



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 23, 2015

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(Sent via Electronic Mail)

Colonel Alan M. Dodd, Commander
Jacksonville District Corps of Engineers
Jacksonville Permits Section
P.O. Box 4970
Jacksonville, Florida 32232-0019

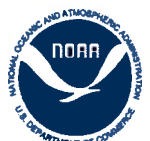
Attention: Bev A. Lawrence

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2014-01531 (SP-BAL) dated January 28, 2015. Jaxport, the applicant, requests authorization from the Department of the Army to fill approximately 27.18 acres of wetlands associated with Wynn's Creek and the St. Johns River in order to construct a processing facility for automobiles at the Port of Jacksonville, Duval County. The proposed facility would permanently impact by filling 20.63 acres of salt marsh, 1.93 acres of brackish marsh, 4.00 acres of freshwater wetlands, and 0.13 acre of tidal ditches. The proposed temporary impacts are to 0.49 acre of salt marsh along Hecksher Drive to install a stormwater discharge pipe. The applicant has not proposed specific compensatory mitigation. The initial determination by the Jacksonville District is the proposed impacts to 23.18 acres of salt marsh designated Essential Fish Habitat (EFH) by the South Atlantic Fishery Management Council (SAFMC) would have a substantial adverse impact on EFH or federally managed fishery species. As the nation's federal trustee for the conservation and management of marine, estuarine, and anadromous fishery resources, NMFS provides the following comments and recommendations pursuant to authorities of the Fish and Wildlife Coordination Act and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Wetland and Estuarine Habitats in the Project Area

NMFS biologists are familiar with the project area and participated in an interagency site inspection on February 11, 2015. Jurisdictional waters within the project area include very high quality tidal salt marsh, tidal creeks, freshwater forested wetlands, and tidal ditches. Dominant vegetation within the tidal salt marsh is smooth cordgrass (*Spartina alterniflora*), saltmeadow cordgrass (*Spartina patens*), and black needle-rush (*Juncus roemerianus*). Other vegetation present within the marsh includes big cordgrass (*Spartina cynosuroides*), seashore saltgrass (*Distichlis spicata*), sea oxeye (*Borrhichia frutescens*), and Virginia glasswort (*Salicornia virginica*). Fiddler crabs (*Uca* spp.) occur throughout the salt marsh and indicate healthy habitat. The principal tidal creek in the project area is Wynn's Creek which lies immediately south of the



project site. Wynn’s Creek is a tributary to Terrapin Creek near its confluence with the St. Johns River. Freshwater wetlands in the project area are very high in quality and are forested with bald cypress (*Taxodium distichum*), water oak (*Quercus nigra*), sweet gum (*Liquidambar styraciflua*), and dwarf palmetto (*Sabal minor*). Table 1 provides the Uniform Mitigation Assessment Method (UMAM) scores NMFS recommends for the project wetlands. NMFS can provide complete UMAM sheet I and II worksheets that justify these scores upon request.

Wetland ID	Acreage	Location and Landscape	Water and Environment	Community Structure	Functional Loss*
W-1	8.10	7	9	9	6.75
W-2	1.72	7	9	9	1.43
W-3 and W-4	3.21	9	9	9	2.89
Wynn 1	3.93	9	9	9	3.54
Wynn 2	1.09	9	9	9	0.98
Wynn 3	0.69	8	9	9	0.60
Wynn 4 & 5	0.50	9	9	9	0.45
W-8	1.93	8	6	7	1.35
August Drive	1.396	5	5	6	0.89
Tidal Ditches	0.13	9	3	3	0.07
Freshwater	4.00	8	9	9	3.47

* Tidal wetland functional loss is 18.69 functional capacity units (fcu). Freshwater wetland functional loss is 3.47 fcu.

Essential Fish Habitat in the Project Area

The site of the proposed automobile processing facility includes estuarine emergent vegetation, marsh edge, intertidal mudflats, and tidal creeks. The SAFMC has identified these habitats as EFH for white shrimp (*Litopenaeus setiferus*), brown shrimp (*Farfantepenaeus aztecus*), and estuarine-dependent species of the snapper/grouper complex, such as gray snapper (*Lutjanus griseus*). Coastal salt marshes and tidal creeks are EFH for these species because larvae and juveniles concentrate and feed extensively within these habitats. As a consequence, growth rates are high and predation rates are low, which makes these habitats effective nursery areas for shrimp and snapper. Shrimp are especially abundant in the project area and the target of a substantial recreational fishery. The site of the proposed project includes estuarine waters. The Mid-Atlantic Fishery Management Council (MAFMC) has identified estuarine waters as EFH for bluefish. SAFMC provides additional information on EFH and how it support federally managed fishery species in *Fishery Ecosystem Plan of the South Atlantic Region*, which is available at www.safmc.net. MAFMC provides detailed information on types and locations of EFH for the species it manages in fishery management plans and in reports available at www.nefsc.noaa.gov/nefsc/habitat/efh/.

The waters of the St. Johns River, Terrapin Creek, Wynn’s Creek, and the surrounding coastal marsh also serve as nursery and forage habitat for species such as red drum (*Sciaenops ocellatus*), black drum (*Pogonias cromis*), Atlantic menhaden (*Brevoortia tyrannus*), southern flounder (*Paralichthys lethostigma*), spotted seatrout (*Cynoscion nebulosus*), and blue crab (*Callinectes sapidus*). Many of these species are prey for fish managed under the Magnuson-Stevens Act, such as mackerels, snappers, groupers, billfish, and sharks. Red drum are important as a recreationally caught species, and estuarine wetlands within the project area provide habitat for all life stages of red drum.

Analysis of Alternatives

NMFS believes the alternatives analysis provided by the Jacksonville District, by email dated January 29, 2015, is overly narrow. While the analysis examines six potential sites for the facility, all have substantial wetland impacts, and only one overly general facility configuration is presented for the site the applicant chose. Table 2 summarizes the information provided; NMFS calculated the presumed upland acreage by subtracting the wetlands acres from the property size. The Ed Austin Terminal site was chosen based on location, size, land use, infrastructure, availability, and wetland habitat. The information is not provided in a manner that allows the environmental impacts to be easily compared thereby providing a clear basis for choice by decision makers. Weighting of the selection parameters is not discussed, and the quantity and quality of the wetlands, especially those that are EFH, within each site are not fully developed in the alternatives analysis. NMFS finds the information provided does not support the applicant's conclusion that significant efforts have been made to eliminate and reduce potential environmental impacts. NMFS recommends less damaging alternatives be fully evaluated in the analysis.

Alternative	Property Size (acres)	Estuarine Impacts (acres)	Freshwater Wetlands Impacts (acres)	Presumed Uplands (acres)
Ed Austin	70	22.69	4.0	43.31
Duval Partners	79	36	Unknown	43
Plan J Partners	20.23	Unknown	9.57	10.66
Zion Site	1,642.25	36.75	228.10	1377.4
Nichols Creek	188.04	90.54	30	67.5
La Farge Site	47.58	6.7	Unknown	40.88

It is our understanding from the interagency site visit and public notice that all wetlands on the site would be filled. There are no plans showing where each facility component would be located on the site. Therefore, it is difficult to recommend onsite avoidance opportunities. NMFS believes the proposed wetland fill is not consistent with the Environmental Protection Agency's Guidelines for Specification of Disposal Sites for Dredged or Fill Material. The fundamental precept stated in 40 CFR 230.1(c) that "dredged or fill material should not be discharged into the aquatic ecosystem unless it can be demonstrated that such a discharge will not have an unacceptable adverse impact either individually or in combination with known and/or probable impacts of other activities affecting the ecosystems of concern." Furthermore, 40 CFR 230.10(d) states that "no discharge of fill material shall be permitted unless appropriate and practical steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem." In this regard, NMFS notes that 100 percent of the wetlands are proposed for impact and the design does not reflect any avoidance or minimization.

The La Farge site appears to be the least damaging alternative when considering wetland impacts. The analysis of alternatives points out that the site is small and has limited access to the St. Johns River and Interstate 295 (I-295). Vehicles would have to be transported by road to the site or a new wharf would have to be constructed. The property consists of disturbed uplands with wetlands adjacent to the St. Johns River. With the use of multi-level parking garages, the size limitations of the property could be overcome. A new road could be constructed across I-295 to provide direct access or a new wharf could be installed. Further consideration to this site

should be given. The Zion site appears sufficiently large to allow the automobile processing facility without impacting wetlands.

Information Needs

The information provided is insufficient to fully evaluate the proposed impacts to EFH and wetlands, consequently NMFS cannot determine if the Ed Austin Terminal alternative reflects adequate avoidance and minimization of impacts to EFH and wetlands. As proposed, the chosen alternative would impact over 27.18 acres of estuarine and freshwater habitat. Additional information is needed to evaluate avoidance opportunities, potential indirect impacts, and mitigation. Lastly, additional information is needed to show the alternatives have been thoroughly analyzed providing a clear basis for choice as the preferred alternative. NMFS requests the following information to complete its analysis:

- Detailed construction drawings to determine how and why the proposed impacts to wetlands are taking place.
- An updated alternatives analysis that demonstrates the wetland impacts have been minimized to the maximum extent practicable. The analysis should consider use of multi-level parking garages, impacting the lowest quality wetlands first, and avoiding high quality salt marsh. Indirect impacts to Wynn's Creek and adjacent salt marsh should be fully evaluated through delineating buffer areas.
- A copy of the conservation easement for the abutting property and a narrative describing how areas under conservation easement will be avoided.
- A detailed mitigation plan that includes a complete UMAM analysis for direct and indirect impacts to wetlands (i.e., quality and quantity of wetlands in indirect impact areas). The mitigation plan should demonstrate no net loss of ecological function within the same watershed.

Conservation Recommendations and Impacts to Aquatic Resources of National Importance

Several fish and invertebrates known to inhabit the project area are aquatic resources of national importance (ARNI) in accordance with Section 906(e)(1) of the Water Resources Development Act of 1986 (PL 99-602), including bluefish (*Pomatomus saltatrix*), spotted seatrout (*Cynoscion nebulosus*), croaker (*Micropogonias undulates*), southern flounder (*Paralichthys lethostigma*), blue crab (*Callinectes sapidus*), Spanish mackerel (*Scomberomorus maculatus*), pompano (*Trachinotus carolinus*), and penaeid shrimp. These species utilize salt marsh for spawning, refuge, foraging, or nursery areas. As proposed, the work would directly and permanently eliminate a substantial amount of salt marsh. In accordance with Part IV, Section 3(a) of the MOA between the Department of Commerce and Department of the Army, dated August 11, 1992, NMFS has determined that the proposed project may result in substantial and unacceptable impacts to ARNI.

NMFS further concludes that Department of the Army authorization of the proposed action would contravene the purposes and requirements of the Magnuson-Stevens Act by substantially and adversely affecting EFH. Section 305(b)(4)(A) of the Magnuson-Stevens Act requires NMFS to provide EFH conservation recommendations when an activity funded, authorized, or undertaken by a state or federal agency is expected to adversely impact EFH. Based on this requirement, NMFS provides the following:

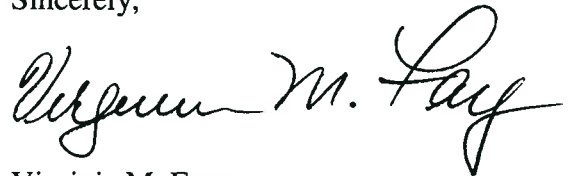
EFH Conservation Recommendation

The project shall be denied as proposed. NMFS would reevaluate this recommendation after examining the additional information requested regarding site selection, onsite avoidance, and development of a plan for compensatory mitigation that demonstrated no net loss of ecological function within the same watershed.

Section 305(b)(4)(B) of the Magnuson-Stevens Act and 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, in accordance with the "findings" with the Jacksonville District, 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 recommendations.

Thank you for the opportunity to provide comments and the facilitation of the interagency site visit. Related questions or comments should be directed to the attention of Brandon Howard at 400 N Congress Avenue, Suite 110, West Palm Beach, Florida 33401. He may be reached by telephone at 561-249-1652 or by e-mail at Brandon.Howard@noaa.gov.

Sincerely,



Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc:

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