balls for shoreline protection; additionally, an approximate 2,400 foot rubble mound breakwater. All this will be constantly assaulted by the rise and fall of marine tides including storm and hurricane surges. The applicant has not addressed these extreme weather conditions nor the long-term impacts they will have on the surrounding critical marine habitat. There are no mitigation efforts that will offset the permanent altering of the tides through this critical marine habitat area.*

Therefore, an Environmental Impact Statement must address the following questions:

- What will be the nature, scope, and expense of the maintenance and upkeep of the marina and the access channel in response to erosion from the tidal action undercutting the structure? How will it be paid for?
- What will be the nature, scope and extent of impacts to oyster reef and critical fish habitat of this erosion and deposition of sediment eroded from the structure and its protections?
- What materials will be deposited on the oyster reefs and water bottoms, and in what amounts?
- Will there be any impacts to human health from consumption of oysters from this site contaminated from erosion from the structure?
- What could possibly justify compromising our already devastated wild oyster reef?
- What will the negative environmental consequences be to the critical marine wetlands to the south?
- If the nearby saltwater marsh is destroyed, as Mr. Jewell asserts, what prevention or mitigation can be put in place, if any?
- What could possibly justify the destruction of essential fish habitat?
- What will be the cost of the continuous dredging that must occur for the lifespan of the marina, and how will these costs be covered?
- What will be the nature, extent, and scope of effects on the 292 foot steel bulkhead, 128 foot riprap structure and reef balls, and an approximate 2,400 foot rubble mound the Applicant proposes for shoreline protection?
- How will extreme weather conditions impact the proposed structure and its adjacent protections installed for shoreline protection?
- What will be the costs of repairs be in the event of a severe storm that damages the structure

- and its protections?
- Where will the funds come from to cover these costs?

### **Impacts to Oyster Reef; Removal of Reefs not Feasible; Impacts to Aquatic Plant Life**

**Mr. Jewell elaborates on the impacts to oyster reef and the potential outcome of oyster reef relocation at “102.03 Comments”:**

*The proposed marina will directly impact one major recreational reef created by the Department of Marine Resources (DMR) and have potentially lesser effects on two nearby reefs...*

*Three reefs will be impacted and require consideration when making a determination: the Ocean Springs Community pier, the Ocean Springs Pier reef and the Ocean Springs Harbor Pier. These reefs are either to the east, west or directly under the proposed structure. All three reefs will absorb some level of negative impacts, as this structure will protrude into Davis Bayou and impact the natural tidal flow; thereby, obstructing critical nutrient flow across these reefs...Moving this reef is not a reasonable nor judicious alternative. Under the best conditions the mortality rate for dispossessed oysters is very high. This removal would include destruction to benthic communities and major marine vertebrates and invertebrates.*

*These oyster reefs are in these specific locations because environmental conditions are extremely favorable for their establishment and continued growth. There are few areas within the Biloxi Bay that have the essential bottom type and environmental conditions that would allow for these transplanted oysters to survive and thrive.*

The three oyster reefs Mr. Jewell describes are located as these coordinates, as follows:

- Ocean Springs Community Pier: 30 24.322N, 88 50.051W – oyster shell
- Ocean Springs Pier: 30 24.231N, 88 49.810W – limestone
- Ocean Springs Harbor Pier: 30 24.139N, 88 49.475W -- limestone

An Environmental Impact Statement must therefore address how the Applicant proposes to protect oyster reefs or else mitigate their destruction, as well as the water bottoms conducive to their growth. **We agree that the reefs in question must not be removed, considering the devastating oyster mortality events of recent years in the aftermath of the Bonnet-Carre Spillway openings.** We can't afford to lose any more wild oysters.

Mr. Jewell states additionally in this section that the area holds “*essential marine plant life. This stretch of beach is one of the few left that has critical plant vegetation, both potentially submerged and emergent marine plants. A submerged aquatic vegetation (SAV) survey should be conducted to ensure the presence or absence of SAV and, if present, subsequent mitigation efforts.*” Sierra Club concurs entirely, and this question must be addressed through an EIS.

### **Impacts to Tidal Flows and Consequences for Aquatic Life**

*Mr. Jewell states at 103.7 Comments: “There is no known construction methods that will reduce or eliminate the adverse alteration of the marine tidal flow in this constricted area. Any alternatives or proposed mitigation will not lessen the adverse impacts in the project area. Rather, these mitigation*

*methods will be displaced to other areas. The critical ebb and flow of tides provides essential nutrients for the flora and fauna and are necessary for the survival of these species. The proposed project will permanently alter the distribution of these sediments laden with essential nutrients. The loss of the normal ebb and flow through this critical narrowing of Davis Bayou will have both short and long-term adverse consequences to all the marine resources in this area. There are few studies that specifically address this area, so current and future impacts will not be known until an environmental impact study (EIS) is completed in the project area. A study of the ebb and flow of tides, movement of sediments and nutrients, identification of all flora and fauna present and their population distribution and abundances is essential to understanding the entire impacts on the marine environments within the project area and adjacent areas.*

Sierra Club concurs that an EIS must include the study of tidal flows and their relationship with deposition of sediments and nutrients beneficial to aquatic life, as well as a thorough study of all plant and animal life in the area in order to describe comprehensively the project's potential impact on the project area and adjacent marsh, waters, and water bottoms.

### **We Propose an Alternative to the Dredging Proposed by the Applicant:**

At considerable public expense, dredging will have to recur to maintain this marina if it is built. **We propose that USACE require that an Alternative to what the Applicant proposes be considered:** For a project proposed for this area, whether a marina or a finger pier, the dredging should take place farther away from the shoreline and nearer to natural depths, possibly 400 or 500 feet from shore. A concrete bridge like the concrete fishing pier that is located at the Palace Casino could allow for access to the boat slips and a restaurant, but the need for dredging would be a great deal less since only 2-4 feet of spoil at the most would be needed to get depths acceptable for boats. Hurricanes will tend to fill in dredged harbors and closer to shore the fill-in will be more dramatic. The break wall, we assume, whether for the current plan or this better plan, would have to run nearly east-west on the south end and then run southeast to northwest or parallel to shore to block wave action from the southeast to the west to protect boats. The northward end of the marina would remain open allowing for some circulation of water and oxygenation.

### **Disposal of Dredge Spoils**

Ideally, the dredge spoils would end up at a Beneficial Use site. However, in their EA, the Applicant writes that, "Disposal at MDMR Beneficial Use sites has been eliminated as a feasible alternative as there are no sites available for dredge disposal." Therefore, the Selected Alternative is to deposit the spoils upland at the Harrison County Development Commission (HCDC) Upland Disposal Sites. Unfortunately, "Disposal at ODMDS sites has been eliminated as a feasible alternative due to distance, logistics, and cost required." The Applicant has not provided specifics to support its claim about the ODMDS sites, which are preferable ecologically to depositing spoils upland, which is the current plan. The Applicant must be required to explain this statement and explain what "distance, logistics, and cost" render this Alternative not feasible; otherwise, the choice appears arbitrary and capricious. Moreover, MDMR should consider requiring the Applicant to work with the Corps to pursue the ODMDS option in the interest of protecting the ecology. Disposing of the dredge spoils at an ODMDS site, while not ideal, will at least allow the spoils to remain in nature.

Ideally, however, dredge spoils must arrive at a Beneficial Use Site. An Environmental Impact Statement must require a survey of the Sound in order to designate Beneficial Use sites in the interest of preserving the natural state of the coastal wetlands and their ecosystems and to prevent the despoliation and destruction of them, as required by Mississippi law.

## **Potential Impacts to Endangered Species**

The Applicant addresses in their EA how this project will impact endangered and threatened species. At Item 4.6.4: “There are two critical habitats wholly or partially within the project area under the jurisdiction of the US Fish and Wildlife Service: Gulf sturgeon and piping plover critical habitat.”

### **Gulf Sturgeon:**

At Item 4.6.7. the Applicant states, “After reviewing the current status of Gulf sturgeon critical habitat and the proposed project’s cumulative effects, it is the opinion of Cypress that the proposed project may temporarily adversely affect but will not destroy or adversely modify designated Gulf Sturgeon critical habitat.” How was this conclusion reached? We do not know because there is no information provided to substantiate the claim. An Environmental Impact Statement must investigate these questions and provide answers to the public as to what impacts will occur to the threatened Gulf Sturgeon.

### **Piping Plover**

At item 4.6.4 of the EA, the Applicant argues that “According to IPaC, the proposed project area overlaps with Piping Plover’s critical habitat. Sand beach habitat is found adjacent to the proposed project area, but due to its proximity to highly trafficked areas, it is considered poor quality. There are no beach dunes within or adjacent to the project area. Based on the existing project area conditions it is the opinion of Cypress that the project is not likely to adversely affect the piping plover.” However, the threatened piping plover, as noted on page 14 of the Application, also utilizes salt marsh for feeding. Restoring salt marsh at the project site and protecting nearby salt marshes would enhance this animal’s habitat, and a living shoreline would promote that.

Moreover, the increased traffic resulting from the installation of the marina would certainly do nothing to improve the habitat of the piping plover. Increasing living shoreline and restoring the salt marsh would actually be a better way to comply with the Coastal Wetlands Protection Law Act, and be more protective of the piping plover, than building this project. Setting up a barrier between human traffic and piping plover habitat, as Audubon does with the Least Tern nesting areas, would do even more to protect this species. An Environmental Impact Statement must investigate how to promote and protect the habitat of the piping plover.

### **West Indian Manatee**

The West Indian Manatee is a threatened species under the Endangered Species Act and a protected animal under the Marine Mammal Protection Act. While it unusual for manatees to appear in our waters, they do occur. The Applicant asserts that, “the project may affect but is not likely to adversely affect the West Indian manatee.” Submerged sea grasses compose the diet of the vegetarian West Indian Manatee, and this project proposes to disturb or destroy the aquatic plants in the area.

Furthermore, not accounted for is the way in which increased boat traffic resulting from the marina may affect the manatee. According to a 2023 article in the Daytona Beach News, “A new report finalized by the Florida Fish & Wildlife Commission has named watercraft collisions the leading cause of unnatural death in manatees, as well as the third leading cause of deaths overall. **Out of 460 total necropsied manatee deaths in 2021, watercraft collisions accounted for 104 (16.3%).**” (<https://newsdaytonabeach.com/stories/boats-the-leading-cause-of-unnatural-manatee-death-per-florida-fish-wildlife,30015>). The Applicant proposes a project that would increase boat traffic, and therefore the likelihood of a collision with a visiting endangered manatee. Therefore, in compliance with the Marine Mammal Protection Act and the Coastal Wetlands Protection Law Act, USACE must require the Applicant to explain in an EIS what impacts destruction of underwater vegetation as well as

added boat traffic would have on manatees and other marine mammals who move through the subject area. In their EIS, the Applicant to explain how manatees that enter the affected waters will be protected, or how boat collisions will be mitigated.

We request that an Environmental Impact Statement review potential impacts to the further federally-listed species that are expected to occur in the project area, which overlaps with designated critical habitat:

According to the USACE notice, preliminary review of this application shows the following endangered (E) and threatened (T) species are potentially affected by dredging and the construction of structures in the subject area: Eastern black rail (T), Mississippi sandhill crane (E), Piping plover (T), Red knot (T), Louisiana quillwort (E), Gulf sturgeon (T), West Indian manatee (T), Alabama red-bellied turtle (E), Alligator snapping turtle (T), Gopher tortoise (T), Green sea turtle (T), Hawksbill sea turtle (E), Kemp's Ridley sea turtle (E), Leatherback sea turtle (E), Loggerhead sea turtle (T). The notice also states designated critical habitat is within the project action area for listed species. An EIS must thoroughly describe the incidence of these species in the project area and potential impacts to them, how these impacts will be prevented or mitigated.

Additional aquatic life whose habitat must be considered in an Environmental Impact Statement are the following:

- Atlantic Bottlenose Dolphin, protected under the Marine Mammal Protection Act;
- Atlantic Spotted Dolphin, protected under the Marine Mammal Protection Act;

Per the Applicant's EA, "The proposed project is located within Essential Fish Habitat as designated by NOAA Fisheries EFH Mapper tool (2023) and managed by the Gulf of Mexico Fishery Management Council(GMFCM). Because these species occur in both estuarine and marine habitats of the Gulf of Mexico, the entire Gulf is considered EFH," or essential fish habitat. The USACE notice notes that the EFH triggers Essential Fish Habitat consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Therefore, congruent with their consideration of impacts to essential fish habitat, oyster reefs, benthic layer, aquatic vegetation and water bottoms generally, the Applicant must explain in their Environmental Impact Statement potential impacts to the following fish species:

- red drum (*Sciaenops ocellatus*),
- brown shrimp (*Sciaenops ocellatus*),
- white shrimp (*Penaeus setiferus*),
- pink shrimp (*Penaeus duorarum*),
- royal red shrimp
- (*Pleoticus robustus*),
- bull shark (*Carcharhinus leucas*),
- spinner shark (*Carcharhinus brevipinna*),
- Atlantic sharpnose shark (*Rhizoprionodon terraenovae*),
- 43 reef fishes not limited to snapper, grouper, tilefish, jacks, and triggerfish and coastal migratory pelagics.

## Erosion of Front Beach

Upon information and believe, there is very little shore left on the west side of Front Beach. Reportedly, Jackson County is working with the Army Corps of Engineers to create a groyne jetty system to address the erosion on Front Beach, but this marina project threatens to impact those efforts. The City of Ocean Springs should focus on stabilizing, replenishing, and widening the beach rather than build a marina that threatens to contribute to its erosion. An EIS must address this question. Governing bodies, USACE and MDMR must coordinate to protect Front Beach from erosion.

**The best use for this site is found at item 3.2 of the EA, the No Action Alternative, and we propose an Further Alternatives not considered by the Applicant.**

*At 104.01 of his Comments, Mr. Jewell asserts that, “There are no mitigation efforts that can offset the permanent destruction of critical marine habitat nor all the negative secondary effects on these habitats.”* Therefore, it is extremely unlikely that the EIS provided by the Applicant will be able to provide a description of any such mitigation efforts that they could undertake. Therefore, we support the No Action Alternative found at Item 3.2 of the EA.

It must be asked why the City of Ocean Springs wants to use public money, destroy oyster reefs and essential fish habitat, and impinge on critical habitat for threatened and endangered species in order to build something that will benefit only a portion of the population of the City’s residents, or perhaps individuals who do not even live here year-round, especially when boat storage options abound locally. Moreover, it is well known that in the context of Climate Change, hurricanes are on the increase in terms of strength and number. Why does the City want to build a marina that is sure to be destroyed or severely damaged in the eventuality of a severe hurricane, only to draw on even more public money to repair the damage—to a structure that benefits only a few but will pose many impacts of the many residents of Ocean Springs, as well as irreversible destruction to oyster reefs and essential fish habitat?

The Applicant states that without this project, “The area will continue to be a blighted property within the Mississippi Old Ocean Springs Historic District. Remnants of the last structure on the property damaged by hurricanes are still there today. The existing bulkhead will fail, and several hundred cubic yards of fill material contained by the bulkhead will avulse into Section 10 waters.” We agree that this situation is problematic.

**However, this blight situation presents an opportunity.** The City could apply for public money to rehabilitate the site. Securing funding to remove old fill materials, deteriorated bulkheads, and decrepit structures and restore this area to a natural state, adding a living shoreline with natural grasses is an Alternative that has not been considered, but should be.

It should be considered that the location of this proposed marina is degraded shoreline, which should have *Juncus*, *Spartina*, and *Ruppia* (usual species known to our area). A better project is to remove the aging bulkhead at this location and grade the shoreline to support the two shoreline marsh grasses and then, if at all feasible, plant *Ruppia* sp. adjacent to the *Spartina* and around the *Spartina*. Bagged oyster shells used as natural shorelines could be introduced as well or in the place of *Ruppia*. A living shoreline must be put in place as providing the greatest benefit, and little or no detriment to the ecology, rather than a marina, finger pier, bulkhead, or other manmade structures that will only disrupt and destroy the habitat in the area.

Restored natural area in the form of a living shoreline at the site would be an amenity for the City’s residents and increase and expand the adjacent park areas, and protect the site from erosion at relatively little cost once it is installed. It would also promote habitat for native flora and fauna and provide enhanced storm buffer. A natural area would be accessible by all residents, not just those with the income for boats. As noted above, restoration would increase habitat for the **endangered piping**

**plover.** Thus, rehabilitation and restoration would be a much better expenditure of public money, and thus much more aligned with the public interest, than what is proposed. Mississippi's Cooperative Extension Service will provide consultation and permitting support for a living shoreline at no cost to the City of Ocean Springs.

**There are additional alternatives:**

There are alternatives to the project as proposed, and these must be considered in an EIS:

1. Redesign the existing Ocean Springs harbor to accommodate more and larger boats.
2. Find another site for a marina where the environmental impacts would be less egregious.
3. Eliminate the marina and provide a space with limited environmental impacts for the use and enjoyment of the residents of Ocean Springs.
4. Build a marina with fewer boat slips.
5. Convert the subject property, to a public park.
6. Build a marina requiring smaller boat sizes so dredging can be foregone.
7. Create a non-commercial public space for the citizens of Ocean Springs to enjoy, though the need for this is really questionable as Fort Maurepas park is already present and provides space and amenities for the public.

**Conclusion**

USACE must require the Applicant to substantiate the need for this new marina through providing research to demonstrate their claim of economic need through an Environmental Impact Statement. USACE must also require the Applicant to explain their conclusion of few or no impacts to endangered or threatened species. The Applicant must investigate and lay out in an EIS all of the impacts to essential fish habitat, oyster reefs, endangered and threatened species, water bottoms and benthic layer.

It is undeniable that development and increased tourism have been an economic boon for the city of Ocean Springs, but there comes a point when we must ask ourselves if we have reached the point of what is enough. The danger of over-development is real. It should be considered whether Ocean Springs should be allowed to become like the City of Austin, TX, which is a nightmare of congested traffic, skyrocketing housing costs, and homelessness. The City of Asheville, NC, has had to institute a moratorium on vacation rentals because of their severe impacts to the housing market. Most importantly, we are steadily destroying our natural resources through attrition—which are precisely what draw tourists but, more importantly, make the Gulf Coast a cherished place to live, work, and play for those of us whose ancestors built and invested in the area. The project as proposed is a waste of GOMESA and RESTORE act funds.

Yours truly,

/s/ Steve Shepard  
Chair, Gulf Coast Group  
Mississippi Sierra Club

Enclosures: Application by City of Ocean Springs to MDMR with Environmental Assessment  
Comments submitted by Joe Jewell to MDMR in response to variance requests by  
Applicant

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