



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>

June 26, 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: Liz Hair

Dear Colonel Landers:

NOAA's National Marine Fisheries Service (NMFS) reviewed the public notice for Action ID No. SAW-2013-02377 dated May 22, 2015. Kim Quinn proposes new dredging in Topsail Sound adjacent to an existing docking facility located at 804 Channel Boulevard, in Topsail Beach, Pender County. The proposed project area is open to shellfish harvesting but not within a Primary Nursery Area. No submerged aquatic vegetation has been reported in the area. 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 the 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 excavate an area around and beneath an existing docking facility. As proposed, the dredge footprint would measure approximately 42 feet by 42 feet and the final depth would be -4.0 feet normal low water (NLW). The North Carolina Department of the Environment and Natural Resources (NCDENR) lists the proposed depth of -6 feet NLW, which may be a typographical error. Dredged material from the proposed project would be hauled to a property owned by the applicant, which is devoid of any wetlands. The permit application does not address how dredged material would be dewatered and transported to temporary holding and final disposal areas.

Impacts to Essential Fish Habitat

The proposed dredging would disturb approximately 1,764 square feet of shallow bottom habitat. The SAFMC identifies shallow sub-tidal bottom in estuarine waters as EFH for brown shrimp, pink shrimp, white shrimp, and gray snapper. 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*¹. The MAFMC designates tidal creeks and estuarine waters as EFH for summer flounder and bluefish. Detailed information about the EFH requirements of species managed by the MAFMC are included in amendments to individual fishery management plans and in technical reports prepared by the NMFS Northeast Fishery Science Center². 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) or for highly migratory fish managed by the NMFS (e.g., billfishes and sharks).

As an impact minimization measure, the NCDENR has recommended a moratorium on excavation from April 1 through September 30 to protect juvenile shrimp and finfish from dredge-related sedimentation and entrainment. The NMFS supports this recommendation.

EFH Conservation Recommendations

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:

- The permit should not allow dredging deeper than to -4.0 feet NLW, which is the depth listed in the Public Notice.
- The permit should not allow effluent from the dewatering of dredged material to enter estuarine waters unless the permit requires best management practices (BMPs) to limit sedimentation in and near shellfish beds. These BMPs should also include dewatering that may occur while the dredged material is being transported to holding and final disposal areas.

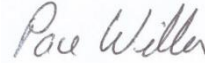
Section 305(b)(4)(B) of the Magnuson-Stevens Act and its implementing regulations at 50 CFR 600.920(k), requires the Wilmington District to provide a written response to the EFH recommendations within 30 days of receipt. If it is not possible to provide a substantive response within 30 days, in accordance with the “findings” between the NMFS and the Wilmington District, an interim response should be provided to the 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.

¹ Available at www.safmc.net.

² Available at www.nefsc.noaa.gov/nefsc/habitat/efh/.

Thank you for the opportunity to provide these comments. Please direct related questions or comments 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

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