



REPLY TO
ATTENTION OF

**DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
1520 ROYAL PALM SQUARE BLVD, SUITE 310
FORT MYERS, FL 33919**

February 22, 2019

Regulatory Division
West Permits Branch
Fort Myers Permits Section

PUBLIC NOTICE

Permit Application No. SAJ-2008-00374(SP-EPL)

TO WHOM IT MAY CONCERN: The Jacksonville District of the U.S. Army Corps of Engineers (Corps) 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) as described below:

APPLICANT: Aubrey J. Ferrao
FCC Beach and Yacht, LLC
8156 Fiddler's Creek Pkwy
Naples, FL 34114

WATERWAY AND LOCATION: The project would affect waters of the United States associated with the Caloosahatchee River. The project site is located within Section 32, Township 51 South, Range 26 East at 231 Capri Blvd, Naples, Florida 34113.

Directions to the site are as follows: Take Exit 101 on I-75, travel south on Collier Blvd for 12.8 miles. Turn Right on to Capri Blvd. Project location is on the right after 1.9 miles.

APPROXIMATE CENTRAL COORDINATES: Latitude 25.985515° N
Longitude -81.726156° W

PROJECT PURPOSE:

Basic: Improve watercraft access.

Overall: To improve an existing commercial marina to accommodate larger vessels in southern Collier County.

EXISTING CONDITIONS: The project area consists of an existing 32-slip marina with a non-vegetated bottom. Currently all stringers and decking have been removed, however all pilings are still in place. The project area is surrounded to the east, west, and south by other marinas and docking facilities. Properties to the north across the boat basin are primarily single-family residential.

BACKGROUND: A Department of the Army permit was issued for the proposed work on 12 January 2011 with an expiration date of 12 January 2016. On 3 June 2014, a modification request was received requesting a two year extension of the permit. The two (2) year extension was authorized on 16 June 2014 with an expiration date of 12 January 2018. As work still had not commenced on the site, the Corps received the current request for a five (5) year extension on 13 December 2017.

PROPOSED WORK: The applicant seeks authorization to extend the permit expiration date by 5 years. The current permit authorizes the reconfiguration of an existing marina. The proposed project consists of removing the current 32- slip marina and reconfiguring it and replacing it with a new 30-slip marina. All new over water work totals 10,403 square feet. Additionally, the authorized proposed work includes the dredging of 1,877 cubic yards of material to a maximum depth of -5.0 feet Mean Low Water (MLW), with disposal of spoil material on the uplands at the project site and/or at a landfill. Finally, the project will include the installation of 585.5 linear feet of riprap along the toe of an existing seawall. At this time no in water work has commenced, however all dock stringers and decking have been removed.

AVOIDANCE AND MINIMIZATION INFORMATION: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

Applicant has agreed to adhere to all manatee conditions for in-water work, NMFS PDC conditions, as well as all sea turtle and smalltooth sawfish construction conditions. A turbidity curtain will be deployed during all in-water work to avoid secondary impacts.

COMPENSATORY MITIGATION: The applicant has provided the following explanation why compensatory mitigation should not be required:

There are no resource impacts associated with the project and therefore no mitigation is proposed.

CULTURAL RESOURCES: The activity is of such limited scope there is little likelihood of impact upon a historic property; therefore, the proposed project would have "No Potential to Cause Effect".

ENDANGERED SPECIES: The Corps has determined the proposed project may affect, but is not likely to adversely affect the green sea turtle (*Chelonia mydas*), Loggerhead sea turtle (*Caretta caretta*), Leatherback sea turtle (*Dermochelys coriacea*), Hawksbill sea turtle (*Eretmochelys imbricata*), Kemp's ridley sea turtle (*Lepidochelys kempii*), and smalltooth sawfish (*Pristis pectinata*). The Corps has received concurrence from the National Marine Fisheries Service concurrence with these determinations pursuant to Section 7 of the Endangered Species Act.

ESSENTIAL FISH HABITAT (EFH): This notice initiates consultation with the National Marine Fisheries Service on EFH as required by the Magnuson-Stevens Fishery Conservation and Management Act 1996. The proposal would only impact approximately 0.73 acres of sand/mud bottom within the proposed dredge area utilized by various life stages of shrimp, red drum, reel fish, spiny lobster, snappers, and groupers. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries within the Caloosahatchee River. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

AUTHORIZATION FROM OTHER AGENCIES: Water Quality Certification may be required from the Florida Department of Environmental Protection and/or one of the state Water Management Districts.

COMMENTS regarding the potential authorization of the work proposed should be submitted in writing to the attention of the District Engineer through the Fort Myers Permits Section, 1520 Royal Palm Square Boulevard Suite 310, Fort Myers, FL within 15 days from the date of this notice.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.

QUESTIONS concerning this application should be directed to the project manager, Eric Larrat, in writing at the Fort Myers Permits Section, 1520 Royal Palm Square Boulevard Suite 310, Fort Myers, FL 33919; by electronic mail at eric.p.larrat@usace.army.mil; by facsimile transmission at (239)334-0797; or, by telephone at (239)334-1975.

IMPACT ON NATURAL RESOURCES: Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area.

EVALUATION: 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 benefits, 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 cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

The US Army Corps of Engineers (Corps) 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 to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with the Coastal Zone Management Plan.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.