



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>

August 14, 2015

F/SER47:FR/pw

(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: Tyler Crumbley

Dear Colonel Landers:

NOAA's National Marine Fisheries Service (NMFS) reviewed the public notice for Action ID No. SAW-2011-00775 dated July 7, 2015. Bailey and Associates propose to expand upon an existing docking facility by constructing a 17-slip marina with associated dredging within Motts Creek adjacent to the Atlantic Intracoastal Waterway (AIWW) in Wilmington, New Hanover County. The project area is not designated a Primary Nursery Area. Submerged aquatic vegetation is not expected to be present. The project requires dredging 6,732 square feet of bottom, shading 678 square feet of wetlands, and incorporating 2,934 square feet of open water. 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, 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 expand an existing docking facility (two slips) adjacent to Motts Creek and the AIWW to accommodate 17 vessels ranging in size from 16 to 30 feet in length. An area approximately 160 feet in length and 90 feet in width (6,732 square feet of shallow bottom habitat) would be mechanically excavated by bucket-to-barge to a final depth of -4.0 feet at mean low water (MLW). Depths in the proposed excavation area currently range from approximately -1.0 foot MLW to deeper than -4.0 feet MLW. This would remove approximately 810 cubic yards of material, which would be hauled to a privately-owned spoil island. The proposed new pier and uncovered platforms would shade approximately 678 square feet of coastal wetlands.

During the scoping meeting, the applicant presented a proposal that included dredging into Motts Creek to accommodate additional slips. Based on comments by the NMFS about the impacts to EFH, the applicant has avoided these impacts to EFH by eliminating this part of the project.



Impacts to Essential Fish Habitat

The excavation of the boat basin would disturb approximately 6,732 square feet of shallow bottom habitat and shade a minimum of 678 square feet of coastal marsh. The SAFMC identifies salt marsh and shallow sub-tidal bottom in estuarine waters as EFH for Brown Shrimp, Pink Shrimp, and White Shrimp. 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. Detailed information on the EFH requirements of species managed by the SAFMC is provided in a comprehensive amendment to the fishery management plans and *Fishery Ecosystem Plan of the South Atlantic Region*. 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, 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).

The NMFS finds the project, as proposed, does not reflect all practicable avoidance and minimization of impacts to EFH. Depths on the northern side of the docking facility (slips 9 to 14 and 17) are sufficient for boating such that no excavation is necessary. Slips 3 to 8 either have sufficient depths without excavation (-3.4 feet MLW or deeper) or could accommodate vessels with the use of boatlifts. No mitigation is proposed by the applicant for impacts to shallow bottom habitat.

EFH Conservation Recommendations

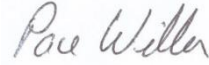
Section 305(b)(4)(A) of the Magnuson-Stevens Act requires the NMFS to provide EFH conservation recommendations when an activity is expected to adversely impact EFH. Based on this requirement, the NMFS provides the following:

- The applicant should eliminate the excavation portion of the project.
- The applicant should eliminate slips 1 and 2 since depths are too shallow to even allow the use of boatlifts.

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 NMFS and the Wilmington District, an interim response should be provided to 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.

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

cc: COE, Tyler.Crumbley@usace.army.mil
USFWS, Pete_Benjamin@fws.gov
NCDCM, Doug.Huggett@ncmail.net, Gregg.Bodnar@ncdenr.gov
EPA, Bowers.Todd@epa.gov
SAFMC, Roger.Pugliese@safmc.net
F/SER4, David.Dale@noaa.gov
F/SER47, Fritz.Rohde@noaa.gov