



**NORTH CAROLINA MARINE FISHERIES COMMISSION
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

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March 29, 2017

Dear Coastal Recreational Fishing License Committee and Advisers:

Please find attached a letter from Michael Piccirilli, chief of the Wildlife and Sport Fish Restoration Program, with the U.S. Fish and Wildlife Service. The letter serves as notice that the U.S. Fish and Wildlife Service believes "that under current North Carolina statutes, the N.C. Division of Marine Fisheries lacks the necessary control of the North Carolina Marine Resources Fund which is comprised of Marine Resources license revenues, and thus the State is not in compliance with 50 CFR 80.10 (c) (1) and 50 CFR 80.10 (c) (2)." They feel "this lack of control of license revenues renders the State of North Carolina in non-compliance with the Acts and could result in North Carolina becoming ineligible to receive the funds and benefits of the Acts until control is restored (per 50 CFR 80.21 and 80.22)." The bottom line here is that approximately \$3 million in federal funding received by the N.C. Division of Marine Fisheries from the Pittman-Robertson Wildlife Restoration and the Dingell-Johnson Sport Fish Restoration Acts could be jeopardized.

The Coastal Recreational Fishing License Committee is scheduled to meet on May 10 in Morehead City regarding ongoing multi-year grants, a tabled N.C. State University striped bass egg buoyancy proposal, the Dare County artificial reef proposal, and the Request for Proposals for the upcoming grant cycle. Given the concerns raised by the U.S. Fish and Wildlife Service, I have asked Braxton Davis, the chair of the committee, to remove the Request for Proposals for the upcoming grant cycle from the agenda. I would like the committee to continue its work with the multi-year grants, the egg buoyancy study and the Dare County proposal, but I do not feel it is prudent to move forward with a future funding cycle for the grant program until this matter can be resolved.

Thank you in advance for your cooperation in this matter. I will keep you informed as more information becomes available on this issue.

Sincerely,

A handwritten signature in black ink that reads "Sammy Corbett". The signature is written in a cursive, flowing style.

Sammy Corbett, Chairman
Marine Fisheries Commission

Enclosure

cc: Braxton Davis, Director, N.C. Division of Marine Fisheries



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1875 Century Boulevard
Atlanta, Georgia 30345

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IN REPLY REFER TO:
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Department of Environment
and Natural Resources

Dr. Braxton Davis, Director
North Carolina Division of Marine Fisheries
North Carolina Department of Environmental Quality
P.O. Box 769
Morehead City, North Carolina 28557

Dear Dr. Davis:

I want to thank you for the progress that your office is working toward for successful resolution and implementation of a corrective action to an audit finding from Department of Interior Office of Inspector General (OIG) Auditors Report No. R-GR-FWS-0013-2013. The OIG audit determined that the current North Carolina assent legislation does not include language specifically applicable to the Division of Marine Fisheries, and therefore was determined to be an audit finding. It is our understanding that on October 7, 2016, the Division of Marine Fisheries submitted a Justification for Special Provision through the Secretary of Department of Environmental Quality to be submitted in the January –June 2017 legislative session. This Justification for Special Provision proposes to incorporate language into the existing Coastal Fishery License Statute 113-75.1 which is comprised of marine resources license revenues and establishes the North Carolina Marine Resources Fund.

In accordance with 50 CFR 80 entitled "Administrative Requirements, Pittman-Robertson Wildlife Restoration and Dingell-Johnson Sport Fish Restoration Acts, Part 80.10 states:

Who is eligible to receive the benefits of the Acts?

States acting through their fish and wildlife agencies are eligible for benefits of the Acts only if they pass and maintain legislation that:

- (a) Assents to the provisions of the Acts;
- (b) Ensures the conservation of fish and wildlife; and
- (c) Requires that revenue from hunting and fishing licenses be:
 - (1) Controlled only by the State fish and wildlife agency; and
 - (2) Used only for administration of the State fish and wildlife agency, which includes only the functions required to manage the agency and the fish and wildlife related resources for which the agency has authority under State law.

After a careful evaluation of the Coastal Recreational Fishing License Statute G.S. 113-175.1, we believe the statute is not in compliance with 50 CFR Part 80.10 (c) 1. State Game and Fish Agencies are required to control their license revenue, interest earned on license revenue and assets acquired with license revenue. The specific language in the Coastal Recreational Fishing License Statute G.S. 113-175.1 (b) states "*The State Treasurer shall disburse the principal of the Marine Resources Fund and*

marine resources investment income only upon the written direction of the Marine Fisheries Commission.” In (c) it further reinforces that the Marine Fisheries Commission controls disbursement of the Marine Resources license revenue with the following statements: *“The Marine Fisheries Commission may authorize the disbursement of the principal of the Marine Resources Fund and marine resources investment income only to manage, protect, restore, develop, cultivate, conserve, and enhance the marine resources of the State. The Marine Fisheries Commission is encouraged to consider supporting the Oyster Sanctuary Program managed by the Division of Marine Fisheries. The Marine Fisheries Commission may not authorize the disbursement of the principal of the Marine Resources Fund and marine resources investment income to establish positions without specific authorization from the General Assembly.”* We believe this language is inconsistent with the requirement of 50 CFR 80.10 (c) (1) that requires the revenue from hunting and fishing licenses to be controlled only by the State Fish and Wildlife agency.

In summary, we believe that under the current North Carolina statutes, the Division of Marine Fisheries lacks the necessary control of the North Carolina Marine Resources Fund which is comprised of Marine Resources license revenues, and thus the State is not in compliance with 50 CFR 80.10 (c) (1) and 50 CFR 80.10 (c) (2). This lack of control of license revenues renders the State of North Carolina in non-compliance with the Acts and could result in North Carolina becoming ineligible to receive the funds and benefits of the Acts until control is restored (per 50 CFR 80.21 and 80.22).

We hope we have provided you with information and references needed to alert you of the potential consequences of the loss of control of license revenue. We look forward to working with you to resolve this issue. If you need additional clarification or information, please feel free to contact me at 404-679-4154.

Sincerely yours,



Michael L. Piccirilli
Chief – Wildlife and Sport Fish Restoration Program

cc: Michael S. Regan
Sheila C. Holman