



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>

February 13, 2015

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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-2014-02343 dated January 14, 2015. Andrea Murphy proposes to construct a docking facility within an existing channel as well as conduct maintenance excavation in Pages Creek, New Hanover County. 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).

Description of the Proposed Project

The applicant proposes to perform maintenance excavation within an existing access channel and construction of a private docking facility within Pages Creek. The maintenance excavation would be 60 feet in length by 15 feet in width to a final project depth of -5.0 feet at NLW. The CAMA bio report states the existing water depth is approximately -4 feet NLW. A 215-foot pier would extend over the wetlands towards the access channel and would terminate into a covered fixed platform located over open water. An access ramp would lead to a 38-foot long floating dock with a 20-foot floating dock attached at each end, creating a "U-shaped" docking configuration. Two boatlifts would be constructed inside this configuration. The new docking facility could accommodate up to five vessels.

Impacts to Essential Fish Habitat

The excavation of the boat basin would disturb approximately 900 square feet of shallow bottom habitat, some of which appears to not have been previously impacted. SAFMC identifies 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. Lower Pages Creek is a state-designated Permanent Secondary Nursery Area, which makes it a Habitat Area of Particular Concern (HAPC) under SAFMC's EFH designations. HAPCs are subsets of EFH that are rare, particularly susceptible to human-induced degradation, especially important ecologically, or located in an environmentally stressed area. NMFS reviews proposed impacts to HAPCs with much scrutiny. SAFMC provides detailed information on the EFH requirements of species it manages in fishery management plans and in *Fishery Ecosystem Plan of the South Atlantic Region*. 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. 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, Eastern oyster, and blue crab. A number of these species serve as prey for fish that are managed by SAFMC (e.g., king mackerel, Spanish mackerel, and cobia) or for highly migratory fish managed by NMFS (e.g., billfishes and sharks).

EFH Conservation Recommendations

NMFS concludes the proposed dock construction and dredging would adversely impact EFH-HAPC. 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:

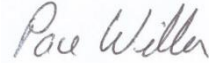
EFH Conservation Recommendations

- The permit shall restrict dredging to the period of October 1 to March 31 to protect juvenile shrimp and finfish using the shallow water and intertidal areas.
- The permit shall not authorize any dredging in the EFH-HAPC. The planned dock can be reconfigured to eliminate the need for dredging and water depths in the access channel are already -4 feet NLW.

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 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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