



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, MOBILE DISTRICT
P.O. BOX 2288
MOBILE, AL 36628-0001

CESAM RD-A
PUBLIC NOTICE NO. SAM-2022-01016-KNB

April 11, 2023

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS AND
STATE OF ALABAMA
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

REQUEST TO IMPACT 0.005 ACRE OF TIDAL WETLANDS IN CONJUNCTION
WITH THE EXCAVATION OF AN INCISED BOAT SLIP AND CONSTRUCTION OF A
PIER AND SHEET-PILE BULKHEAD ON WEST FOWL RIVER, CODEN, MOBILE
COUNTY, ALABAMA

TO WHOM IT MAY CONCERN: This District 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), and Section 404 of the Clean Water Act (33 U.S.C. 1344). Please communicate this information to interested parties.

APPLICANT: **Mr. Clem Richardson**
2735 Creek Bend Road
Mobile, Alabama 36695

AGENT: **Barry A. Vittor & Associates, Inc.**
Attention: Mr. David Knowles
8060 Cottage Hill Road
Mobile, Alabama 36695

LOCATION: The project is located on West Fowl River, at Lot 1, Unit Two, Oak Lane; within Section 37, Township 7 South, Range 2 West; at Latitude 30.394527° North, Longitude -88.146107° West; Coden, Mobile County, Alabama.

PROJECT PURPOSE: The basic project purpose is to provide storage of recreational watercraft and access to navigable waters. The overall project purpose is to provide on-site watercraft storage and navigable access to the West Fowl River. The project would provide sufficient clearance within the waterway to construct a berthing area without obstructing navigation.

PROPOSED WORK: The applicant has proposed to mechanically excavate a 450-square-foot area of uplands and waterbottoms to create an incised boat slip within West Fowl River. Up to 70 cubic yards of material would be excavated from below the plane of mean high water (MHW). The proposed work would impact 225 square feet (0.005 acre) of tidal wetlands located on an intertidal shelf along the existing riverbank. The excavated material would be placed within an adjacent 2,400-square-foot containment area located in uplands and surrounded by an

earthen berm and silt fencing. After dewatering, the material would be spread across the applicant's upland lot.

Upon completion of the incised slip, the applicant would construct a 3-foot by 30-foot open-deck pier on the north side of the slip, within the incised area; the pier would extend 3 feet waterward of the newly created MHW line within the incised slip. The applicant would also construct a 45-linear-foot sheet-pile bulkhead bordering the east and south sides of the newly incised boat slip. See the attached plans for additional information.

AVOIDANCE AND MINIMIZATION: The applicant has indicated the proposed excavation of the indented slip has been planned to provide the minimal area necessary for vessel storage and unobstructed access to the waterway, thereby minimizing wetland impacts to the maximum extent practicable. The proposed pier would be constructed adjacent to the edge of replanted tidal wetlands, and at a height level with the MHW line. The proposed sheet-pile bulkhead would be installed via mechanical means to avoid additional sedimentation impacts to the substrate and adjacent tidal wetland. The applicant has proposed to utilize earthen berms and silt fencing during dewatering of the mechanically dredged material to prevent loss of sediment and turbidity in the adjacent waterway. Construction Best Management Practices (BMPs) will be implemented to prevent silt laden dredged material runoff from reentering the waterway. The U.S. Army Corps of Engineers (USACE), Mobile District, has not verified the adequacy of the applicant's avoidance and minimization efforts at this time.

MITIGATION: The applicant has proposed to compensate for unavoidable impacts to tidal wetlands through the on-site establishment of 500 square feet (0.01 acre) of new vegetated tidal wetlands created along the newly constructed bank of the proposed incised slip. The mitigation site consists of 200 square feet of unvegetated estuarine substrate and 300 square feet of upland that would be excavated and converted to wetland. The Mobile District has not verified the adequacy of the applicant's proposed mitigation plan at this time.

WATER QUALITY / COASTAL ZONE MANAGEMENT: The applicant will apply for certification from the State of Alabama in accordance with Section 401(a)(1) of the Clean Water Act and for Coastal Zone Management (CZM) consistency concurrence in accordance with the Alabama Coastal Area Management Program. Upon completion of the required advertising and public comment review, a determination relative to Water Quality Certification and CZM consistency will be made by the Alabama Department of Environmental Management (ADEM).

HISTORIC PROPERTIES: In accordance with Section 106 of the National Historic Preservation Act and Appendix C of 33 CFR Part 325, the undertaking defined in this notice is being considered for the potential to affect cultural and historic properties within the permit area. In accordance with Appendix C of 33 CFR Part 325, the Mobile District has determined the permit area consists of the entire undertaking in waters of

the United States as well as portions of the upland residential lot. The National Register of Historic Places will be consulted for properties listed in or eligible for the National Register, which are known to exist and would be affected by the proposed work. The Mobile District is seeking comment from the State Historic Preservation Officer regarding the existence, or the potential for existence, of significant cultural and historic properties within the permit area. The permit area described above is currently under review by District Archaeologists to provide a determination on the potential for existence of significant cultural and historic properties.

ESSENTIAL FISH HABITAT: This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposed project would impact approximately 300 square feet (0.0069 acre) of unvegetated estuarine substrate and 225 square feet (0.0052 acre) of tidal marsh utilized by various life stages of multiple marine species. Our initial determination is that the proposed action would not have an adverse impact on EFH or federally managed fisheries due to the minor area of impact and proposed mitigation activities. Our final determination is subject to review by and coordination with the National Marine Fisheries Service (NMFS) and/or the U.S. Department of Interior, and the U.S. Fish and Wildlife Service (USFWS).

ENDANGERED SPECIES: Preliminary review of this application and the U.S. Department of the Interior's List of Endangered and Threatened Wildlife and Plants indicate the proposed activity May Affect, But is Not Likely to Adversely Affect the following listed endangered or threatened species with the potential to exist within the watershed of the permit area: West Indian manatee (T), eastern black rail (T), Alabama red-bellied turtle (E), eastern indigo snake (T), and Gulf sturgeon (T). There is no designated critical habitat within the project action area. This determination is being coordinated with the USFWS via this Public Notice.

COMMENTS: This public notice is being distributed to all known interested persons in order to assist in developing facts on which a decision by the USACE can be based. The Mobile District 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 USACE 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 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 need for a public hearing and to determine the overall public interest of the proposed activity. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state with particularity, the reasons for holding a public hearing. For accuracy and completeness of the record, all data in support of or in opposition to the

proposed work should be submitted in writing, setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

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, 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. Evaluation of the probable impacts involving deposits of dredged or fill material into waters of the United States will also include the application of guidelines established by the Administrator of the U.S. Environmental Protection Agency.

Correspondence concerning this notice should refer to Public Notice Number **SAM-2022-01016-KNB**, and should be directed to the project manager, Ms. Kelsey Blubaugh, by e-mail at Kelsey.N.Blubaugh@usace.army.mil, or to the USACE, Mobile District, Regulatory Division, Attention: Ms. Kelsey Blubaugh, Post Office Box 2288, Mobile, Alabama 36628-0001. Copies of all comments should be furnished to the Alabama Department of Environmental Management at coastal@adem.alabama.gov, or sent to: Alabama Department of Environmental Management, Mobile Branch / Coastal Section, 3664 Dauphin Street, Suite B, Mobile, Alabama 36608. **All comments should be received no later than 30 days from the date of this Public Notice.**

For additional information about our Regulatory Program, please visit our web site at www.sam.usace.army.mil/Missions/Regulatory.aspx.

MOBILE DISTRICT
U.S. Army Corps of Engineers

Attachments

Figure 2. Site Plan

Legend

- Approximate Prop boundary
- Avoided Wetlands - 1,250 ft²
- Bulkhead/Sheetpile (15ft x 30ft)
- Data Sheet
- Dredge Disposal/De-watering Area 60ft x 40ft
- Limits of Existing Slip
- Pier/Decking 3ft x 30ft
- Proposed Marsh Mitigation - 500ft²
- slip edge
- Total Slip Area - 15ft x 30ft
- wetland flag

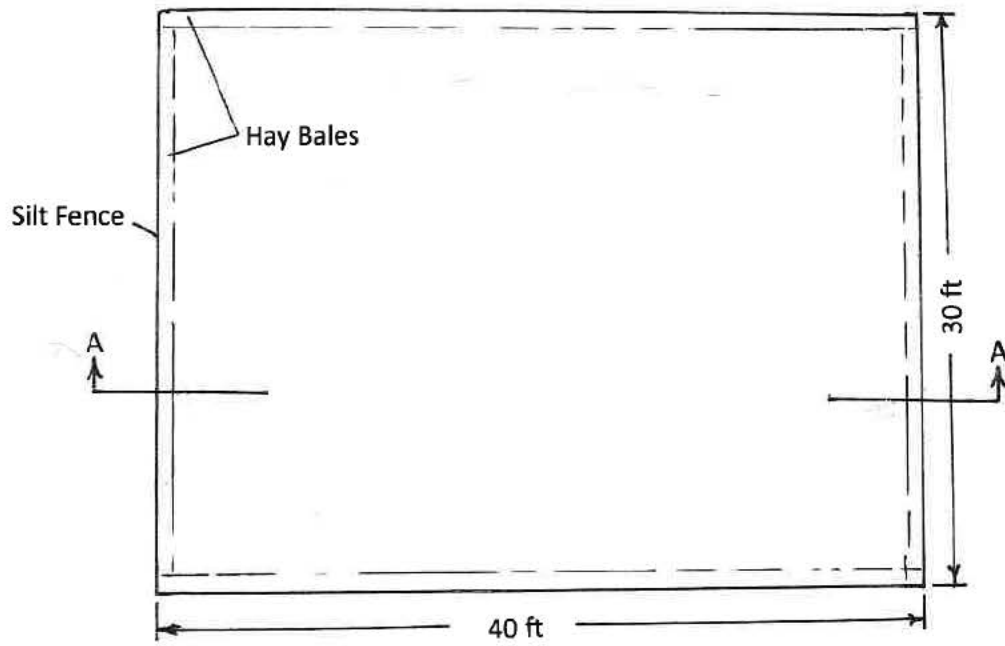




Distance Result: 26.4 Feet

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EXCAVATED MATERIAL DEWATERING AREA (nts)



SECTION A-A (nts)

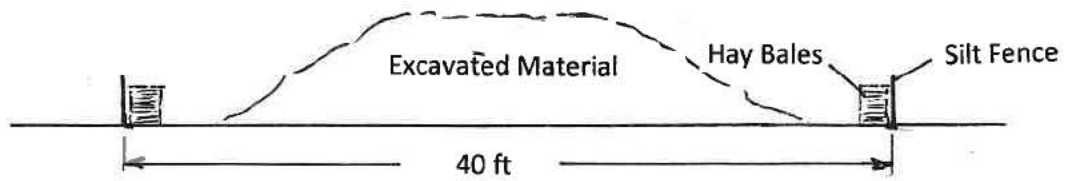


Figure 6. Depiction of Pre-Existing Boat Slips

Aerial Image - Google Earth, 2005

Legend

- ◊ Previously Dug Slips

59

Bayou Jonas

West Fowl River

Previously Dug Slips

Old Military Rd

Zirrott Rd

Zirrott Rd

Edgewater Retreat

Google Earth

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600 ft

