



UNITED STATES DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office

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

May 12, 2015

F/SER47:FR/pw

(Sent via Electronic Mail)

Patrick Kenney, Superintendent
National Park Service, Cape Lookout National Seashore
131 Charles Street
Harkers Island, NC 28531

Dear Mr. Kenney:

NOAA's National Marine Fisheries Service (NMFS) reviewed the public notice from the USACE Wilmington District regarding the application from the National Park Service, Cape Lookout National Seashore (NPS), to complete a shoreline protection project associated with the NPS facility on Harkers Island, Carteret County (Action ID Number SAW-2006-40176-16). To address shoreline erosion, the NPS is proposing to construct rock sills that would cover 0.66 acres of estuarine bottom. The Wilmington District's initial determination is the proposed sills may adversely affect and is likely to adversely affect essential fish habitat (EFH) or associated fisheries managed by South Atlantic Fishery Management Council (SAFMC), the Mid-Atlantic Fishery Management Council (MAFMC), or NMFS. After release of the public notice, the Wilmington District notified the NMFS that the NPS is the lead agency for the EFH consultation. 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).

The NPS proposes to two stone sills, totaling approximately 960 feet in length, 30 to 60 feet from shore and northward of several sills built in 2007 or 2008. When the initially authorized by the Wilmington District, the NPS expected salt marsh to accrete landward of the sills and for no impacts to occur to adjacent beds of submerged aquatic vegetation (SAV). The sills would have a trapezoidal cross-sectional profile and a crest elevation approximately one foot above mean high water. One of the existing sills, about 250 feet long and tied to the shore, would be removed. The NPS expects removal of the sill will enhance water circulation when considering the entire built-out project footprint.

The proposed sills would cover 0.66 acres of shallow, estuarine bottom. The SAFMC identifies shallow estuarine bottom as EFH for brown shrimp, pink shrimp, and white shrimp. The SAFMC also identifies SAV as an Habitat Area of Particular Concern (HAPC) for gag and gray snapper. HAPCs are a subset of EFH that are rare, particularly susceptible to human-induced degradation, especially important ecologically, or located in an environmentally stressed area. The 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 SAFMC provides detailed information on the EFH requirements of species it



manages in amendments to fishery management plans and in *Fishery Ecosystem Plan of the South Atlantic Region* (available at www.safmc.net). The MAFMC designates estuarine waters as EFH for summer flounder and bluefish. Detailed information about the EFH requirements of species managed by the MAFMC is included in amendments to individual fishery management plans and in technical reports available at www.nefsc.noaa.gov/nefsc/habitat/efh/. 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 the SAFMC (e.g., king mackerel, Spanish mackerel, and cobia), the MAFMC (e.g., bluefish), or for highly migratory fish managed by the NMFS (e.g., billfishes and sharks).

The NMFS has three main concerns with the proposed sills. First, the SAV information presented in the public notice is from a survey conducted during January 2005. The age of the data and difficulty of mapping SAV during winter months suggests the 2005 data may not be sufficiently reliable for the current EFH consultation. Second, the public notice does not indicate if any marsh has accreted landward of the sills already built, and aerial images from 2013 and 2014 do not show marsh accretion has occurred since 2008. These images may not be optimal for detecting marsh accretion, and a summary from the NPS of how the shoreline responded to the sills would be helpful along with additional information about the proposed marsh planting along the water's edge. Lastly, the NPS has not proposed mitigation for loss of 0.66 acres of estuarine bottom.

EFH Conservation Recommendations

NMFS concludes the proposed sills would adversely affect EFH. Section 305(B)(4)(A) of the Magnuson-Stevens Act requires the NMFS to provide EFH conservation recommendations for any federal action or permit which may result in adverse impacts to EFH. Therefore, the NMFS recommends the following to ensure the conservation of EFH and associated fishery resources:

- A new SAV survey should be conducted and the sills positioned to ensure a 25-foot buffer between the edge of the sills and SAV is maintained.
- Barges and other construction equipment should not be allowed within 25 feet of the SAV.
- Compensatory mitigation should be provided for the loss of estuarine bottom. The NMFS would favorably view creation of salt marsh as the mitigation if monitoring gauges the amount of marsh created with respect to requirements established by the USACE permit.

Section 305(b)(4)(B) of the Magnuson-Stevens Act and its implementing regulations at 50 CFR 600.920(k), requires the NPS 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, an interim response should be provided. A detailed response must then be provided prior to final approval of the action. The detailed response must include a description of measures proposed by the NPS to avoid, mitigate, or offset the adverse impacts of the activity. If the response is inconsistent with the EFH conservation recommendations, the NPS must provide a substantive discussion justifying the reasons for not following the recommendation. The detailed 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. Please direct related correspondence to the attention of Mr. Fritz Rohde at our Beaufort Field Office, 101 Pivers Island Road, Beaufort, North Carolina 28516-9722; (252) 838-0828; or Fritz.Rohde@noaa.gov.

Sincerely,



/ for

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

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