



**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 16, 2015

F/SER47:JD/pw

(Sent via Electronic Mail)

Lt. Col. John Litz, Commander  
Charleston District, Corps of Engineers  
69A Hagood Avenue  
Charleston, South Carolina 29403-5107

Attention: Mary Hope Green

Dear Colonel Litz:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAC-2015-00516-1G, dated May 22, 2015. Kiawah Development Partners, LLC, requests authorization from the Department of the Army to construct a community dock within 0.122 acres of salt marsh in Charleston County. No compensatory mitigation is proposed. The Charleston District's initial determination is the proposed dock would not have substantial individual or cumulative adverse impacts on essential fish habitat (EFH) or federally managed fishery species. As the nation's federal trustee for the conservation and management of marine, estuarine, and anadromous fishery resources, the following comments and recommendations are provided pursuant to 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 proposed project includes constructing a timber walkway (6 feet by 776 feet) extending from a currently undeveloped hammock island associated with the Cassique neighborhood of Kiawah Island to the Kiawah River. The walkway would widen to 12 feet approximately 388 feet from high ground for 20 feet to accommodate a by-pass. The walkway would connect to a pierhead (20 feet by 20 feet) and two floating docks (10 feet by 62 feet); each of the floating docks would be accessed by a ramp (3 feet by 21 feet) extending from the pierhead.

*Essential Fish Habitat in the Project Area*

The site of the proposed dock includes healthy estuarine emergent wetlands (salt marsh) in close proximity to the Atlantic Ocean. The South Atlantic Fishery Management Council (SAFMC) identifies salt marsh as EFH for penaeid shrimp, including white shrimp (*Litopenaeus setiferus*) and brown shrimp (*Farfantepenaeus aztecus*) because larvae and juveniles concentrate and feed extensively and shelter within these habitats. As a consequence, growth rates are high and predation rates are low, which makes these habitats effective nursery areas. The dock would also cross a tidal creek; the SAFMC identifies tidal creeks as EFH for estuarine-dependent species of the snapper-grouper complex. The SAFMC provides additional information on EFH and its



support of federally managed species in Volume IV of the *Fishery Ecosystem Plan of the South Atlantic Region*<sup>1</sup>.

The waters of the Kiawah River, the tidal creeks connected to it, and the surrounding coastal marsh also serve as nursery and forage habitat for other species, such as red drum (*Sciaenops ocellatus*), black drum (*Pogonias cromis*), Atlantic menhaden (*Brevoortia tyrannus*), 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 is an important state-managed fishery, and estuarine wetlands within the project area provide habitat for all life stages of red drum. Bottlenose dolphins (*Tursiops truncatus*) also utilize the Kiawah River for foraging and nursery habitat.

#### *Impacts to Essential Fish Habitat*

The construction and presence of the dock could impact 0.122 acres of EFH. The walkway would shade salt marsh, potentially decreasing vegetation density. To minimize shading impacts, the NMFS generally recommends walkways over salt marsh vegetation be no more than four feet wide, be at least four feet above the marsh floor, and have a one-half-inch spacing between the deck boards. Wider walkways should have a corresponding increase in height above the marsh floor. For community docks, the walkway may be wider for a short distance to accommodate a passing or turn-around area. It is unclear from the project drawings if the height of the dock would equal or exceed 6.0 feet above the marsh floor. The 20-foot passing area appears reasonable. Finally, if pilings are placed within the tidal creek approximately 100 feet from the island, the pilings may alter tidal flow and destabilize the marsh edge. Pilings should not be placed in the creek.

#### *Conservation Recommendations*

NMFS finds the proposed dock within salt marsh would adversely affect 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 affect EFH. Based on this requirement, NMFS recommends:

#### **EFH Conservation Recommendations**

- The permitted height of the walkway above the marsh surface should equal the permitted width of the walkway.
- The permit should not authorize pilings within the tidal creek located between the hammock island and the Kiawah River.

Section 305(b)(4)(B) of the Magnuson-Stevens Act and implementing regulation at 50 CFR Section 600.920(k) require the Charleston 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, an interim response should be provided to NMFS. A detailed response then must be provided 10 days prior to final approval of the action. The detailed response must include a description of measures proposed by the Charleston District to avoid, mitigate, or offset the adverse impacts of the activity. If the response is inconsistent with an EFH conservation

---

<sup>1</sup> Available at [safmc.net/EcosystemLibrary/FEPVolumeIV](http://safmc.net/EcosystemLibrary/FEPVolumeIV)

recommendation, a substantive discussion justifying the reasons for not following the recommendation must be provided.

In accordance with section 7 of the Endangered Species Act of 1973, as amended, it is the responsibility of the Charleston District to review and identify any proposed activity that may affect endangered or threatened species and their designated critical habitat. Determinations involving species under NMFS jurisdiction should be reported to NMFS' Protected Resources Division at the letterhead address.

The NMFS appreciates the opportunity to provide these comments. Please direct related correspondence to the attention of Ms. Jaclyn Daly-Fuchs at our Charleston Area Office. She may be reached at (843) 762-8610 or by e-mail at [Jaclyn.Daly@noaa.gov](mailto:Jaclyn.Daly@noaa.gov).

Sincerely,



/ for

Virginia M. Fay  
Assistant Regional Administrator  
Habitat Conservation Division

cc: COE, [Mary.H.Green@usace.army.mil](mailto:Mary.H.Green@usace.army.mil)  
DHEC, [trumbumt@dhec.sc.gov](mailto:trumbumt@dhec.sc.gov)  
SCDNR, [DavisS@dnr.sc.gov](mailto:DavisS@dnr.sc.gov)  
SAFMC, [Roger.Pugliese@safmc.net](mailto:Roger.Pugliese@safmc.net)  
EPA, [Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)  
FWS, [Karen\\_Mcgee@fws.gov](mailto:Karen_Mcgee@fws.gov)  
F/SER4, [David.Dale@noaa.gov](mailto:David.Dale@noaa.gov)  
F/SER47, [Jaclyn.Daly@noaa.gov](mailto:Jaclyn.Daly@noaa.gov)