



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>

April 16, 2015

F/SER47:BH/pw

(Sent via Electronic Mail)

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

Attention: Bev A. Lawrence

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2005-04832 (SP-BAL) dated March 18, 2015. BTI Management, the applicant, requests authorization from the Department of the Army to fill approximately 0.90 acre of salt marsh associated with the Nassau River and Atlantic Ocean in order to construct a single-family home with a circular driveway, garage, playground, pool, guesthouse, and bulkhead along the mean high water line (MHWL). The applicant would mitigate these impacts by purchasing credits from the Northeast Florida Saltwater Mitigation Bank. The site of the proposed project is the northern end of Big Talbot State Park, east of State Road A1A in Duval County. The initial determination by the Jacksonville District is the proposed loss of 0.90 acre of salt marsh wetlands 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).

Essential Fish Habitat in the Project Area

Jurisdictional waters within the project area include very high quality tidal salt marsh, tidal creeks, the Nassau River, and a tidal inlet. 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 bigleaf marsh elder (*Iva frutescens*), sea oxeye (*Borrchia frutescens*), and Virginia glasswort (*Salicornia virginica*). The onsite salt marsh is directly connected to the Nassau River near its confluence with the Atlantic Ocean.

The SAFMC identifies these habitats as EFH for white shrimp (*Litopenaeus setiferus*), brown shrimp (*Farfantepenaeus aztecus*), and estuarine-dependent species of the snapper/grouper complex, such as grey snapper (*Lutjanus griseus*). Coastal salt marshes and mud bottom 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. SAFMC designates tidal inlets as a Habitat Area of Particular Concern (HAPC) under the fishery management plans for penaeid shrimp and the snapper/grouper complex. HAPCs are subsets of EFH that are rare, particularly susceptible to human-induced degradation, especially important ecologically, or located in an environmentally stressed area. Salt marshes in close proximity to tidal inlets are especially valuable because they serve as staging areas for shrimp and fish migrating between the ocean and estuary. SAFMC provides additional information on EFH and how it supports federally managed fishery species in *Fishery Ecosystem Plan of the South Atlantic Region*, which is available at www.safmc.net.

The site of the proposed project also includes estuarine waters. The Mid-Atlantic Fishery Management Council (MAFMC) identifies estuarine waters as EFH for bluefish. The MAFMC provides detailed information on types and locations of EFH for the species it manages via individual amendments to fishery management plans and in technical reports available at www.nefsc.noaa.gov/nefsc/habitat/efh/.

Impacts to Essential Fish Habitat

The applicant proposes to directly impact, by filling, 0.90 acre of salt marsh habitat near a tidal inlet. Substantial indirect impacts may also result from the bulkhead depending on its location (the public notice drawings do not show the proposed location). If the bulkhead fronts the Nassau River, it may reduce tidal flows to adjacent salt marsh and reduce access by marine organisms. If the bulkhead is along the southern side of the property in Spoonbill Pond, these same indirect impacts may occur but perhaps to a lesser extent depending on the bulkhead design.

The project description in the public notice states a circular driveway, garage, playground, pool, guesthouse, and bulkhead would be constructed in addition to the single-family home. There are no plans showing the location of these amenities, which makes it difficult for NMFS to recommend onsite avoidance opportunities. The basic project purpose is residential development. This purpose could be accomplished with far less wetland impacts if the aforementioned amenities were eliminated. 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 appurtenances unnecessary for meeting the stated project purpose are proposed, and the design does not reflect adequate avoidance or minimization of impacts to wetlands.

EFH Conservation Recommendation

NMFS concludes the proposed fill and bulkhead 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. In consideration of this requirement, NMFS recommends:

- Additional site-specific avoidance and minimization measures be incorporated into the project design.

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. Please direct related questions or comments 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,



/ for

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc:

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