



**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>

December 22, 2014

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(Sent via Electronic Mail)

Colonel Kevin P. Landers, Sr, Commander  
U.S. Army Corps of Engineers Wilmington District  
69 Darlington Avenue  
Wilmington, North Carolina 28403-1398

Attention: Tyler Crumbley

Dear Colonel Landers:

NOAA's National Marine Fisheries Service (NMFS) reviewed the public notice for Action ID No. SAW-2010-01701 dated November 25, 2014. Horry County State Bank (applicant) proposes to excavate 2.77 acres of the Calabash River to create an access channel and boat basin and to construct a community marina at Devaun Park Subdivision within Calabash, Brunswick County (the applicant refers to the facility as Riverside Park Marina). The Wilmington District's initial determination is the proposed project may adversely affect essential fish habitat (EFH) or associated fisheries managed by the South Atlantic Fishery Management Council (SAFMC), the Mid-Atlantic Fishery Management Council (MAFMC), or NMFS. As the nation's federal trustee for the conservation and management of marine, estuarine, and diadromous fishery resources, the following comments and recommendations are provided pursuant to the authorities of the Fish and Wildlife Coordination Act and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

*Project Description*

The applicant is proposing to excavate an access channel and boat basin for construction of a 42-slip marina. Currently there is a 10-slip community docking facility at the site. The proposed access channel would be 400 feet in length and range in width from 60 to 160 feet at the connection with the federal navigation channel. The proposed boat basin is irregular in shape, and widths range from 110 to 230 feet with a length of 580 feet. Existing water depths in the proposed basin range from -0.8 to -5 feet at mean low water (MLW). The proposed access channel and boat basin would be hydraulically excavated to a depth of -6 feet MLW. The proposed basin would provide a 10-foot buffer from the edge of coastal wetlands.

*Essential Fish Habitat in the Project Area*

The project would impact unconsolidated estuarine bottom and potentially salt marsh. The SAFMC identifies salt marsh, intertidal areas, and shallow sub-tidal bottom in estuarine waters as EFH for brown shrimp, pink shrimp, and white shrimp. SAFMC identifies these areas as EFH because fish and shrimp concentrate in these habitats for feeding and refuge and experience high growth and survival rates when located in these habitats. The project area is not a state-designated Primary Nursery Area (PNA) but functions as one based on sampling conducted by the North Carolina Division of Marine Fisheries (DMF) (John Schoolfield, retired DMF biologist, personal communication). The PNA designation in the Calabash River ends at the 179 B bridge (listed as State Route 1164 in DMF rule book) some 4,000 feet upstream of the proposed project but this line is used for convenience (Rich Carpenter, retired District



Manager, DMF, personal communication). Detailed information on the EFH requirements of species managed by SAFMC is provided in amendments to its fishery management plans and in *Fishery Ecosystem Plan of the South Atlantic Region*<sup>1</sup>. The MAFMC designates tidal creeks and the estuarine waters as EFH for summer flounder and bluefish. Detailed information about the EFH requirements of species managed by MAFMC are included in separate amendments to individual fishery management plans and in technical reports prepared by the NMFS Northeast Fishery Science Center<sup>2</sup>. Other species of commercial or recreational importance found in the project area include red drum, Atlantic croaker, spot, Atlantic menhaden, bay anchovy, striped mullet, weakfish, blue crab, and eastern oyster. A number of these species serve as prey for fish managed by SAFMC (e.g., king mackerel, Spanish mackerel, and cobia) or for highly migratory fish managed by NMFS (e.g., billfishes and sharks).

#### *Impacts to Essential Fish Habitat*

The applicant proposes impacts to 2.77 acres of subtidal and intertidal habitat by the excavation of 20,128 cubic yards of soft muddy sediment, typically found in a PNA. The applicant proposes to maintain a 10-foot buffer from coastal wetlands. Given the unconsolidated nature of the soft muddy sediment, there would be significant slumping of the basin edge if dredged to -6 feet MLW, which could directly impact coastal wetlands and increase the impacts to EFH. Additionally there is an oyster bed located within 10 feet of the proposed dredged basin, and SAFMC designates oysters as a Habitat Area of Particular Concern (HAPC). The applicant lists eight items in the Avoidance and Minimization section which it contends are mitigative measures, such as prohibiting in-water boat maintenance and installing a spill response kit. None of the proposed measures are avoidance, minimization, or mitigative measures for reducing impacts to EFH.

#### *EFH Conservation Recommendations*

NMFS concludes the proposed dredging would adversely impact 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**

1. Any permit issued for the work shall require mitigation for the direct and indirect impacts to EFH from dredging of the access channel and boat basin. There are several water bodies on the applicant's property that appear to be disconnected from the adjacent marsh. One possible mitigative measure would be enhancing nursery habitat by restoring the connection of these impounded areas to the Calabash River. The permit shall include monitoring of and reporting on the mitigation effort with respect to clearly established performance criteria.
2. Any permit issued for the work shall require a 20-foot buffer between the dredged area and coastal wetlands and oyster beds. The permit also shall require monitoring of the marsh and oyster beds to determine if unauthorized impacts occur to these habitats.
3. The permit shall restrict dredging to the period of October 1 to March 31 to protect juvenile shrimp and fish.

Section 305(b)(4)(B) of the Magnuson-Stevens Act and its implementing regulations at 50 CFR 600.920(k), requires the Wilmington District to provide a written response to the EFH recommendations within 30 days of receipt. If it is not possible to provide a substantive response within 30 days, in accordance with the "findings" between NMFS and the Wilmington District, an interim response should be provided to NMFS. A detail response must then be provided prior to final approval of the action. The detailed response must include a description of measures proposed by the Wilmington District to avoid, mitigate, or offset the adverse impacts of the activity. If the Wilmington District's response is

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<sup>1</sup> Available at [www.safmc.net](http://www.safmc.net)

<sup>2</sup> Available at [www.nefsc.noaa.gov/nefsc/habitat/efh/](http://www.nefsc.noaa.gov/nefsc/habitat/efh/)

inconsistent with the EFH conservation recommendations, the District must provide a substantive discussion justifying the reasons for not following the recommendation. The detail response should be received by the NMFS at least ten days prior to final approval of the action.

Thank you for the opportunity to provide these comments. Related questions or comments should be directed to the attention of Mr. Fritz Rohde at our Beaufort Field Office, 101 Pivers Island Road, Beaufort, North Carolina 28516-9722, or at (252) 838-0828.

Sincerely,



/ for

Virginia M. Fay  
Assistant Regional Administrator  
Habitat Conservation Division

cc:

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