



UNITED STATES DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office

263 13th Avenue South

St. Petersburg, Florida 33701-5505

<http://sero.nmfs.noaa.gov>

November 24, 2014

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(Sent via Electronic Mail)

Colonel Alan M. Dodd, Commander
Jacksonville District Corps of Engineers
Cocoa Regulatory Field Office
400 High Point Drive, Suite 600
Cocoa, Florida 32926

Attention: Tamy S. Dabu

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed Jacksonville District public notice SAJ-2014-01028 (SP-TSD), dated October 28, 2014. The Canaveral Port Authority (CPA) requests authorization from the Department of the Army to stabilize 3,225 linear feet of shoreline within three areas adjacent to Port Canaveral and the Banana River. The project would result in direct impacts to 3.01 acres of wetlands that includes: 0.03 acre of unvegetated bottom in the Barge Canal, 0.63 acre of salt marsh, 2.01 acres of estuarine bottom within the Banana River colonized by drift algae, 0.13 acre of submerged aquatic vegetation (SAV), and 0.21 acre of mangrove. The compensatory mitigation CPA proposes includes natural colonization by mangroves of the newly stabilized shoreline and natural colonization of adjacent shallow water by SAV once the project is complete. The Jacksonville District's initial determination is the proposed shoreline stabilization would have a substantial adverse impact on federally managed fishery species or essential fish habitat (EFH), including 0.34 acres designated a Habitat Area of Particular Concern (HAPC) by the South Atlantic Fishery Management Council (SAFMC). As the nation's federal trustee for the conservation and management of marine, estuarine, and anadromous fishery resources, the following comments and recommendations are provided pursuant to authorities of the Fish and Wildlife Coordination Act and Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Proposed Project

Within the Barge Canal eastward of State Road 401 (SR 401), CPA proposes 450 linear feet of fill, geotextile, and concrete mat and 0.03 acre of fill. Adjacent to the SR 401 stormwater pond, CPA proposes 275 linear feet of fill, geotextile, and riprap which collectively would fill 0.06 acre of estuarine wetlands and 0.14 acre below the mean high water line (MHWL) of the Banana River. On the northwestern side of SR 401, CPA proposes 2,500 linear feet of stabilization in the form of fill, geotextile, and riprap. This portion of the project includes impacts to 0.57 acre of estuarine herbaceous wetland and 2.21 acres of fill below MHWL of the Banana River (which includes 1.87 acres of fill to open water, 0.21 acre of mangrove, and 0.13 acre of SAV).



Essential Fish Habitat within the Project Area

The Banana River, the Barge Canal at this location, and associated wetlands are EFH. SAFMC designates SAV and mangroves a HAPC for snappers and groupers with inshore life stages, including gray snapper (*Lutjanus griseus*), goliath grouper (*Epinephelus itajara*), and gag grouper (*Mycteroperca microlepis*). HAPCs are subsets of EFH that are rare, particularly susceptible to human-induced degradation, especially important ecologically, or located in an environmentally stressed area. SAV and mangroves also stabilize shorelines and produce and export detritus (decaying organic material), which is an important component of marine and estuarine food chains. SAFMC also designates sand/mud bottom and SAV for white shrimp (*Litopenaeus setiferus*), brown shrimp (*Farfantepenaeus aztecus*), and pink shrimp (*Farfantepenaeus duorarum*). Sand/mud bottom, SAV, and mangroves directly benefit fishery resources by providing nursery and foraging habitat. SAFMC's *Fishery Ecosystem Plan of the South Atlantic Region* (available at www.safmc.net) provides further information about SAV, mangrove, and sand bottom habitats and the support these habitats provide to fishery species.

Impacts to Essential Fish Habitat and Other Wetlands

The proposed shoreline stabilization does not demonstrate adequate impact avoidance and minimization. Sections of the 2,500-linear-foot shoreline on the northwestern side of SR 401 are not eroding, and impacts to these areas could be avoided without affecting the project purpose. Shoreline stabilization through living shoreline strategies also would minimize impacts along this portion of SR 401 and the portion adjacent to the stormwater pond. In-kind mitigation should be required once all practicable avoidance opportunities have been exhausted and utilized. The mitigation plan must include a planting plan, success criteria, a five-year monitoring plan, plans for long-term stewardship, and results of a functional assessment for both the impact and mitigation sites.

EFH Conservation Recommendations

NMFS finds the proposed shoreline stabilization would have an adverse impact on 3.01 acres EFH. Section 305(b)(4)(A) of the Magnuson-Stevens Act requires NMFS to provide EFH conservation recommendations when an activity is expected to adversely impact EFH. Based on this requirement, NMFS provides the following:

EFH Conservation Recommendations

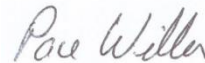
- The permit shall not authorize shoreline stabilization in areas not experiencing erosion.
- The permit shall require use of living shoreline approaches to stabilize the shoreline unless the Jacksonville District views such approaches as impracticable for this project.
- The permit shall include a detailed mitigation plan requiring CPA to fully offset unavoidable adverse impacts to EFH. The mitigation plan shall be provided to NMFS for review before the permit is issued.

Section 305(b)(4)(B) of the Magnuson-Stevens Act and its implementing regulation at 50 CFR Section 600.920(k) require the Jacksonville District to provide a written response to this letter within 30 days of its receipt. If it is not possible to provide a substantive response within 30 days, an interim response should be provided to NMFS. A detailed response then must be provided prior to final approval of the action. The detailed response must include a description

of measures proposed by the Jacksonville District to avoid, mitigate, or offset the adverse impacts of the activity. If the response is inconsistent with the EFH Conservation Recommendations, the Jacksonville District must provide a substantive discussion justifying the reasons for not following the recommendation.

We appreciate the opportunity to provide these comments. Questions should be directed to the attention of Mr. Brandon Howard in our West Palm Beach Field Office, located at 400 North Congress Avenue, Suite 120, West Palm Beach, FL 33401. He also may be reached by telephone at (561) 249-1652, or by email at Brandon.Howard@noaa.gov.

Sincerely,



/ for

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc:

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