



**US Army Corps
of Engineers®**
Wilmington District

**ENVIRONMENTAL ASSESSMENT
&
FINDING OF NO SIGNIFICANT IMPACT**

**Request for Section 408 Permission
Docking of Small Cruise Ships
Northern Riverfront Marina**

Wilmington, NC

September 2018

1.0 INTRODUCTION

The Wilmington District, Regulatory Division, received a letter from Northern Riverfront Marina and Hotel, LLLP (Northern Riverfront Marina) on November 7, 2017 seeking a modification to their Department of the Army (D.A.) Section 10/Section 404 Permit in order to host small cruise ships at the marina. This modification requires permission under 33 USC 408, as implemented in Engineer Circular (EC) 1165-2-216 (Section 408). The facility is located at 10 Harnett Street, on the east side of the Cape Fear River, in Wilmington, New Hanover County, NC (Figure 1). The requested action has the potential to affect the Wilmington Harbor, North Carolina Federal navigation project. Section 408 authorizes the Secretary of the Army to grant permission for the alteration, occupation or use of the project if the Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project. In this case, it has been determined that the requested action (docking of small cruise ships) will impede navigation in the 32 foot turning basin that is a component of the Wilmington Harbor Federal navigation project. Therefore, permission to dock small cruise ships at the Marina is denied and the No Action alternative is the recommended plan. A decision on a Section 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. In accordance with EC 1165-2-216, Para. 7.c.(3)(c), this Environmental Assessment and Finding of No Significant Impact (EA/FONSI) has been prepared as part of the 408 analysis.

2.0 PURPOSE AND NEED FOR THE REQUESTED ACTION

According to the Department of the Army Permit issued on August 2, 2007, as amended, the marina was authorized to construct both permanent wet slips and slips in the form of transient side-to dockage. The area subject to the proposed modification, identified as Pier I on incorporated plans, consists of approximately thirteen 50 foot transient slips. Northern Riverfront Marina and Hotel, LLLP has requested approval to also operate as a docking facility to host small cruise ships for short-term stops at their marina, which would require a maximum mooring zone for this dock 85 feet waterward within the 32 foot turning basin of the Wilmington Harbor Federal navigation project. The proposed action is the review of Northern Riverfront's request pursuant to 33 USC 48 and EC 1165-32-216, to ensure that the proposed action activity will not be injurious to the public interest and will not impair the usefulness of the Federal project.

3.0 ALTERNATIVES

3.1 No Action alternative(Recommended Plan): No docking of small cruise ships at the Northern Riverfront Marina would occur as a result of denial of the Section 408 request.

3.2 Requestor's Preferred alternative: Allow larger ships, i.e. small cruise ships, to dock at the marina for short-term stops to the Wilmington area.

4.0 AFFECTED ENVIRONMENT AND IMPACTS ON SIGNIFICANT RESOURCES

The affected environment for both the No Action alternative (recommended plan) and the Requestor's Preferred alternative includes the Cape Fear River in Wilmington, NC and more specifically, the 32-foot turning basin, which is part of the Wilmington Harbor Federal Navigation project.

Implementation of the No Action alternative or the Requestor's Preferred Alternative would result in

negligible and similar impacts to sediments, water quality, air quality, noise, cultural resources, Essential Fish Habitat (EFH), and Endangered and Threatened Species. Neither alternative would result in the disturbance, production or creation of hazardous, toxic or radioactive wastes (HTRW).

4.1 Commerce and Recreation

The Wilmington Harbor navigation channel in the vicinity of the Northern Riverfront Marina consists of a 1,000-foot long by 800-foot wide turning basin with suitable approaches at each end. The turning basin is authorized to a depth of 38+2+1 feet, but is currently maintained to 32+2+1 (32-foot turning basin). The Wilmington Harbor channel allows various-sized commercial and recreational vessels to navigate the Cape Fear River, and provides a connection to the AIWW and the Atlantic Ocean, for commerce, fishing, and recreation.

The Requestor's preferred plan would provide recreational opportunities for passengers of the cruise line, both on shore and on the ship. The recreation needs of the increased number of tourists in the downtown area of Wilmington will be met by local restaurants and attractions. Based upon tourist demands, there could be an increase in the development of new restaurants and local businesses. Depending on the level of development, an increase in the number of cruise lines calling on the port of Wilmington could also increase. This reactive growth could continue until the supply and demand equalize. On the other hand, under the no action alternative, the requestor would continue to dock small transient ships, which would bring tourists to the marina, albeit at a lesser number. Downtown Wilmington, with its restaurants and attractions, would continue to be a source of recreation for tourists visiting the surrounding areas and beaches, especially during summer months. Even without small cruise ships, downtown Wilmington will continue to be a recreational attraction.

Under the No Action alternative, the requestor would continue to dock small, transient ships at the Riverfront Marina and would not dock larger ships (small cruise ships) at the marina. The No Action alternative would not adversely affect public uses of the federal channel or the aquatic ecosystem.

As previously stated, the Northern Riverfront Marina is situated in the Wilmington Harbor's 32-foot turning basin, which is where vessels turn around for their departure. Small cruise ships docked at the Marina could require a mooring zone as much as 85 feet waterward into the turning basin. Although the largest ship that has purportedly visited the marina had a beam of 53 feet, the proposed modification would allow for larger vessels. Because of the length of the commercial vessels that utilize the Cape Fear River, and the difficulty in maneuvering such large vessels, maintaining the project to its full dimensions, especially in the 32-foot turning basin, is imperative. This is complicated by the fact that there is a substantial amount of rock on the western side of the turning basin that limits the depth of dredging and naturally restricts the width of the available space in which a vessel can turn. If the vessels cannot safely turn around, tugs must assist them to back under the Cape Fear Memorial Bridge, so that they can turn around in the Anchorage Basin. In conclusion, approving a modification that would create a mooring zone approximately 85 feet waterward in which small cruise ships would be docked, would adversely affect public uses of the federal channel by restricting the area in which a vessel can safely turn in the 32-foot turning basin, in essence rendering the southern portion of the turning basin unusable any time a cruise ship is moored.

In the evaluation, we also considered the publically documented experience of an individual whose much smaller vessel was moored at the subject marina. The YouTube video, entitled "The day I thought a tanker was going to hit us! (Video 56) – Sailing Britican", is posted at <https://www.youtube.com/watch?v=c56K5mklCMQ>. The video, published on Jun 20, 2016 contains the following description: "*While moored along side the fuel dock at Port City Marina, Wilmington, North Carolina (USA) I was woken by some loud noises out my window. To my surprise a tanker was being*

moved around by two tug boats. Considering that Cape Fear River isn't very wide I was surprised what the tug boats managed to do! I've you've never been up close and personal with a tanker, watch this video to relive my fearful experience!" It must be noted that the vessel in the video is much smaller than the cruise ships that are described in the applicant's request for modification.

It could be argued that a small cruise ship may only visit the marina sporadically and there are a limited number of commercial vessels that must utilize the 32 foot turning basin. However, the modification would allow more visits depending on the demand, and future commercial development could yield additional commercial vessel traffic on the Cape Fear River. The consideration therefore boils down to how many days per month the government is willing to do without the use of the 32 foot turning basin. The interests of navigation do not permit even the temporary loss of such an important component of the federal navigation project. Therefore, because of the impacts on navigation, the Requestor's preferred alternative cannot be approved, and the no action alternative must be the recommended plan.

5.0 EXECUTIVE ORDERS

Executive Order 11988 (Floodplain Management): Neither the No Action alternative nor the Requestor's Preferred alternative would involve placement of fill material in the floodplain, affect storm flows associated with the 100 -year flood frequency elevation, or affect the impacts of floods on human safety, health, and welfare.

Executive Order 11990 (Protection of Wetlands): This order requires agencies to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities. Neither No Action alternative nor the Requestor's Preferred alternative involve placement of fill material in wetlands.

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low Income Communities and Low Income Populations): The EPA defines environmental justice as the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people; including a racial, ethnic, or socioeconomic group; should bear a disproportionate share of the negative environmental consequences of industrial, municipal, or commercial operations or the execution of federal, state, local, or tribal programs and policies. Neither the No Action alternative nor the Requestor's Preferred alternative would have the potential for disproportionate health or environmental effects on minorities or low-income populations or communities.

Executive Order 13045 (Protection of Children from Environmental Health Risks): This order mandates that Federal agencies identify and assess environmental health and safety risks that may disproportionately affect children as a result of the implementation of Federal policies, programs, activities, and standards (63 Federal Register 19883-19888). Neither No Action alternative nor the Requestor's Preferred alternative would disproportionately affect children.

Executive Order 13186 (Protection of Migratory Birds): Neither the No Action alternative nor the Requestor's Preferred alternative would result in any significant adverse impacts to migratory bird species or their habitat. There would be no taking of birds.

6.0 CUMULATIVE IMPACTS

The CEQ regulations (40 CFR 1508.7) require assessment of cumulative impacts in the decision-making process for federal projects. Cumulative impacts are defined as "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."

The magnitude of impacts associated with No Action alternative (Recommended Plan), which is the continued docking of small, transient ships at the Riverfront Marina, is so small that it will have no cumulative influence on resources and therefore would not contribute to environmental impacts when added to other past, present and reasonably foreseeable future actions.

7.0 COORDINATION OF THIS DOCUMENT

In order to consider and evaluate the impacts of the proposed activity, the Wilmington District issued a public notice on August 2, 2018 that solicited comments from Federal, state, local agencies and officials, and other interested parties. During the comment period, very few comments were received. The most substantive comment was submitted by the U.S. Coast Guard (USCG), who indicated that they would be concerned if docking of larger vessels could impact navigation or limit the turning area for vessels. Comments received are attached. This EA/FONSI will be posted on the USACE, Wilmington District website, making it available to the public.

8.0 POINT OF CONTACT

Any questions regarding this EA/FONSI should be addressed to Jennifer L. Owens, Chief, Environmental Resources Section at jennifer.l.owens@usace.army.mil or by phone at 910-251-4757

9.0 FINDING OF NO SIGNIFICANT IMPACT

It is my determination that the No Action alternative (Recommended Plan) does not constitute a major federal action that would significantly affect the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.



Robert J. Clark
Colonel, U.S. Army
District Commander

Date: 04 SEP 18

ATTACHMENT
PUBLIC NOTICE COMMENTS RECEIVED



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Raleigh ES Field Office

Post Office Box 33726

Raleigh, North Carolina 27636-3726

August 28, 2018

Jenny Owens

U.S. Army Corps of Engineers, Wilmington District

Wilmington Regulatory Field Office

69 Darlington Avenue

Wilmington, NC 28403

Re: Northern Riverfront Marina – New Hanover County, NC

Dear Mrs. Owens:

This letter is to inform you that the Service has established an on-line project planning and consultation process which assists developers and consultants in determining whether a federally-listed species or designated critical habitat may be affected by a proposed project. For future projects, please visit the Raleigh Field Office's project planning website at <https://www.fws.gov/raleigh/pp.html>. If you are only searching for a list of species that may be present in the project's Action Area, then you may use the Service's Information, Planning, and Consultation System (IPaC) website to determine if any listed, proposed, or candidate species may be present in the Action Area and generate a species list. The IPaC website may be viewed at <https://ecos.fws.gov/ipac/>. The IPaC web site contains a complete and frequently updated list of all endangered and threatened species protected by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.)(Act), a list of federal species of concern¹ that are known to occur in each county in North Carolina, and other resources.

Section 7 of the Act requires that all federal agencies (or their designated non-federal representative), in consultation with the Service, insure that any action federally authorized, funded, or carried out by such agencies is not likely to jeopardize the continued existence of any federally-listed endangered or threatened species. A biological assessment or evaluation may be prepared to fulfill that requirement and in determining whether additional consultation with the Service is necessary. In addition to the federally-protected species list, information on the

¹ The term "federal species of concern" refers to those species which the Service believes might be in need of concentrated conservation actions. Federal species of concern receive no legal protection and their designation does not necessarily imply that the species will eventually be proposed for listing as a federally endangered or threatened species. However, we recommend that all practicable measures be taken to avoid or minimize adverse impacts to federal species of concern.

species' life histories and habitats and information on completing a biological assessment or evaluation and can be found on our web page at <http://www.fws.gov/raleigh>. Please check the web site often for updated information or changes.

If your project contains suitable habitat for any of the federally-listed species known to be present within the county where your project occurs, the proposed action has the potential to adversely affect those species. As such, we recommend that surveys be conducted to determine the species' presence or absence within the project area. The use of North Carolina Natural Heritage program data should not be substituted for actual field surveys.

If you determine that the proposed action may affect (i.e., likely to adversely affect or not likely to adversely affect) a federally-protected species, you should notify this office with your determination, the results of your surveys, survey methodologies, and an analysis of the effects of the action on listed species, including consideration of direct, indirect, and cumulative effects, before conducting any activities that might affect the species. If you determine that the proposed action will have no effect (i.e., no beneficial or adverse, direct or indirect effect) on federally listed species, then you are not required to contact our office for concurrence (unless an Environmental Impact Statement is prepared). However, you should maintain a complete record of the assessment, including steps leading to your determination of effect, the qualified personnel conducting the assessment, habitat conditions, site photographs, and any other related articles.

With regard to the above-referenced project, we offer the following remarks. Our comments are submitted pursuant to, and in accordance with, provisions of the Endangered Species Act.

Based on the information provided and other information available, it appears that the proposed action is not likely to adversely affect any federally-listed endangered or threatened species, their formally designated critical habitat, or species currently proposed for listing under the Act at these sites. We believe that the requirements of section 7(a)(2) of the Act have been satisfied for your project. Please remember that obligations under section 7 consultation must be reconsidered if: (1) new information reveals impacts of this identified action that may affect listed species or critical habitat in a manner not previously considered; (2) this action is subsequently modified in a manner that was not considered in this review; or, (3) a new species is listed or critical habitat determined that may be affected by the identified action.

However, the Service is concerned about the potential impacts the proposed action might have on aquatic species. Aquatic resources are highly susceptible to sedimentation. Therefore, we recommend that all practicable measures be taken to avoid adverse impacts to aquatic species, including implementing directional boring methods and stringent sediment and erosion control measures. An erosion and sedimentation control plan should be submitted to and approved by the North Carolina Division of Land Resources, Land Quality Section prior to construction. Erosion and sedimentation controls should be installed and maintained between the construction site and any nearby down-gradient surface waters. In addition, we recommend maintaining natural, vegetated buffers on all streams and creeks adjacent to the project site.

The North Carolina Wildlife Resources Commission has developed a Guidance Memorandum (a copy can be found on our website at (<http://www.fws.gov/raleigh>) to address and mitigate

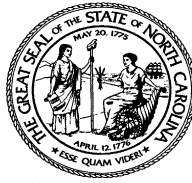
secondary and cumulative impacts to aquatic and terrestrial wildlife resources and water quality. We recommend that you consider this document in the development of your projects and in completing an initiation package for consultation (if necessary).

We hope you find our web page useful and informative and that following the process described above will reduce the time required, and eliminate the need, for general correspondence for species' lists. If you have any questions or comments, please contact John Ellis of this office at (919) 856-4520 ext. 26.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Benjamin". The signature is fluid and cursive, with the first name "Pete" written in a larger, more prominent script than the last name "Benjamin".

Pete Benjamin
Field Supervisor



**North Carolina Department of Natural and Cultural Resources
State Historic Preservation Office**

Ramona M. Bartos, Administrator

Governor Roy Cooper
Secretary Susi H. Hamilton

Office of Archives and History
Deputy Secretary Kevin Cherry

August 16, 2018

Jennifer Owens
Department of the Army
Wilmington District, Corps of Engineers
69 Darlington Avenue
Wilmington, NC 28403-1343

Re: Allow Small Cruise Ships to Dock at Northern Riverfront Marina, 10 Harnett Street, Wilmington,
ECP-2018-S408-0001, New Hanover County, ER 18-1809

Dear Ms. Owens:

Thank you for your email of August 2, 2018, concerning the above project.

We have conducted a review of the project and are aware of no historic resources which would be affected by the project. Therefore, we have no comment on the project as proposed.

The above comments are made pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's Regulations for Compliance with Section 106 codified at 36 CFR Part 800.

Thank you for your cooperation and consideration. If you have questions concerning the above comment, contact Renee Gledhill-Earley, environmental review coordinator, at 919-807-6579 or environmental.review@ncdcr.gov. In all future communication concerning this project, please cite the above referenced tracking number.

Sincerely,

A handwritten signature in blue ink that reads "Renee Gledhill-Earley".

for Ramona M. Bartos

From: [Twyla Cheatwood - NOAA Federal](#)
To: [Owens, Jennifer L CIV USARMY CESAW \(US\)](#)
Cc: [Andrew Herndon - NOAA Federal](#)
Subject: Re: [Non-DoD Source] Public Notice - Section 408 for Northern Riverfront Marina, Wilmington, NC
Date: Thursday, August 16, 2018 10:34:13 AM

Jenny,

The NMFS has reviewed a Section 408 request by Northern Riverfront Marina and Hotel, LLP, to allow larger ships, i.e. small cruise ships, to dock at the marina for short-term stops to the Wilmington area. The facility is located on the Cape Fear River, adjacent to a turning basin that is part of the Wilmington Harbor federal navigation project.

This portion of the Cape Fear River includes Critical Habitat designated for Atlantic sturgeon under the Endangered Species Act. The changes proposed for North Riverfront Marina and nearby federal channels should include evaluations of whether the changes in ship traffic will increase the likelihood of ships colliding with Atlantic sturgeon. If that review suggests Atlantic sturgeon, or other species under the purview of the NMFS, may be affected, coordination with our Protected Resources Division should occur. Based on the information provided, we assume no new dredging is proposed. If dredging will be required, an EFH Assessment should be developed and submitted to us for review in addition to ESA coordination.

Thank you for your coordination,

Twyla

Twyla H Cheatwood
Fishery Biologist
Southeast Region, Habitat Conservation Division
NOAA Fisheries
Beaufort, NC 28516
Office: (252) 728-8758
Twyla.cheatwood@noaa.gov

From: [Holliman, Daniel](#)
To: [Owens, Jennifer L CIV USARMY CESAW \(US\)](#)
Cc: [Buskey, Traci P.](#); [Millitscher, Chris](#)
Subject: [Non-DoD Source] Section 408 Request - Proposed docking of small cruise ships at Northern Riverfront Marina - Cape Fear River NC
Date: Wednesday, August 15, 2018 10:16:48 AM

Jennifer:

The EPA Region 4 NEPA program office received a notice requesting our review of the above referenced project and we would like to offer the following comments below. It is our understanding that this is a request to work near a federally-constructed navigation project.

NPDES Stormwater Permit Coverage - The NPDES stormwater program in NC requires construction site operators engaged in clearing, grading, and excavating activities that disturb 1 acre or more, including smaller sites in a larger common plan of development or sale, to obtain coverage under an NPDES permit for their stormwater discharges. If the COE determines that the proposed project will disturb 1 acre or more, NPDES permit coverage will be needed. The State of North Carolina has an authorized NPDES Stormwater permitting program and we encourage the COE and/or the responsible party for this project visit the State's NPDES Stormwater website at:

Blocked<https://deq.nc.gov/about/divisions/energy-mineral-land-resources/energy-mineral-land-permits/stormwater-permits/construction-sw> <Blocked<https://deq.nc.gov/about/divisions/energy-mineral-land-resources/energy-mineral-land-permits/stormwater-permits/construction-sw>> . The status of applicable NPDES permits should be discussed in the NEPA document.

Best Management Practices (BMPs) - EPA recommends that the project engineer design and implement Best Management Practices (BMPs) which will minimize stormwater impacts associated with this project. The construction best management practices plan should include implementable measures to prevent erosion and sediment runoff from the project site and borrow area. Proposed BMPs to minimize construction impacts to the Cape Fear River should be discussed in the NEPA document.

Wetlands - Based on our review, the proposed project has the potential to impact jurisdictional waters of the United States including wetlands. Activities in waters of the United States are regulated under Section 404 of the Clean Water Act and include fill for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports) and mining projects. Section 404 requires a permit before dredged or fill material may be discharged into waters of the United States. The EPA recommends the project NEPA document discuss compliance with Section 404 of the CWA and any proposed mitigation for project impacts.

If you have any questions, please contact me at the email or phone number below.

Regards,

Dan

Dan Holliman

USEPA Region 4 | NEPA Program Office

61 Forsyth Street SW | Atlanta, GA 30303

tel 404.562.9531 | holliman.daniel@epa.gov <<mailto:holliman.daniel@epa.gov>>

MEMORANDUM FOR RECORD

SUBJECT: Phone call from USCG re: Public Notice for Section 408 - Northern Riverfront Marina, Wilmington, North Carolina

1. At 1418 on 8 August 2018, Chief O'Rourke of the U. S. Coast Guard called me regarding the public notice for the Northern Riverfront Marina and their request to dock larger ships (small cruise ships) at the marina. Chief O'Rourke inquired about the size of cruise ships being requested for mooring and I informed him that a specific vessel size was not mentioned in the applicants request; however, the proposed mooring area shown on a map provided by the applicant encroached on the Wilmington Harbor federal navigation project.
2. Chief O'Rourke said the USCG would be concerned about any impacts to navigation and any limiting of the turning area for vessels. I informed him that based on the information provided, it appeared that mooring of small cruise ships could impact navigation; however, a final decision would not be made until we had the opportunity to review and consider all comments received as a result of the public notice.



Jennifer L. Owens
Section 408 Coordinator
Wilmington District