



(Sent Via Electronic Mail)

February 16, 2018

Lt. Col. Jeffrey Palazzini
District Engineer
United States Army Corps of Engineers
69A Hagood Avenue
Charleston, S. C. 29403

Attn: Bethney Ward

Re: Federal Consistency Review for USACE Folly Beach Shore Protection Project for Emergency Rehabilitation (CZC-17-1308)

Dear Lt. Colonel Palazinni:

Thank you for coordinating with South Carolina's Department of Health and Environmental Control, Ocean and Coastal Resources Management (SCDHEC OCRM) on Folly Beach Shore Protection Project for Emergency Rehabilitation (CZC-17-1308), pursuant to 15 C.F.R. § 930 Subpart C, Federal Consistency regulations associated with the Coastal Zone Management Act of 1972 (CZMA) as amended. Under the CZMA, federal activities which may have reasonably likely effects on any land or water use or natural resource of the coastal zone, regardless of the location, must be consistent to the maximum extent practicable with the enforceable policies of the State's federally-approved Coastal Zone Management Program.

The SCDHEC OCRM is in receipt of the consistency determination from the US Army Corps of Engineers (USACE) dated and received electronically on December 6, 2017 for the project proposed on the north end of Folly Beach, Charleston County, South Carolina. Accompanying the determination were programmatic checklists, the CZC project request form and the electronic links to the supporting materials contained in the Draft Environmental Assessment (Draft EA) and Draft FONSI, also supplied in November 2017.

On January 9, 2018, SCDHEC OCRM notified the US Army Corps of Engineers of the need to extend the 60 day review period, elapsing on February 4th for an additional 15 days pursuant to 15 C.F.R. § 930.41(b). The purpose of the extension to February 19, 2018 was to allow for the required public participation period. No public comments were received to date. The Corps has requested a determination prior to that time to allow for beneficial use of approximately 30,000 cy of sand to supplement Bird Key Stono Seabird Sanctuary, which the agency strongly supports.

The Corps may consider this response a **conditional concurrence** that the project is consistent to the maximum extent practicable with the enforceable policies of the South Carolina Coastal Zone Management Program pursuant to 15 C.F.R. § 930.4., SCDHEC OCRM echoes the other resource agencies with concerns about the precedent setting nature of allowing projects such as these to occur

during warmer months of high biological activity. While OCRM understands the fiscal constraints and the nature of the project urgency due in part to impacts from Hurricane Matthew and Hurricane Irma and has always worked cooperatively with the Charleston District, the conditional concurrence at this time will not bind the OCRM in the future to concur that beach nourishment projects that are proposed to be conducted outside of winter months are consistent to the maximum extent practicable.

Please also note that supplemental coordination provisions pursuant to 15 C.F.R. § 930.46 are in effect and will be required for the project if it is found before the project has begun that the project will affect any coastal use or resource substantially different than originally described. Substantially different effects are reasonably foreseeable if the Corps makes substantial changes to the project or if there are new circumstances or information relevant to the SCCZMP's enforceable policies. As examples, but not fully exhaustive, the State of South Carolina regards changes in the time of year, borrow site, placement area, sediment characteristics, or a significant change in the amount of material dredged as substantial changes to the project. If there are future modifications to the project which affect any coastal use or resource substantially different from those reviewed by the SCCZMP, a consistency determination shall be submitted to the SCCZMP pursuant to 15 C.F.R. § 930.31(e).

Project Summary:

The Folly Beach Storm Damage Reduction Project, also referred to as the Folly Beach Shore Protection Project, was authorized by Section 501 of the Water Resources Development Act of 1986, Public Law 99-662, as amended, and modified by the Energy and Water Development Appropriations Act of 1992, Public Law 102-104. The purpose of the project is to reduce damage to structures and shorefront property related to erosion and storms. The City of Folly Beach is the non-federal sponsor for the project. Folly Beach has been renourished several times as part of the project since the initial construction was completed in 1993, most recently in 2014. As a result of Hurricane Matthew in 2016 and Hurricane Irma in 2017, Folly Beach suffered significant erosion of the beach and dune system, and is currently below its authorized level of protection. Emergency rehabilitation of Folly Beach has been authorized pursuant to the Food Control and Coastal Emergency (FCCE) Act (P.L. 84-99), 33 USC 701n, as a result of these significant storm events.

The emergency rehabilitation will place approximately 755,000 cy of sand from a designated borrow area in the Folly River onto the north end of Folly Beach to restore it to pre-storm conditions. Approximately 13,000 linear feet of shoreline will be renourished, extending from approximately 8th Street East to the last groin past the last structure on the east end of the island. The sand will be transported from the borrow area in a pipeline through the Folly River to reduce impacts along the beachfront. The emergency rehabilitation is expected to take place in the general timeframe of January to September of 2018.

Depending on funding and other factors, the project also includes options to a) add an estimated 30,000 cy of sand from the borrow area to the nearby Bird Key Stono Seabird Sanctuary, a designated State Heritage Preserve for nesting seabirds; and b) add approximately 200,000 cy of additional material from the Folly River navigation channel to the same portion of the beach for additional rehabilitation.

SCDHEC OCRM Decision, SCCZMP Enforceable Policies and Conditions:

Pursuant to 15 C.F.R. § 930.4, SCDHEC ***conditionally concurs*** with the determination that the project is consistent to the maximum extent practicable with the following conditions below.

Applicable Enforceable Policies of the SCCZMP: (1) Wildlife and Fisheries Management; (2) Dredging; (3) Erosion Control; (4) Geographic Areas of Particular Concern; (5) Beach and Shoreline Access; (6) S.C. Code Ann. § 48-39-20; (7) S.C. Code Ann. § 48-39-30; (8) S.C. Code Ann. § 48-39-80; (9) S.C. Code Ann § 48-39-150, (10) S.C. Ann. Regs 30-12(G); (11) S.C. Ann. Regs 30-13(L)); and (12) S.C. Ann. Regs 30-13(N)(2)

(A) Wildlife and Fisheries Resources:

1. All precautionary measures will be taken to protect State-listed aquatic and terrestrial migratory and spawning species and habitats of concern.
2. The beach must be monitored for nesting and/or hatchling sea turtles before, during, and after project construction each day if the work occurs during the nesting season (April 1 – October 31). Specifically, the contractors performing work under this permit shall be in direct contact with the S.C. Department of Natural Resources (DNR) Marine Turtle Conservation Program (MTCP) representative. Daily, early surveys of the beach must be performed to document turtle nesting activity, and the MTCP representative shall be consulted each morning prior to any work being performed on the beach. In the event a nest is disturbed during construction and/or sea turtle adult is encountered, all work should cease and the DNR MTCP should be contacted immediately. The MTCP contact is Michelle Pate who can be reached at 843-953-9052 (office) or PateS@dnr.sc.gov.
3. Appropriate measures will be taken to protect the integrity of roosting, feeding, and beach-nesting birds of State concern, with particular emphasis, but not limited to Piping Plovers, Wilsons Plovers and Red Knots during the course of the project and while conducting post-construction practices on the beach and dune system regarding compaction testing and tilling, escarpment remediation, and sand fencing and vegetation installation.
4. The standard in-water manatee conditions apply to this State-listed species annually from 1 June to 30 September, however in order to take precaution for the early and late sightings noted by SCDNR reporting, these protective measures would be implemented if construction occurs between April 1 - October 31. The Contractor would be instructed to take necessary precautions to avoid any contact with manatees. If manatees are sighted within 100 yards of the project area, all appropriate precautions would be implemented to insure protection of the manatee. The Contractor would stop, alter course, or maneuver as necessary to avoid operating moving equipment (including watercraft) any closer than 100 yards of the manatee. All in-water operations, including vessels, must be shut down if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.

(B) Dredged Material and Spoil Disposal:

5. Sand used must consist of appropriate grain sizes and color as the native beach to be compatible for beach renourishment. If muddy sediments or excessively coarse sediments (rocks, large shell fragments, etc.) are observed while sand is being placed on the beach, dredging of that portion of the borrow area must be terminated immediately and the dredge must be moved to another location.
6. The beach compatibility and quality of the material placed upon the beach must be monitored during all construction operations by persons who are qualified to assess the material, under the direction of a registered professional geologist or professional engineer. Monitors will report immediately to those persons with the authority to suspend or modify the work if a determination is made that unsuitable material is being placed on the beach.
7. If accumulations of mud rollers or coarse sediments (rocks, large shell fragments, etc.) exceed the equivalent of one 15-cubic yard dump truck per 100 linear feet of beach, the material must be removed from the beach using hand labor or a beach-sweeping device as soon as practicable upon completion of the section or upon completion of the project.
8. Prior to construction or maintenance, the USACE **must** provide a written report to OCRM CZC Section that specifies quality control measures including:
 - (a) A description of the means and limits by which the material quality will be assessed during and after construction;
 - (b) A definition of material quality that would require removal or screening of material from the beach; and,
 - (c) A reasonable timetable for removal of the material and restoration.
9. Dredging must be performed by hydraulic cutterhead suction dredge only.
10. All necessary measures must be taken to prevent oil, tar, trash, debris, and other pollutants from entering the adjacent waters or wetlands during construction.
11. Only clean sand, free from all potential sources of pollution, must be used for beach renourishment.
12. Dredging operations shall target areas of compatible sand with adequate thickness and avoid direct impacts to hard bottom habitats and submerged aquatic vegetation. All buffers as recommended to protect EFH and hard bottom areas will be in force and effect.
13. An assessment of fill material will to be conducted within 30 days of project completion with at least 10 random samples taken and analyzed for sand grain size distribution, percent of shell composition and color. Any report detailing results of the analysis shall be submitted to the natural resource agencies within 45 days of construction.
14. The renourished beach must be monitored for compaction following renourishment and when necessary, appropriate measures such as tilling must be implemented prior to sea turtle nesting season, for a period of three years.

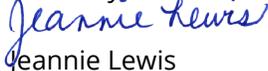
15. The renourished beach must be monitored for escarpment formation following renourishment and when necessary, appropriate measures such as leveling must be implemented prior to sea turtle nesting season for a period of three years.
16. The sand fencing shall be installed consistent with the South Carolina Critical Area Permitting Regulations in R.30-13 L (1) (a-h).
17. In the event that any historic or cultural resources and/or archaeological materials are found during the course of work, the applicant must notify the State Historic Preservation Office and the South Carolina Institute of Archaeology and Anthropology. Historic or cultural resources consist of those sites listed in the National Register of Historic Places and those sites that are eligible for the National Register. Archaeological materials consist of any items, fifty years old or older, which were made or used by man. These items include, but are not limited to, stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal and glass objects, and human skeletal materials.

Pursuant to 15 C.F.R. § 930.4, if the USACE does not agree to the above conditions, then all parties shall treat this conditional concurrence letter as an objection.

The SCDHEC concurrence relies on the following policies contained within SCCZMP: Wildlife and Fisheries Management; Dredging (*Dredging and Spoil Disposal*); Erosion Control (*General Erosion Control, Artificial Beach Nourishment*), the policies associated with Activities in Areas of Special Resource Significance (Barrier Islands, Dune Areas); Beach and Shoreline Access; Geographic Areas of Particular Concern (GAPC) and the priority of uses associated with GAPC's in addition to S.C. Annotated Code § 48-39-10 et seq and S.C. Regulations R 30-1 et seq.

Please contact me if you have any questions about this concurrence or the conditions within it. It is our intention to work with the Charleston District to address any concerns that the USACE may have as to how this project can be consistent with the enforceable policies of the SCCZMP. We thank your staff for their diligence and hard work on the project and look forward to a successful project at Folly Beach.

Sincerely,



Jeannie Lewis

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USFWS- Mark Caldwell, Melissa Bimbi
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