



UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary for
Oceans and Atmosphere
Washington, D.C. 20230

OCT 16 2001

The Honorable James L. Connaughton
Chairman, Council on Environmental Quality
Executive Office of the President
Washington, D.C. 20006

Dear Mr. Chairman:

The National Oceanic and Atmospheric Administration (NOAA) has reviewed the Final Supplement III to the Final Environmental Impact Statement (FEIS) for the Corps of Engineers' (COE) Manteo (Shallowbag) Bay Project, (MSBP) located in Dare County, North Carolina. The FEIS was filed with the U.S. Environmental Protection Agency on September 21, 2001. The selected alternative identifies construction of a dual jetty system and channel deepening from the present 14 feet to a design depth of 20 feet, to improve navigation at Oregon Inlet. The project would be built on the dynamic barrier islands of the Outer Banks. Let me assure you that NOAA strongly supports the goal of providing safe navigation for the commercial and recreational fishing vessels using Oregon Inlet. However, we believe there are alternatives that can achieve this goal in an environmentally acceptable manner. Accordingly, NOAA is compelled to disagree with the COE's selected alternative of jetty construction because it would cause unacceptable environmental harm to commercial and recreational fishery resources.

Pursuant to the Council on Environmental Quality's (CEQ) procedures for referrals in 40 CFR 1504.3 (c) (2), NOAA is providing this letter and the enclosed referral document to the CEQ for consideration and action. We also enclose for your information a copy of the March 4, 1999, NOAA, National Marine Fisheries Service (NMFS) comments on the draft FEIS.

NOAA has statutorily mandated stewardship and management responsibilities for the Nation's living marine resources. Based on our analysis of information provided by the COE, and on input from a number of distinguished scientists and recognized authorities in the fields of coastal geology, coastal engineering, and marine biology, we conclude that unacceptable environmental risk is involved with building jetties at Oregon Inlet.

It is estimated that over 90 percent of the southeast region's commercially and recreationally important finfish and shellfish rely on estuaries, including those found behind Oregon Inlet, during all or part of their lifecycle. These fisheries contribute greatly to the



economic and social welfare of North Carolina and the Nation. These species would be adversely affected by this project because successful ocean-to-estuary migration of their larvae and post-larvae is essential since maturation is not possible in the ocean environment. Oregon Inlet represents the single, important pathway for larval fish migration into Albemarle Sound and northern Pamlico Sound. Pamlico Sound is also the most important national nursery area for summer flounder and weakfish, which are highly valued by commercial and recreational fishers. Reduction in the ability of these fishes to reach essential nursery and maturation sites is likely to produce a decline in abundance and production of these fish stocks.

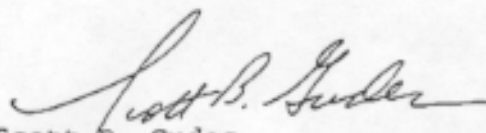
The South Atlantic and Mid-Atlantic Fishery Management Councils and NMFS have identified areas of essential fish habitat (EFH) at and near Oregon Inlet which would be impacted by the proposed jetty alternative of the MSBP. Certain habitats within this EFH have been designated as Habitat Areas of Particular Concern because of their very high value and susceptibility to degradation.

In consideration of the unacceptable and potentially serious consequences of building jetties at Oregon Inlet, NOAA/NMFS has, for the past ten years, provided technical information to the COE, and consistently has requested that they fairly and objectively evaluate non-structural alternatives to maintaining navigation. The COE has steadfastly refused to evaluate present dredging practices in terms of actual economic, social, and environmental impacts. Instead, they have examined them in relation to much greater channel dimensions that have been shown to be unattainable without jetties.

Accordingly, NOAA asks the CEQ to support NOAA's recommendation that the COE select the no action alternative, thereby allowing continued maintenance dredging and protection of important commercial and recreational fishery species.

Details regarding the basis for this referral and our recommendation are provided in the enclosed supporting statement. We continue to support the project goal of safe, reliable navigation through the inlet and we are prepared to work cooperatively with the COE and CEQ to resolve this matter in accordance with the purposes of the National Environmental Policy Act.

Sincerely,



Scott B. Gudes
Acting Under Secretary for Oceans
and Atmosphere/Administrator

cc: Assistant Secretary of the Army (Civil Works)
Acting Director, Office of Federal Activities, EPA
Acting Assistant Secretary, Fish, Wildlife & Parks, DOI
Deputy Assistant Secretary for Policy and
International Affairs, DOI
Director, Office of Environmental Policy and Compliance, DOI



UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary for
Oceans and Atmosphere
Washington, D.C. 20230

OCT 16 2001

The Honorable Mike Parker
Assistant Secretary of the
Army (Civil Works)
Department of the Army
Washington, D.C. 20310-0108

Dear Mr. Parker:

This letter is to inform you of the National Oceanic and Atmospheric Administration's (NOAA) decision to refer the Final Supplement III to the Final Environmental Impact Statement (FEIS) for the Corps of Engineers (COE) Manteo (Shallowbag) Bay Project (MSBP), in North Carolina, to the President's Council on Environmental Quality (CEQ). The COE filed the FEIS with the U.S. Environmental Protection Agency on September 21, 2001. The FEIS identifies construction of a dual jetty system at Oregon Inlet as the preferred alternative for maintaining a navigation channel. The project would be built on the dynamic barrier islands of the Outer Banks.

Let me assure you that NOAA strongly supports COE's goal of providing safe navigation for the commercial and recreational fishing vessels using Oregon Inlet. However, we believe there are alternatives that can achieve this goal in an environmentally acceptable manner. Accordingly, NOAA is compelled to disagree with the COE's selected alternative of jetty construction because it would cause unacceptable environmental harm to commercial and recreational fishery resources.

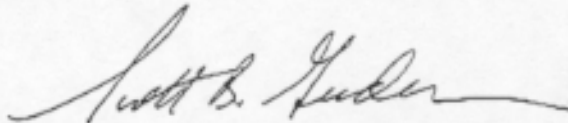
NOAA, through its National Marine Fisheries Service (NMFS) has for many years been opposed to the selected alternative because of the potentially serious environmental impact on fishery resources and related habitats, including essential fish habitats under our purview. The "No Action" alternative involving only dredging within the inlet should be continued. We do not believe these concerns have been adequately assessed in the FEIS. The enclosed documents detail our concerns and evidence in support of our position.

Pursuant to the CEQ's procedures for referrals in 40 CFR 1504.3 (c)(2), NOAA is referring the actions proposed in the FEIS to the CEQ for consideration and action. Our referral notifies the CEQ of our determination that the preferred alternative is likely to cause significant and irreparable harm to living marine and other resources of national importance. We also advise that the FEIS for the project appears to contravene provisions contained in the CEQ Regulations regarding FEISs. Specifically, environmental impacts associated with



the selected alternative are not fully or accurately disclosed, and a less damaging alternative (the No Action Alternative) was neither fairly or objectively evaluated. We have recommended to the CEQ that the COE choose the no action alternative because it would allow continued maintenance dredging and protection of fishery resources. We continue to support the project goal of safe, reliable navigation through the inlet and we are prepared to work cooperatively with the COE to resolve this matter in accordance with the purposes of the National Environmental Protection Act.

Sincerely,



Scott B. Gudes
Acting Under Secretary for Oceans
and Atmosphere/Administrator

Enclosures

cc: Chairman, Council on Environmental Quality
Acting Director, Office of Federal Activities, EPA
Acting Assistant Secretary for Fish, Wildlife & Parks, DOI
Deputy Assistant Secretary for Policy and
International Affairs, DOI
Director, Office of Environmental Policy and Compliance, DOI