

**Figure 12. Color image of magnetometer data in magnetic amplitudes.**

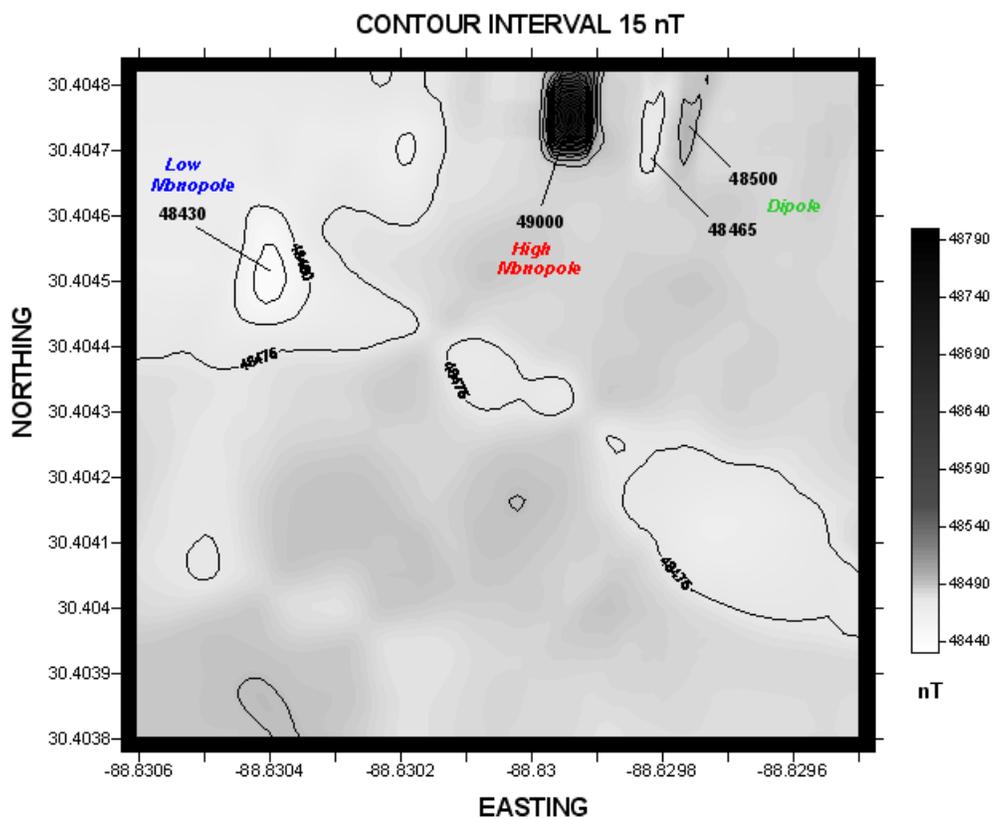


Figure 13. Black-and-white image of magnetometer data in magnetic amplitudes.

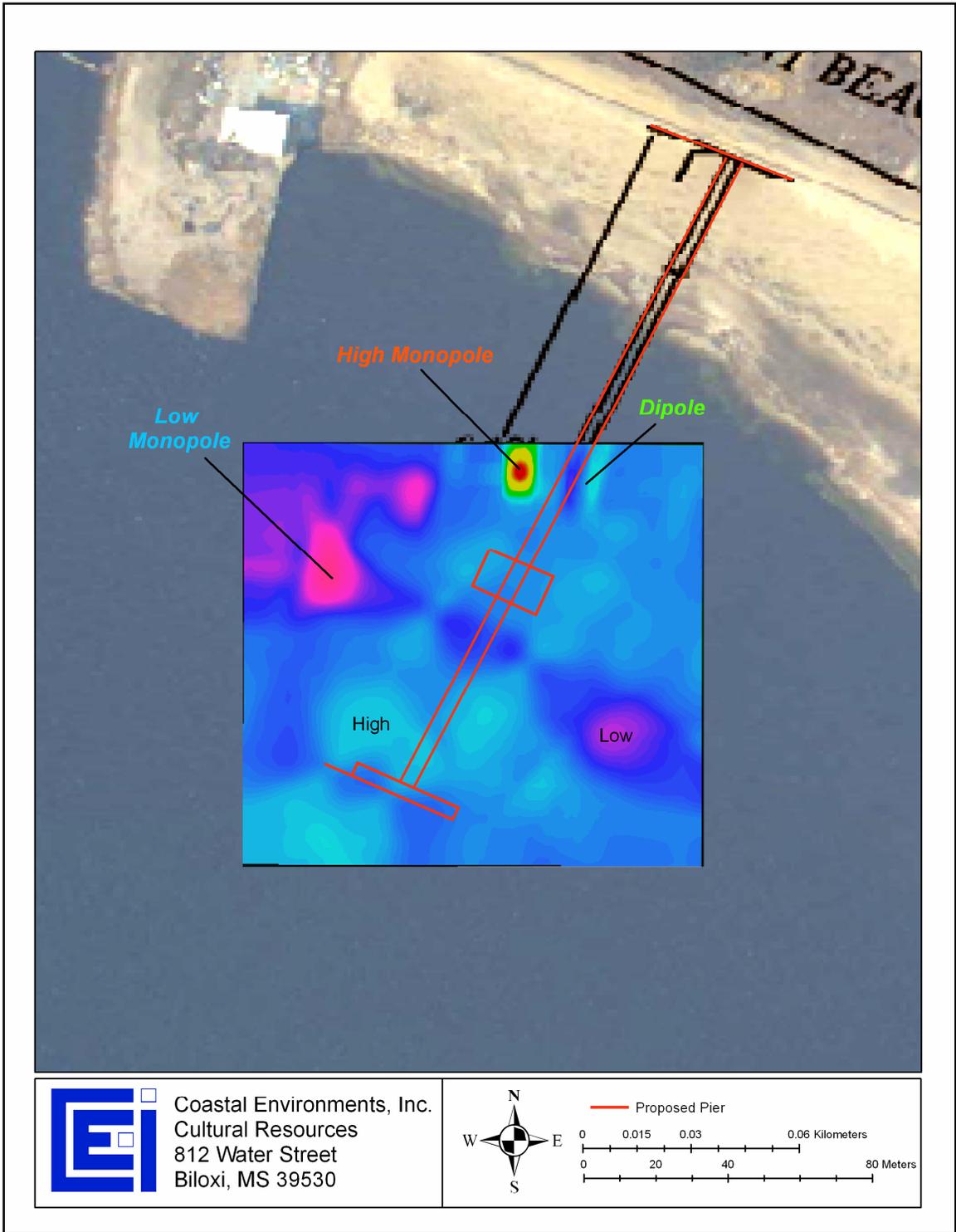
There are three interesting anomalies present in the magnetic data, two of which contain a monopole—a single magnetic high or low—and one that contains a dipole—pairs of magnetic highs and lows from surface metals or strongly magnetized minerals.

The dipole<sup>1</sup> in the project area is a ‘non-normal’ dipolar anomaly (Reynolds 1997:160) because the magnetic low is oriented to the west and the magnetic high is oriented to the east. In ‘normal’ dipolar anomalies, the low is oriented to the north and the high is oriented to the south. The ‘normal’ orientation is formed by remnant magnetism, which refers to the permanent alignment of magnetic domains along a single axis within a material (Reynolds 1997). The orientation of the dipole in the magnetic data suggests that this object is a human-made ferrous object that probably moved after remnant magnetization occurred. The dipole is roughly 14 m (45 ft) long and 7 m (23 ft) wide, with a low amplitude of 48,465 nT and a high amplitude of 48,500 nT. This magnetic signature is much weaker than the intense monopole to the west indicating that there are less iron-bearing minerals in the former.

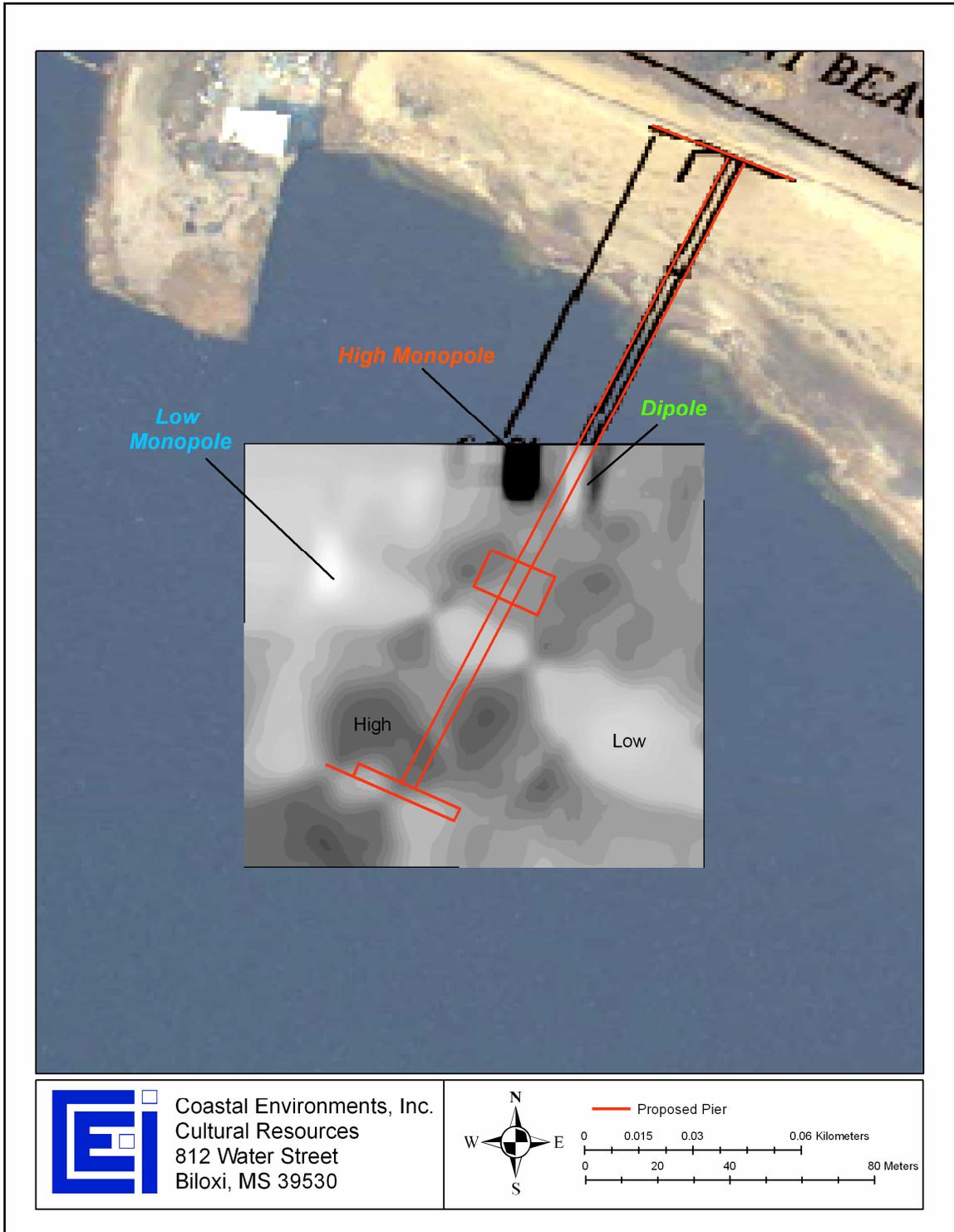
Monopole anomalies are caused when a strongly magnetized mineral is oriented so that one pole is near the sensor and the other is far enough away to be unrecorded (Telford et al. 1990:85). One anomaly of interest is the monopole located in the northern section of the project area.<sup>2</sup> This anomaly is 15 m (50 ft) long and 7 m (23 ft) wide and contained intense magnetic amplitudes of 49,000 nT with readings 600 nT higher than the surrounding area, which ranged on average from 48,480 nT. Monopoles with high magnetic signatures are typically encountered when surveys cover metallic well casings (Reynolds 2002:24-25). The magnetic axes of the metal tubes are lined up with magnetization, while the ends of the well casings are the opposing magnetic poles. Sometimes, these anomalies appear as radially symmetrical areas of extremely high amplitude readings of single polarity because the sensor is only detecting the magnetic field created by the end of the artifact (Von Frese and Noble 1984:42). Based on these observations, the high amplitude monopole in the Chester McPherson Pier project area is possibly a metal pipe.

A monopole with weak magnetic readings of 48,430 nT was also observed in the project area.<sup>3</sup> The presence of this magnetic low suggests that this area may contain topographically lower elevations than the surrounding area because there is a weaker magnetic signature overall. It is uncertain what this anomaly may be without testing, but it is outside the project boundaries and will not be affected during construction of the pier. The remainder of the project area has linear patterns of magnetic highs and lows. The high signatures could be related to debris associated with the previous pier or the disruption of the sea floor during its construction. The areas with these higher readings appear to parallel each side of the location of the previous pier as well as the area surrounding the proposed pier (Figures 14 and 15). The areas containing slightly lower magnetic readings are probably the sea floor itself. These anomalies form a linear pattern that parallels the current shoreline.

While the identity of the magnetic objects in the project area could not be determined during the survey from the magnetometer data alone, the size and intensity of these magnetic signatures suggests the presence of two or more relatively large metal objects. While these anomalies represent intense signatures expanding greater than 10 m (32 ft) in size, the intensity is largely a result of the distance from the sensor to the object underwater, which in this case is fairly shallow at less than 1 m (3.3 ft). The sizes of the objects are unknown, but data interpretation suggests that they are moderately large (e.g., larger than a metal nail). Wood pilings from a previous pier were observed in the project area during the magnetometer survey, and these pilings were within a few meters of two of the magnetic anomalies (Figure 16). The locations of the metal objects/anomalies in relation to the pilings suggests that the anomalies may be associated with the pier that previously occupied this area. The metal objects may be pipes, cables, or metal debris from the original pier pilings.



**Figure 14. Magnetometer data showing the location of anomalies in relation to the proposed pier (base image from BMI).**



**Figure 15. Magnetometer data showing the location of anomalies in relation to the proposed pier (base image from BMI).**



**Figure 16. Pilings in project area, facing southwest.**

## CONCLUSIONS AND RECOMMENDATIONS

CEI conducted a cultural resources survey of the Chester McPherson Pier project area in March 2008. This survey included the use of an auger to search for buried deposits on land and the use of a magnetometer to search for submerged vessels in the shallow waters on the south side of the project area. No significant cultural resources were encountered within the project area during this survey. Although an important French colonial archaeological site is located just north of the project area across Front Beach Drive, no artifacts or archaeological deposits were encountered on land within the project area. This is probably because the land portion of the Chester McPherson Pier project area is sand beach which has been thoroughly re-worked by wave action and may be dredge spoil from another location entirely. The only submerged cultural materials identified during the magnetometer survey of the portion of the project area within Biloxi Bay are likely the remains of a pier, and these remains are not considered eligible for listing in the NRHP because of their lack of integrity and their possible recent origin. The absence of submerged cultural resources within the project area is somewhat surprising because this portion of Ocean Springs's waterfront contained a steamboat wharf and other facilities over the water as early as the 1830s. The steamboat wharf and other piers were located at the foot of Jackson and Washington avenues, just to the west and east of the project area, so it is possible that intact, submerged archaeological deposits are still present in the vicinity, but that they are located just outside of the project area. Alternatively, submerged deposits in this area may have been destroyed by recent natural or cultural processes.

The Chester McPherson Pier project area is located just south of the Old Ocean Springs Historic District. The project is located completely outside of the district, though, and it will have no direct effect on the district itself. The pier will be visible from the southern end of the Old Ocean Springs Historic District, so this project could have an indirect visual effect on the district. However, this effect will be minimal because the maximum height of the pier will be relatively low at less than 25-ft tall. Additionally, the pier will be constructed in an area that has contained multiple piers and/or seafood

processing facilities during the period from the 1830s up to 2005. Regarding any indirect effects on the adjacent Old Ocean Springs Historic District, placing a pier in this location is at least consistent with the area's historic use, and a public pier is arguably an improvement over a commercial seafood establishment. Therefore, it is CEI's opinion that the Chester McPherson Pier project will have *no adverse effects* on the adjacent Old Ocean Springs Historic District, and that the construction of this pier will not diminish the integrity of the significant historic features of the properties that constitute the historic district.

Based on the fact that archaeological deposits were not encountered during the survey and based on a consideration of the potential indirect effects on the Old Ocean Springs Historic District, it is CEI's opinion that *no cultural resources will be affected* by the Chester McPherson Pier project. It is our recommendation that no further archaeological work will be necessary regarding this project. It should be noted, however, that there is potential for encountering unexpected remains in this area. In the unlikely event that such remains are found, work should immediately stop in the find area and the Historic Preservation Division of the Mississippi Department of Archives and History should be contacted.

## ENDNOTES

<sup>1</sup> Latitude and longitude coordinates for this anomaly are N= 30.404763 and E= -88.829950.

<sup>2</sup> Latitude and longitude coordinates for this anomaly are N= -88.830410 and E= 30.404507.

<sup>3</sup> Latitude and longitude coordinates for this anomaly are N=30.404731 and E=-88.829760.

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# FEMA

U.S. Department of Homeland Security  
Federal Emergency Management Agency  
Transitional Recovery Office  
Physical Address  
220 Popps Ferry Rd.  
Biloxi, MS 39531

January 25, 2008

Mr. Jim Woodrick  
Review and Compliance Officer  
Mississippi Department of Archives and History  
Historic Preservation Division  
P.O. Box 571  
Jackson, MS 39205-0571

**RE: Request for Project Review – Relocation and Replacement of the City of Ocean Springs Community Pier**

Dear Mr. Woodrick:

As a result of the damage caused by Hurricane Katrina on August 29, 2005 and the days following, a Presidential disaster declaration, referenced as FEMA-1604-DR-MS, makes Federal Emergency Management Agency (FEMA), Public Assistance (PA) funding available throughout the state of Mississippi. The purpose of FEMA's PA program is to provide funding to restore damaged facilities to their pre-disaster condition, or to a condition sufficient to perform their pre-disaster functions. One PA project, referenced as PW #3310, involves the construction of a Community Pier in the City of Ocean Springs, MS. The pier will be located on Front Beach adjacent to the new Fort Maurepas Park facility.

Prior to Hurricane Katrina, the Ocean Springs Community Pier was located on Front Beach at the foot of Martin Avenue and provided public access to the water for fishing and enjoyment of natural resources to residents and visitors. Due to the pier's location on the Gulf of Mexico, the structure was completely devastated by the tidal surge experienced during Katrina. Based on observations made by a local engineering firm, the City is requesting to relocate the pier to a parcel approximately ¼ mile east of the existing site, directly in front of publicly owned property that will be used for the Fort Maurepas Park. The move to this location is based on the increased availability of public parking, restrooms, and greater safety for pedestrians.

There are remains of a previous pier in this new location that are in the same alignment of the proposed pier; however, the footprint for the new pier is much larger and will penetrate the soils at a greater depth. The pier will be 640 feet in length (110 over land and 530 over water), 10 feet in width, and 6.5 feet above mean high tide. Concrete Pilings (14" X 14") will be driven into the ground at least 5 feet or greater

A FEMA Archeologist (Paul Drummond) and Architectural Historian (Hugh McAloon), both qualified in their respective disciplines under *Secretary of the Interior's Professional Qualifications Standards* (36 CFR Part 61), conducted an assessment of the project's potential to affect historic properties within the Area of Potential Effects (APE). The APE is the geographic area within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if such properties exist. For archeological resources, the APE consists of

the proposed site; for above-ground historic properties, the APE is extended out to a 0.5-mile radius around the proposed project site. This APE was previously established through FEMA consultation with the Mississippi State Historic Preservation Office (SHPO).

On December 18, 2007 a FEMA Archaeologist and Architectural Historian visited the APE to determine if any historic buildings/structures or archaeological sites listed or eligible for listing in the National Register of Historic Places (NRHP) were visibly present within the APE. The USGS Topographic Map (Ocean Springs Quadrangle, 7.5 Min) shows that the APE is located in the southwestern portion of the City of Ocean Springs, Mississippi along the shoreline of Biloxi Bay. This area of Ocean Springs is characterized by a narrow man-made beach adjacent to a two-lane beach front road between the beach and a gently rising low ridge of land that is dominated by Live Oak/Pine/Southern Magnolia forest which is interspersed with narrow tidal creeks and inlets off of the bay.

The APE is situated within the southern boundary of the National Register of Historic Places Old Ocean Springs Historic District. Most homes within the view shed were severely damaged or destroyed by Hurricane Katrina but many owners have begun to rebuild. The City of Ocean Springs, a Certified Local Government, is addressing the potential view shed issues through the Historic Preservation Review Committee. FEMA requests SHPO to comment on any concerns they may have on this issue.

A review of the Mississippi Archaeological Survey Files reveal that several archaeological surveys have been conducted within a 2-mile radius of the APE (notably, 75-024, 78-062, 81-071, 85-182-95-078, 96-199, 07-027). Only one site (22-JA-542) has been identified as a result of these surveys which consist of a sunken wreck of an 18<sup>th</sup> Century sailing vessel that was listed in the National Register of Historic Places (NRHP) in 1999. This site is approximately 1.25 miles northwest of the APE. Other sites (22-JA-540, 22-JA-539, 22-JA-538 – determined eligible for listing in the NRHP) are located in the vicinity of the shipwreck and might be related to the occupation of the original Fort Maurepas.

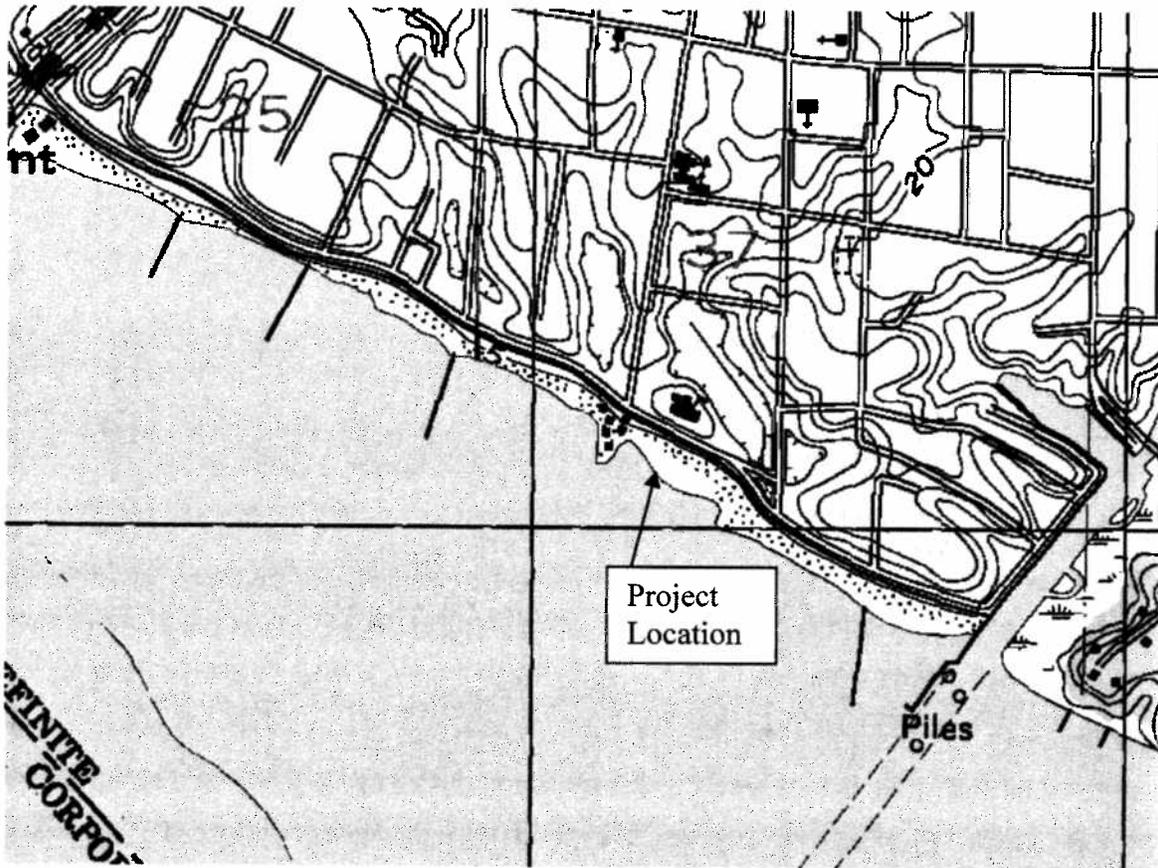
Due to the geographical location of the APE and the fact that this particular area has been used extensively in the past as a Steamboat landing and Hotel, FEMA has determined that the construction of the proposed facility could potentially affect National Register eligible archaeological resources, if any are present. It is recommended that a Phase I underwater and terrestrial archaeological investigation be performed to determine the existence of any unknown resources.

Brown & Mitchell, Inc in Gulfport, MS has been retained by the City of Ocean Springs to prepare an Environmental Assessment (EA) for the proposed project. In compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, FEMA requests that your agency review the proposed project and provide comments and any available information or resources under your agency's jurisdiction within the project area. If you have any questions or need additional information, please contact Paul Drummond by telephone at (228) 594-2960 or electronic mail at [paul.a.drummond@dhs.gov](mailto:paul.a.drummond@dhs.gov).

Sincerely,



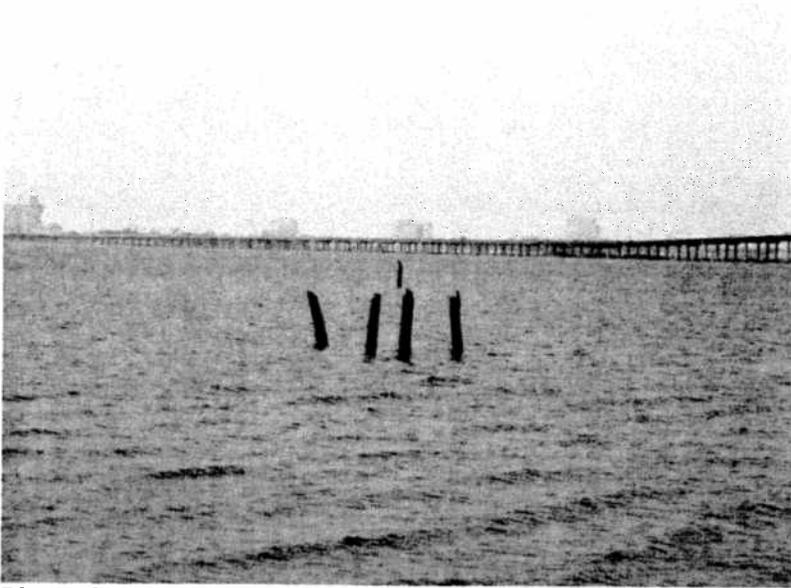
Michael Grisham  
Environmental Liaison Officer  
FEMA-1604-DR-MS



USGS Topographic Map (Ocean Springs Quadrangle, 7.5 min)



Photo 1 – Overview of APE showing remnants of previous pier. Northeast facing southwest

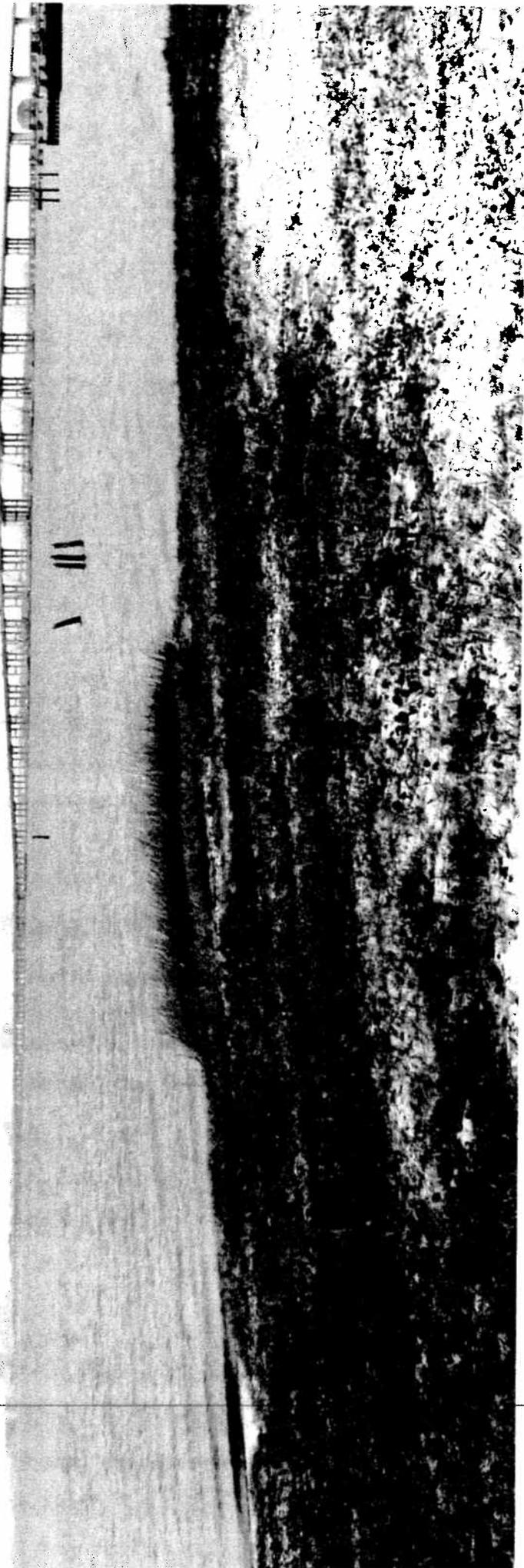


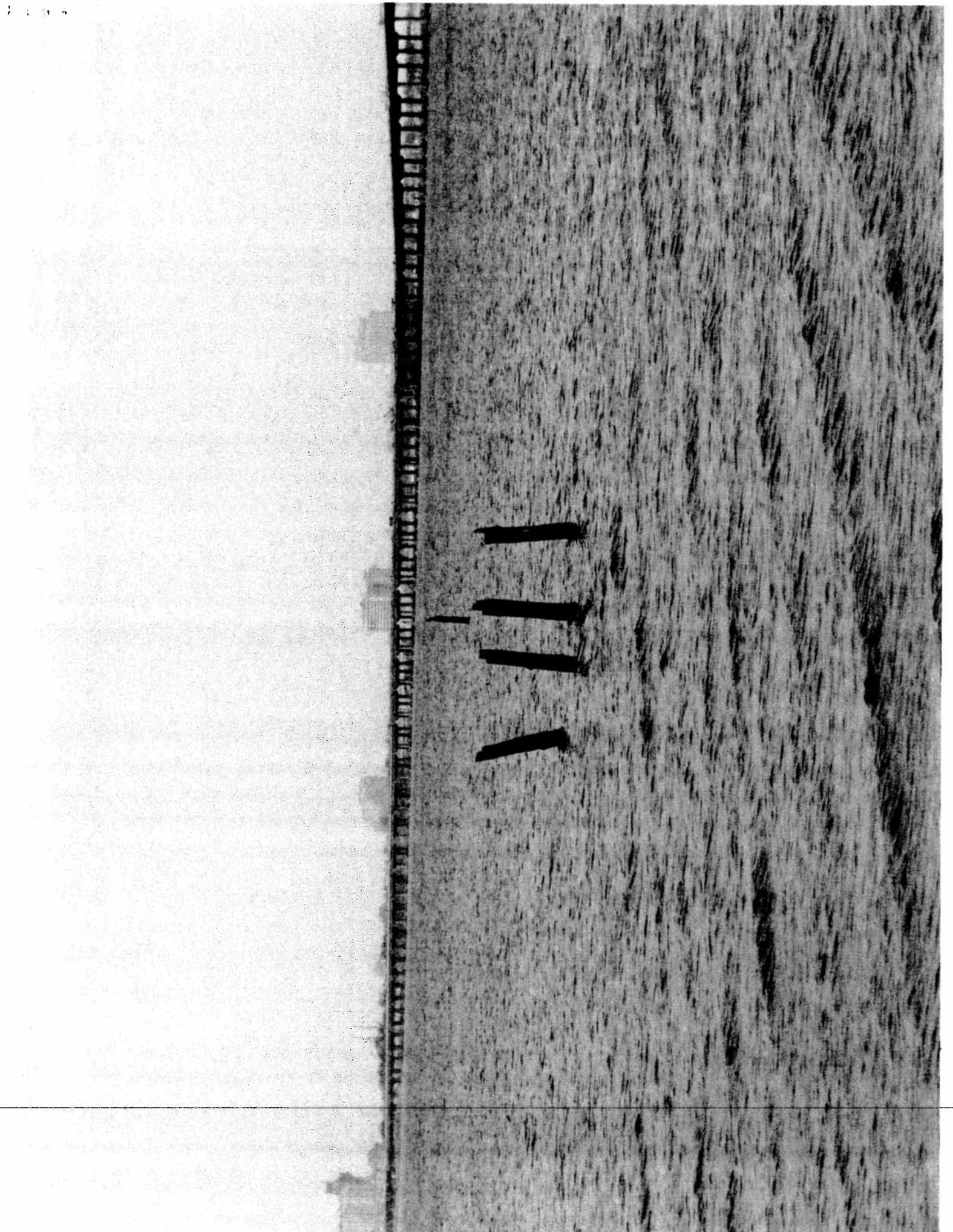
**Photo 2 – Remnants of previous pier. Northeast facing southwest.**

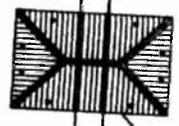
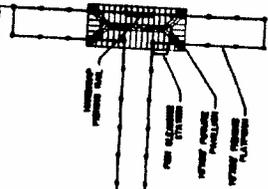


**Photo 3 – View of the proposed site of Fort Maurepas Park. Standing on beach where the pier would be accessed. Southwest facing northeast.**

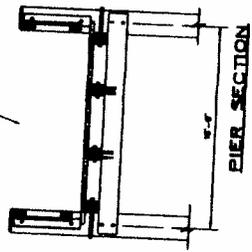
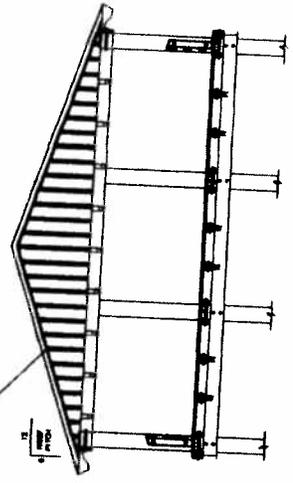
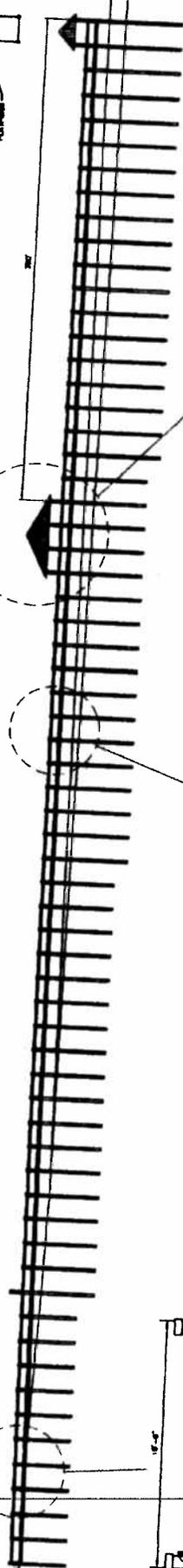




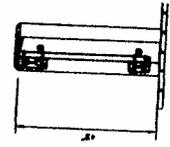




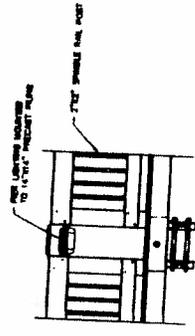
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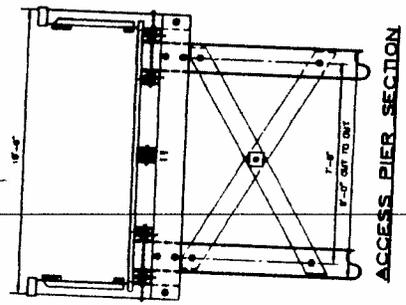
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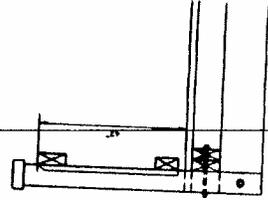
HANDRAIL SECTION



HANDRAIL ELEVATION

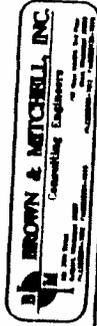


ACCESS PIER SECTION



RAILING PLAN

FORT MAUREPAS PIER  
CITY OF OCEAN SPRINGS  
OCEAN SPRINGS, MISSISSIPPI





# FEMA

U.S. Department of Homeland Security  
Federal Emergency Management Agency  
Transitional Recovery Office  
Physical Address  
220 Popps Ferry Rd.  
Biloxi, MS 39531

January 25, 2008

Mr. Kenneth H. Carleton  
Tribal Historic Preservation Officer  
Mississippi Band of Choctaw Indians  
101 Industrial Road  
Choctaw, MS 39305

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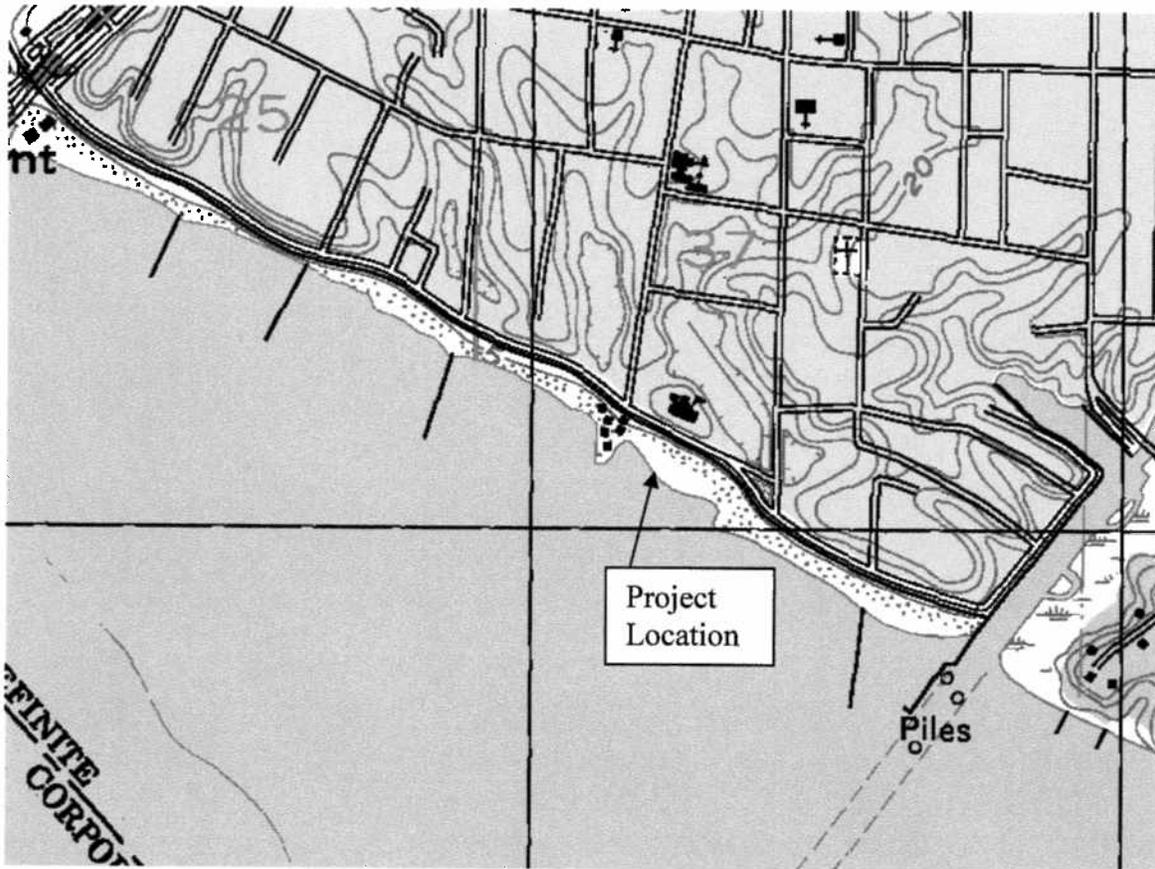
A review of the Mississippi Archaeological Survey Files reveal that several archaeological surveys have been conducted within a 2-mile radius of the APE (notably, 75-024, 78-062, 81-071, 85-182-95-078, 96-199, 07-027). Only one site (22-JA-542) has been identified as a result of these surveys which consist of a sunken wreck of an 18<sup>th</sup> Century sailing vessel that was listed in the National Register of Historic Places (NRHP) in 1999. This site is approximately 1.25 miles northwest of the APE. Other sites (22-JA-540, 22-JA-539, 22-JA-538 – determined eligible for listing in the NRHP) are located in the vicinity of the shipwreck and might be related to the occupation of the original Fort Maurepas.

Due to the geographical location of the APE and the fact that this particular area has been used extensively in the past as a Steamboat landing and Hotel, FEMA has determined that the construction of the proposed facility could potentially affect National Register eligible archaeological resources, if any are present. It is recommended that a Phase I underwater and terrestrial archaeological investigation be performed to determine the existence of any unknown resources.

Brown & Mitchell, Inc in Gulfport, MS has been retained by the City of Ocean Springs to prepare an Environmental Assessment (EA) for the proposed project. In compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, FEMA requests that your agency review the proposed project and provide comments and any available information or resources under your agency's jurisdiction within the project area. If you have any questions or need additional information, please contact Paul Drummond by telephone at (228) 594-2960 or electronic mail at [paul.a.drummond@dhs.gov](mailto:paul.a.drummond@dhs.gov).

Sincerely,  


Michael Grisham  
Environmental Liaison Officer  
FEMA-1604-DR-MS



USGS Topographic Map (Ocean Springs Quadrangle, 7.5 min)



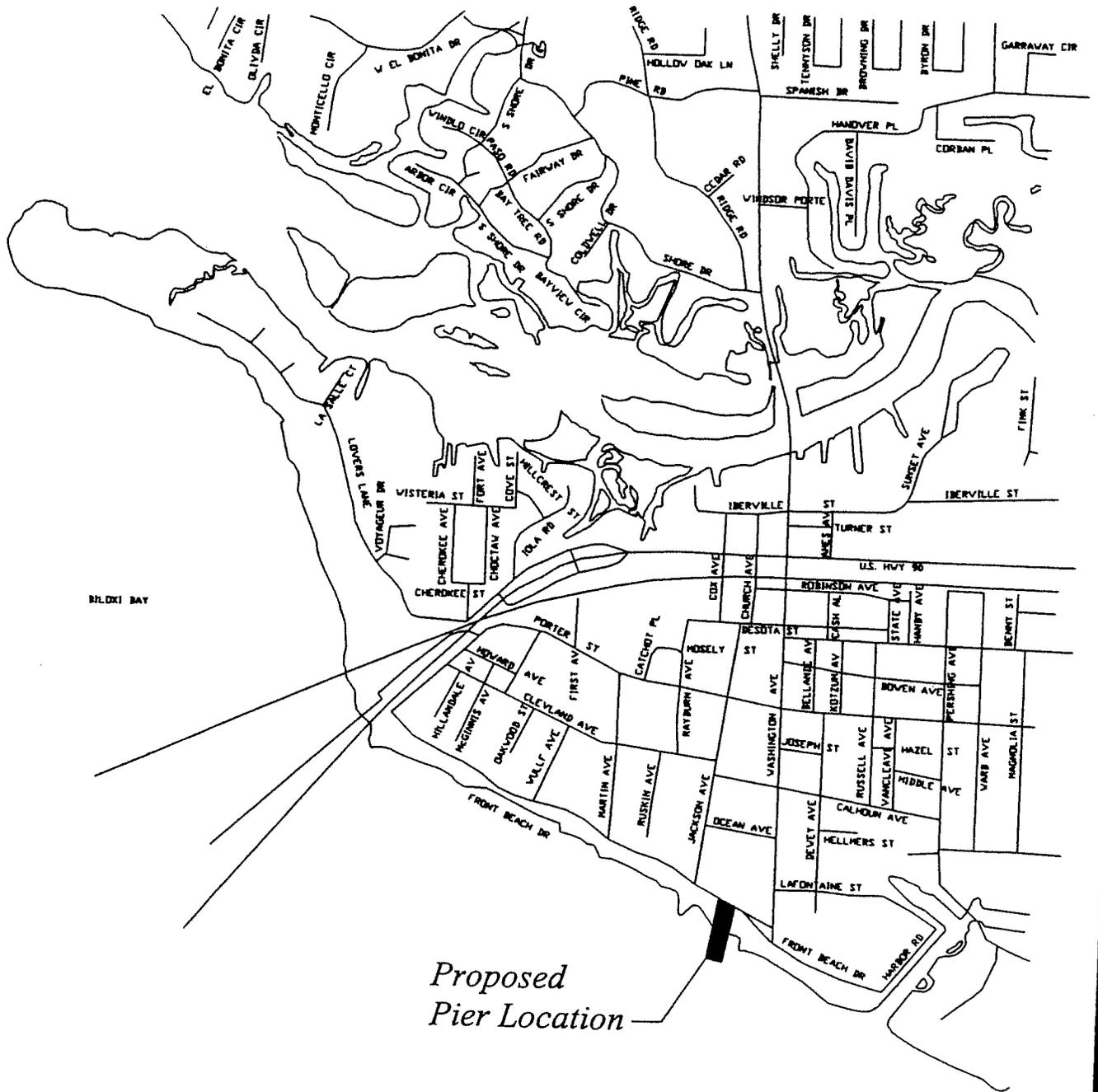
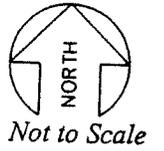
Photo 1 – Overview of APE showing remnants of previous pier. Northeast facing southwest



**Photo 2 – Remnants of previous pier. Northeast facing southwest.**



**Photo 3 – View of the proposed site of Fort Maurepas Park. Standing on beach where the pier would be accessed. Southwest facing northeast.**



Vicinity Map  
Chester C. McPherson Pier  
Ocean Springs, Mississippi

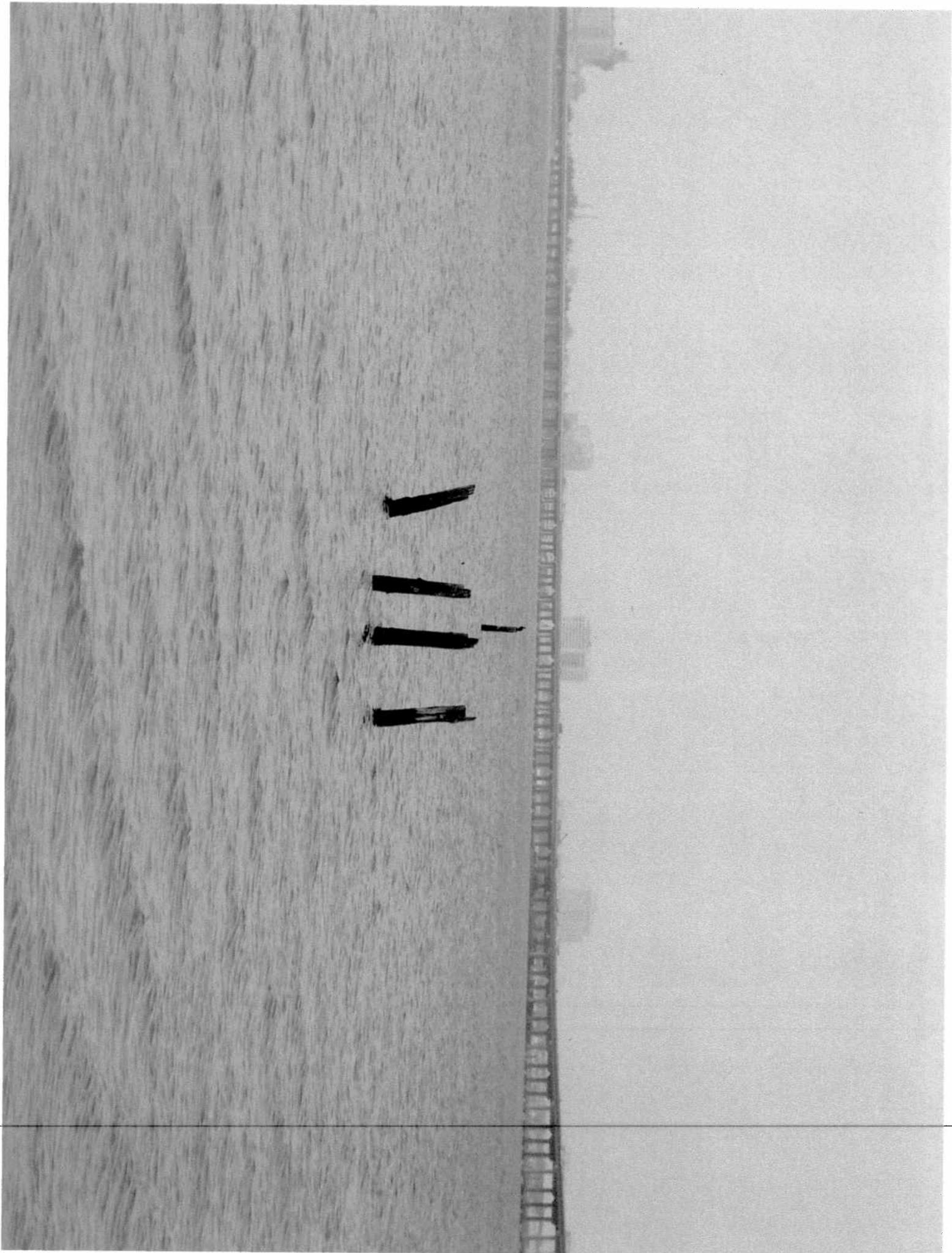
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Brown & Mitchell, Inc.  
BMI Environmental Services, LLC

October 2007





## EFH and Critical Habitat Coordination

**Lewis, Larry**

**From:** Boudreaux, Perry [perry.boudreaux@dhs.gov]  
**Sent:** Thursday, January 31, 2008 1:11 PM  
**To:** Lewis, Larry  
**Subject:** RE: EFH Coordination Corps of Engineers LOP SAM-2007-1956

Larry,

We will consider the comments by Eric Hawk below as ESA clearance.

Perry J. Boudreaux  
Deputy Environmental Liaison Officer  
Mississippi Transitional Recovery Office  
Desk: 228.594.2971  
Cell: 228.239.8261

-----Original Message-----  
From: McFadyen, John B SAM [mailto:John.B.McFadyen@usace.army.mil]  
Sent: Thursday, January 31, 2008 12:14  
To: Boudreaux, Perry  
Cc: Feisher, Allison L SAM  
Subject: FW: EFH Coordination Corps of Engineers LOP SAM-2007-1956

Perry:

See Eric's response below.

John B. McFadyen, P.G.  
Project Manager  
U.S. Army Corps of Engineers, Mobile District Regulatory Division, Coastal Branch (SAM-RD-C)

(251) 690-3222 Voice  
(251) 690-2660 Fax

NOTE: new e-mail address john.b.mcfadyen@usace.army.mil

-----Original Message-----  
From: Eric Hawk [mailto:Eric.Hawk@noaa.gov]  
Sent: Thursday, January 31, 2008 11:27 AM  
To: McFadyen, John B SAM  
Cc: Feisher, Allison L SAM  
Subject: Re: EFH Coordination Corps of Engineers LOP SAM-2007-1956

Hi John, I'm back from Hawaii!  
What you said to Perry is correct: no effect determinations do not need to be coordinated with NMFS, though we do appreciate notification, and sometimes we will object/comment on a project that an action agency deems NE if we learn about it, and 2) feel strongly enough about it (i.e., strongly disagree). However, that is only as our workload permits. NMFS will sometimes review public notices, but NMFS depends on (and the ESA requires)

the action agencies to specifically request consultation/concurrence from NMFS when they believe one of their actions may affect listed species or critical habitat. Our attorneys have told us time and time again that COE public notices, with a relatively cursory effects analysis and statement saying that if NMFS has no objections to the findings, the action agency will issue the permit with 15-30 days, are not legally defensible, and are not binding on NMFS. I.e. the action agency is required to take the initiative, screen their own projects, sort out the ones that may affect, and submit those to NMFS with a "formal" request for consultation. The 15-30 day thing is misleading; under ESA we have no mandatory timeframes in which we are required to respond. There are guidelines for completion of consultation, but that clock doesn't start until we have all the info we need, up front, to start the consultation. Bottom line is that it's really up to the

1

action agency to determine-- objectively, scientifically--if there is a potential route of effects to T/E species and/or critical habitat from the proposed action, and notify us if they perceive that the action may affect listed species/critical habitat, requesting concurrence with their effects determination.. Since you have already done your analyses and documented your reasons for your NE findings, unless you revisit your conclusions and want to request ESA consultation, you are "good" to go.

Eric

McFadyen, John B SAM wrote:

Perry:

I have a call into Mr. Hawk for clarification, but in the interim let me explain:

The Corps evaluated this application as a Letter of Permission (LOP) and a

LOP authorization was issued on November 21, 2008.

Based on the scope of work (concrete pile supported pier) our preliminary decision was the project would "not effect" T&E species or their critical habitat. This determination was coordinated by e-mail dated Nov. 5 with Mr. Hawk along with the other state and Federal resource agencies.

The notice

stated that if "no adverse comments are received within 15 days...we plan to authorize this request by Letter of Permission".

We received only one comment (no objection) from the USCG after the LOP was issued. NMFS, FWS, EPA and MSHPO did not respond, thus indicating no comment or no-objection to the project.

Based on this coordination and our authority at 33 CFR Part 325.5(b)(2) we

completed a Statement of Findings and determined the project was categorically excluded from NEPA. I have attached a copy of the SOR for your ready reference.

The LOP procedure we followed is in accordance with our long standing SOP for LOP coordination.

While we are not required to coordinate "no-effect" determinations with NMFS,

we do include them in our LOP coordination for both EFH and T&E issues. Typically, they do not respond to our "no-effect" determination unless they disagree.

In summary, we believe our obligations to coordinate have been fulfilled.

If you have any questions, please give me a call.

John B. McFadyen, P.G.

Project Manager  
U.S. Army Corps of Engineers, Mobile District  
Regulatory Division, Coastal Branch (SAM-RD-C)

(251) 690-3222 Voice  
(251) 690-2660 Fax

NOTE: new e-mail address john.b.mcfadyen@usace.army.mil

-----Original Message-----

From: Boudreaux, Perry [mailto:perry.boudreaux@dhs.gov]  
Sent: Wednesday, January 30, 2008 3:15 PM

2

To: McFadyen, John B SAM  
Subject: FW: EFH Coordination Corps of Engineers LOP  
SAM-2007-1956

Mr. McFadyen,

Mr. Hawk with NOAA requested I send this email chain to you to determine if  
ESA consultation was initiated.

Perry J. Boudreaux

Deputy Environmental Liaison Officer

Mississippi Transitional Recovery Office

Desk: 228.594.2971

Cell: 228.239.8261

From: Eric Hawk <mailto:Eric.Hawk@noaa.gov>  
Sent: Wednesday, January 30, 2008 13:50

To: Boudreaux, Perry

Subject: Re: EFH Coordination Corps of Engineers LOP

SAM-2007-1956

Thank you. Would you please forward my comments to the COE project manager?  
My emails keep bouncing back.

Eric Hawk.

Boudreaux, Perry wrote:

Mr. Hawk,

In the LOP notice dated November 5, 2007 from the USACE requesting comments  
regarding EFH, USACE states that the proposed activity will not effect listed  
endangered or threatened species or their critical habitat.

This is  
the

only documentation that refers to a "no effect determination" or  
considerations for the ESA. I would not consider this ESA consultation or a  
"no effect determination" since the request is for EFH comments.

As

far as I know, this is the only consultation that was sent out.

I will let you know if I come across an official determination or a request  
for consultation. Thanks.

Perry J. Boudreaux

Deputy Environmental Liaison Officer

Mississippi Transitional Recovery Office

Desk: 228.594.2971

Cell: 228.239.8261

From: Eric Hawk <mailto:Eric.Hawk@noaa.gov>

Sent: Wednesday, January 30, 2008 12:57

To: Boudreaux, Perry

Cc: Mark Thompson; Lewis, Larry; Connie Moran; Carolyn Martin; Mitchell,

Bill; Grisham, Michael

Subject: Re: EFH Coordination Corps of Engineers LOP

SAM-2007-1956

Dear Mr. Boudreaux:

NMFS Protected Resources Division has no record of a request for Endangered  
Species Act consultation on this project. Perhaps this is by intent--the  
USACE may have made a no effect determination, pursuant to section 7 of the  
ESA, which negates the need for ESA consultation. Do you know, or is a  
request for consultation from the USACE to NMFS forthcoming?

Eric Hawk

Boudreaux, Perry wrote:

Mr. Thompson,

Thank you for your comments and understanding the need to fulfill FEMA  
requirements.

Perry J. Boudreaux

Deputy Environmental Liaison Officer

Mississippi Transitional Recovery Office

Desk: 228.594.2971

Cell: 228.239.8261

-----Original Message-----

From: Mark Thompson <mailto:Mark.Thompson@noaa.gov>

Sent: Wednesday, January 30, 2008 10:55

To: Boudreaux, Perry J

Cc: Lewis, Larry; Eric.Hawk@noaa.gov; Connie Moran; Carolyn Martin; Mitchell,

Bill

Subject: Re: EFH Coordination Corps of Engineers LOP

SAM-2007-1956

Mr. Boudreaux:

NOAA's National Marine Fisheries Service, Habitat Conservation Division  
(NMFS-HCD), had reviewed the Corps of Engineers (COE) Letter of Permission  
notice dated November 9, 2007, initiating essential fish habitat

(EFH)

consultation for the construction of a pier in Biloxi Bay by the City of  
Ocean Springs, Mississippi. This action was pursuant to consultation  
requirements of the provisions of the Magnuson-Stevens Fishery Conservation  
and Management Act.

The COE concluded that the project would not have substantial adverse impact  
on EFH and Federally managed fisheries. Based on the information provided,  
NMFS-HCD had no objections to the project and did not provide any EFH  
conservation recommendations. This completed the EFH consultation process.

We appreciate your effort to assure that NMFS concerns are addressed in the

FEMA funding/approval process for these coastal projects. If you have any questions, please contact me at 850-234-5061.

Sincerely,

Mark Thompson  
Team Leader  
Panama City Office

Lewis, Larry wrote:

Mark/Eric/Rac:

Our firm is currently working with the City of Ocean Springs, MS to relocate a public pier that was destroyed by Hurricane Katrina. We prepared a permit application (Attached) and submitted that document to the Mississippi Department of Marine Resources (MDMR) and the U.S. Army Corps of Engineers (COE). The MDMR authorized the project via a Certificate of Exclusion (Attached) and the COE processed the permit request as a Letter of Permission (LOP). A copy of the LOP Notice (SMW-2007-1956-jbm), which is attached was transmitted via email to "NMFS Panama City" and "NMFS St. Petersburg" as well as the other federal and state resource agencies. No negative comments were received by the COE and on November 21, 2007, the COE issued the LOP.

Subsequent to the issuance of the LOP the City of Ocean Springs was advised by Mr. Perry Boudreaux, Deputy Environmental Liaison Officer, Mississippi Transitional Recovery Office of FEMA that we should coordinate directly with your respective offices regarding EFH and Critical Habitat issues. Please accept this email message as our request for comments regarding EFH and Critical Habitat issues under the purview of the NMFS. In support of this request, we offer the following additional information to assist in your

evaluation:

Project Description:\*

The proposed project involves the construction of a pier with a fishing platform and two covered pavilions. The pier will be 530 feet long by 10 feet wide with a 90 foot long by 10 foot wide fishing platform. The pier will also include one 50 foot long by 30 foot wide pavilion and one 30 foot long by 10 foot wide pavilion.

Environmental Setting:\*

The project site is located in the southwestern portion of the City

of

Ocean Springs, Mississippi along the shoreline of Biloxi Bay.

This area of Ocean Springs is characterized by a narrow man-made beach adjacent to a two-lane beach front road between the beach and a

gently

rising low ridge of land that is dominated by Live Oak/Pine/Southern Magnolia forest which is interspersed with narrow tidal creeks and inlets off of the bay. There is no evidence to indicate the presence of submerged aquatic vegetation or emergent wetlands within the limits

of the project. Also, there are no known areas that support oyster reefs. The project is located within one of the fourteen units designated as critical habitat for the Gulf sturgeon (68 FR 13370, March 19, 2003).

\*Project Impacts:\*

The environmental impacts associated with this project will be short term and minor in nature. There will be a temporary disturbance of bottom dwelling organisms during the installation of the piles. There may also be a minor increase in turbidity and suspended material in the construction area during the installation of the piles.

Once the

piles are installed the area should recover. The mobile marine organisms such as the fish, crabs, and shrimp will not be impacted by this project. During construction these animals will be able to avoid

the project area and once the construction is complete they should return. The pavilions will cause some "shading" of the shallow waterbottoms adjacent to the pier. This shading will reduce light penetration under the pier, however, the actual area of shading is considered to be minor. The areas of shading caused by the pavilions are approximately 2,000 square feet or 0.05 acres and

575

square feet

or 0.01 acres. The pavilions are oriented in a northwest to southeast orientation which should allow light from both the morning sun and

the

afternoon sun to penetrate beneath the pavilions. The construction of the pier will provide positive impacts in the form of additional substrate for attaching marine organisms such as barnacles and algae.

cause

These organisms provide food material for certain fish, and will

an increase in biomass and biodiversity for the area.

Trusting that the information presented in this message is sufficient to evaluate this pier project, we respectfully request that you provide comments regarding EFH and Critical Habitat to Mr.

Perry



## COE and Other Agency Coordination



REPLY TO  
ATTENTION OF:

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

Regulatory Division  
Coastal Branch

November 5, 2007

LETTER OF PERMISSION NOTICE

To: EPA Region IV,  
NMFS Panama City,  
NMFS St. Petersburg  
U.S. Fish and Wildlife Service,  
USCG Sector Mobile,  
MSHPO,  
MDMR  
MDEQ  
MDWFP  
Adjacent Property Owners

From: John B. McFadyen, P.G.

Subject: Department of the Army Permit Application Number SAM-2007-1956-JBM,

---

Enclosed is a copy of the subject application by the City of Ocean Springs to construct a public pier located near Ocean Springs, Jackson County, Mississippi.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposal would impact approximately 8,000 square feet of estuarine substrates utilized by various life stages of red drum, Spanish mackerel, and shrimp. Our initial determination is that the proposed actions would not have a substantial adverse impact on EFH or Federally managed fisheries. 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.

Preliminary review of this application and the U.S. Department of the Interior List of Endangered and Threatened Wildlife and Plants indicates that the proposed activity will not affect listed endangered or threatened species, or their critical habitat.

If no adverse comments are received within 15 days from the date of this notice, we plan to authorize this request by Letter of Permission. Department of the Army regulatory authority

LETTER OF PERMISSION  
STATEMENT OF FINDINGS  
REGULATORY DIVISION  
MOBILE DISTRICT CORPS OF ENGINEERS

My evaluation and findings are as follows:

1. NAME OF APPLICANT AND APPLICATION NUMBER: City of Ocean Springs, SAM-2007-1956-JBM, McPherson Pier.
2. LOCATION OF PROPOSED ACTIVITY: The proposed project is located on Front Beach Dr. between Jackson Avenue and Washington Avenue, Ocean Springs, Jackson County, Mississippi (Section 30, Township 7 South, Range 9 West).
3. APPLICABLE STATUTORY AUTHORITY: Section 10 of the River and Harbor Act of 1899 (33 USC 403) requires a permit for dredging navigable waters of the U.S.
4. APPLICATION RECEIVED: The application was received on October 30, 2007, and an Approved Jurisdictional Determination was completed on November 6, 2007.
5. PROJECT DESCRIPTION: The proposed project involves the construction of a public pier with a fishing platform and two covered pavilions. The pier will be 530 feet long by 10 feet wide with a 90 foot long by 10 foot wide fishing platform. The pier will also include one 50 foot long by 30 foot wide pavilion and one 30 foot long by 10 foot wide pavilion.

The project site is located in the southwestern portion of the City of Ocean Springs, Mississippi along the shoreline of Biloxi Bay. This area of Ocean Springs is characterized by a narrow man-made beach adjacent to a two-lane beach front road between the beach and a gently rising low ridge of land that is dominated by Live Oak/Pine/Southern Magnolia forest which is interspersed with narrow tidal creeks and inlets off of the bay.

The environmental impacts associated with this project will be short term and minor in nature. There will be a temporary disturbance of bottom dwelling organisms during the installation of the piles. There may also be a minor increase in turbidity and suspended material in the construction area during the installation of the piles. Once the piles are installed the area should recover.

The mobile marine organisms such as the fish, crabs, and shrimp will not be impacted by this project. During construction these animals will be able to avoid the project area and once the construction is complete they should return.

The pavilions will cause some "shading" of the shallow waterbottoms adjacent to the pier. This shading will reduce light penetration under the pier, however, the actual area of shading is considered to be minor. The areas of shading caused by the pavilions are approximately 2,000 square feet or 0.05 acres and 575 square feet or 0.01 acres. The pavilions are oriented in a

northwest to southeast orientation which should allow light from both the morning sun and the afternoon sun to penetrate beneath the pavilions.

The construction of the pier will provide positive impacts in the form of additional substrate for attaching marine organisms such as barnacles and algae. These organisms provide food material for certain fish, and will cause an increase in biomass and biodiversity for the area.

#### 6. COORDINATION WITH OTHERS:

a. This activity has been determined to qualify for abbreviated processing procedures as a Letter of Permission, per guidance of 33 CFR 325.2(e)(1). Comments were requested by e-mail dated November 5, 2007.

b. All Federal and State agencies, during the coordination period for the subject project, have submitted evidence of no objection to the issuance of the requested permit as follows:

(1) U.S. Fish and Wildlife Service: No comment received.

(2) National Marine Fisheries Service: No comment received.

(3) U.S. Environmental Protection Agency: No comment received.

(4) U.S. Coast Guard: No comment received.

(5) Adjacent Property Owners: No comment received.

(6) Commercial Waterway Users: No comment received.

(7) Mississippi Department of Environmental Quality: No comment received.

(8) Mississippi Department of Marine Resources (MDMR): By letter dated October 31, 2007, the MDMR issued a Certificate of Exclusion and Coastal Program certification for the project.

(9) Mississippi State Historic Preservation Officer: No comment received.

7. ENVIRONMENTAL ASSESSMENT/FINDING OF NO SIGNIFICANT IMPACT (FONSI): Per regulation at 33 CFR 325, Appendix B, 6(a)(5), all applications which qualify as Letters of Permission are not considered to be major Federal actions significantly affecting the quality of the human environment and are therefore categorically excluded from the National Environmental Policy Act documentation requirement.

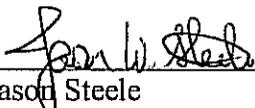
8. FINDINGS: Based upon review of the application, and after weighing all known factors involved in the proposed action, I find, in concurrence with National Policy, statutes and

administrative directives, when the total adverse effects of the proposal are weighed against the benefits to the using public, the public interest would best be served by issuance of the permit.

FOR THE COMMANDER:

PREPARED BY:  DATE: 11/21/07  
John B. McFadyen, P.G.  
Project Manager  
Coastal Branch

BYRON G. JORNS  
Colonel, Corps of Engineers  
District Commander

BY:  DATE: 11/21/07  
Jason Steele  
Team Leader, Mississippi  
Regulatory Division

prescribes this type of permit to abbreviate processing procedures for minor work having no significant environmental impacts and no appreciable opposition or controversy. See 33 CFR Part 325.5(b)(2) Federal Register, Vol. 51, No. 219 - Thursday, November 13, 1986.

If you have any question, contact me at (251) 690-3222 or e-mail me at [john.b.mcfadyen@usace.army.mil](mailto:john.b.mcfadyen@usace.army.mil).

Enclosure

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commander  
U.S. Coast Guard Sector Mobile

Building 102, Brookley Complex  
South Broad Street  
Mobile, AL 36615-1390  
Staff Symbol: spw  
Phone: (251) 441-5999  
Fax: (251) 441-6169

16610  
November 20, 2007

Mobile District, Corps of Engineers  
Coastal Branch  
P.O. Box 2288  
Mobile, AL 36628-0001  
Attn: Mr. John McFadyen

Dear Mr. McFadyen:

This letter is in response to the Joint Public Notice SAM-2007-1956-IBM dated November 5, 2007, application for proposed construction of McPherson Public pier, located near Ocean Springs, Jackson County Mississippi.

In accordance with the June 2, 2000 Memorandum of Understanding between the Coast Guard and Army Corps of Engineers, my staff conducted an evaluation of the proposed site on November 19, 2007. After conducting an initial risk assessment of the proposal we found that the proposed project does not indicate an unacceptable level of risk with regards to waterway safety. Therefore, I have no comments or objections with this project.

If you have any further questions concerning this matter or the applicant wishes to meet directly with a representative of the Captain of the Port, please contact Lieutenant Junior Grade Isaac Mahar at (251) 441-5999.

Sincerely,

A handwritten signature in black ink, appearing to read "J. A. FOSDICK".

J. A. FOSDICK  
Commander, U.S. Coast Guard  
Chief, Prevention Department  
By direction

Copy: Commander, Eighth Coast Guard District (dpw)  
Mississippi Department of Marine Resources

## MDMR Permit Coordination



**MISSISSIPPI  
DEPARTMENT OF MARINE RESOURCES**

October 31, 2007

City of Ocean Springs  
1018 Porter Avenue  
Ocean Springs, MS 39566

RE: Front Beach Drive/ Chester C. McPherson Pier

Dear Sir or Madam:

Please find enclosed the original and one copy of the Certificate of Exclusion issued to you October 31, 2007.

Please execute this Exclusion by signing both documents and returning the copy to the Department of Marine Resources.

The Department of Marine Resources, Bureau of Wetlands Permitting is currently installing a new database and we are unable to assign file numbers at this time. Once our new database has been activated you will receive a copy of this authorization with the updated file number. We are sorry for any inconvenience this may cause.

If you have any questions regarding this correspondence, please contact Ron Cole with the Bureau of Wetlands Permitting at 228-523-4117 or [ronald.cole@dmr.ms.gov](mailto:ronald.cole@dmr.ms.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Willa Henriksen", with a long horizontal flourish extending to the right.

Willa Henriksen  
Bureau Director, Wetlands Permitting

WH/rlc

Enclosures

cc: Mr. Larry Lewis, BMI Environmental Services, LLC ✓  
Mr. Jason Steele, USACE  
Mr. Robert Seyfarth, OPC  
Ms. Margaret Bretz, SOS



**MISSISSIPPI  
DEPARTMENT OF MARINE RESOURCES**

Certification Number: DMR-  
Type: Exclusion  
Date: October 31, 2007

WHEREAS, application by: The City of Ocean Springs for compliance under the provisions of Chapter 27, Mississippi Code of 1972, as amended, to perform certain works affecting the coastal wetlands of the State of Mississippi on the Back Bay of Biloxi, Ocean Springs, Jackson County, Mississippi.

The Department of Marine Resources, Bureau of Wetlands Permitting is currently installing a new database and we are unable to assign file numbers at this time. Once our new database has been activated you will receive a copy of this authorization with the updated file number. We are sorry for any inconvenience this may cause.

NOW THEREFORE, this certification authorizes the above named applicant hereinafter called permittee, to perform such works on Front Beach Drive, Ocean Springs, MS in adherence to the following conditions contained herein:

1. A pier 530 feet in length, 10 feet in width, and 6.5 feet above mean high tide in height shall be constructed over open water as indicated on the attached diagram;
2. An open-sided covered pavilion 50 feet in length, 30 feet in width, and no more than 25 feet above mean high tide in height shall be constructed as indicated on the attached diagram;
3. An open-sided covered pavilion 30 feet in length, 10 feet in width, and no more than 25 feet above mean high tide in height shall be constructed as indicated on the attached diagram;
4. A minimum distance of 10 feet shall be maintained between authorized structures (other than bulkheads) and the adjacent property lines and projections thereof into the waterway;
5. Structures shall be marked with reflectors and/or lights to avoid navigational hazards;
6. Vegetated wetlands shall not be impacted; and,
7. No creosote material shall be used in construction.

This certification conveys no title to land and water, and does not constitute authority for reclamation of coastal wetlands.

This certification authorizes no invasion of private property or rights in property.

This certification is issued on the further condition that the permittee notify the Department of Marine Resources in advance of any changes in the dimensions or procedures.

Granting of this certification does not relieve the permittee from requirements of a Permit from the U.S. Army Corps of Engineers nor from the necessity of compliance with all applicable state or local laws, ordinances and zoning or other regulations.

Work authorized by this certification must be completed on or before October 31, 2010.

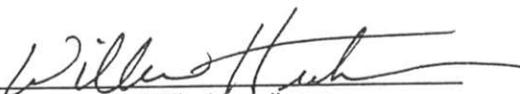
This certification shall become effective upon acceptance by the permittee and receipt of the executed copy.

Please execute this certification by signing both documents and returning the copy to the Department of Marine Resources.

The Department of Marine Resources has also coordinated a review of your project through the Coastal Program review procedures and determined that the project referenced above is consistent with the Mississippi Coastal Program, provided that you comply with the noted conditions and reviewing coastal program agencies do not disagree with said plans.

THE PERMITTEE BY ACCEPTANCE OF THIS CERTIFICATION AGREES TO ABIDE BY THE STIPULATIONS AND CONDITIONS CONTAINED HEREIN AND AS DESCRIBED BY THE PLANS AND SPECIFICATIONS SUBMITTED AS PART OF THE COMPLETED APPLICATION.

STATE OF MISSISSIPPI  
DEPARTMENT OF MARINE RESOURCES

BY:   
Willa Henriksen  
Bureau Director, Wetlands Permitting

Accepted this the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

BY: \_\_\_\_\_

WH/rlc

Enclosures

cc: Mr. Jason Steele, USACE  
Mr. Robert Seyfarth, OPC

# MISSISSIPPI



## Department of Marine Resources

### NOTICE OF COMPLIANCE

DMR- EXCLUSION

DATE: October 31, 2007

THIS NOTICE ACKNOWLEDGES THAT:

City of Ocean Springs  
1018 Porter Avenue  
Ocean Springs, MS 39566

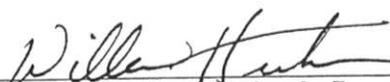
HAS, THROUGH APPLICATION TO THIS DEPARTMENT, DULY COMPLIED WITH THE MISSISSIPPI COASTAL WETLANDS PROTECTION LAW TO:

1. A pier 530 feet in length, 10 feet in width, and 6.5 feet above mean high tide in height shall be constructed over open water as indicated on the attached diagram;
2. An open-sided covered pavilion 50 feet in length, 30 feet in width, and no more than 25 feet above mean high tide in height shall be constructed as indicated on the attached diagram;
3. An open-sided covered pavilion 30 feet in length, 10 feet in width, and no more than 25 feet above mean high tide in height shall be constructed as indicated on the attached diagram;
4. A minimum distance of 10 feet shall be maintained between authorized structures (other than bulkheads) and the adjacent property lines and projections thereof into the waterway;
5. Structures shall be marked with reflectors and/or lights to avoid navigational hazards;
6. Vegetated wetlands shall not be impacted; and,
7. No creosote material shall be used in construction.

On the Back Bay of Biloxi on Front Beach Dr. in Ocean Springs , Jackson County, Mississippi.

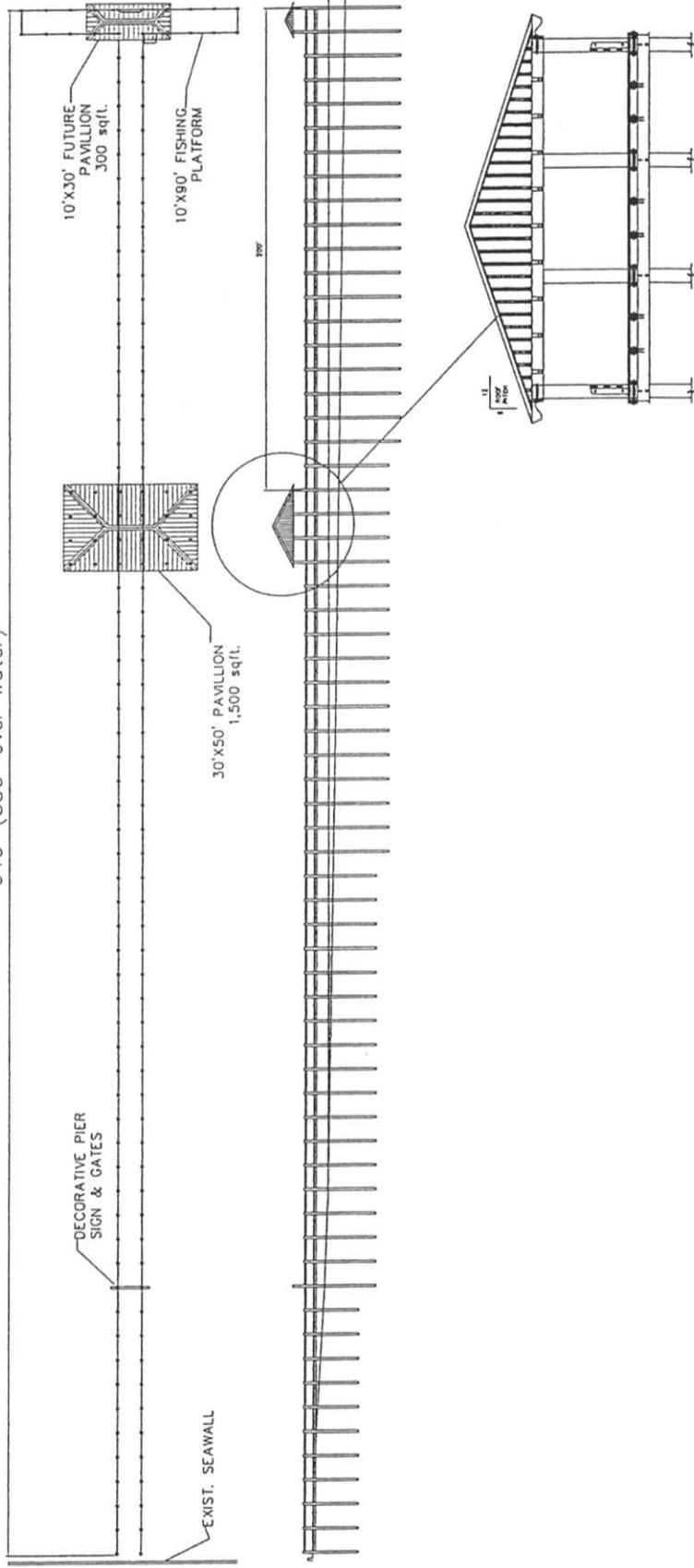
No construction debris or unauthorized fill material shall be allowed to enter coastal wetlands or waters.

FURTHERMORE, THIS PROJECT AS PROPOSED HAS BEEN FOUND TO BE CONSISTENT WITH ALL GUIDELINES FOR CONDUCT OF REGULATED ACTIVITIES IN COASTAL WETLANDS AS SET FORTH IN THE MISSISSIPPI COASTAL PROGRAM.

  
Bureau Director, Wetlands Permitting

POST THIS NOTICE CONSPICUOUSLY AT SITE OF WORK

640' (530' over water)



# Overall Pier Layout

## Chester C. McPherson Pier

### Ocean Springs, Mississippi



Brown & Mitchell, Inc.  
BMI Environmental Services, LLC