



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>

September 22, 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-2003-00506 dated August 20, 2015. Waters Edge Homeowners Association proposes to conduct new dredging around their docking facility along the Atlantic Intracoastal Waterway (AIWW) in Hampstead, Pender County. 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. This determination is based on the presence of submerged aquatic vegetation (SAV) and the applicant's proposed removal of SAV. The waters of the AIWW are designated SA-ORW by the Division of Water Resources. The project waters are not designated as a Primary Nursery Area and are open to the taking of shellfish. 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 new dredging around existing docking facilities. As designed, a cut 50 feet by 75 feet to a depth of -4.0 feet would be made along the southern dock and a cut 50 feet by 100 feet to a depth of -4.0 feet would be made around the northern dock. Existing water depths average -1.0 foot NLW around each of the docking facilities. Approximately 971 cubic yards of material would be excavated using a barge-mounted excavator.

Impacts to Essential Fish Habitat

The excavation of the boat basin would disturb approximately 8,750 square feet of shallow bottom habitat and an unspecified amount of SAV and SAV habitat. SAV is present and flourishing in and around the existing docking facilities, especially the northern facility. The SAFMC identifies shallow sub-tidal bottom and SAV in estuarine waters as EFH for brown shrimp, pink shrimp, and white shrimp. The SAFMC also identifies SAV as a habitat area of particular concern (HAPC) for shrimp, 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. 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 waters at site of the proposed dredging are not designated as a Primary Nursery Area (PNA); however, this area provides nursery services. The high value of the waters at the site of the proposed dock is supported by the water classification, which is SA-ORW.

The applicants originally applied for a permit to perform new dredging on September 8, 2008. They withdrew the permit package when resource agencies comments were unfavorable due to the project's impact on SAV and SAV habitat. Nothing has changed in the interim seven years. As noted in the current permit package, SAV is present and flourishing.

EFH Conservation Recommendation

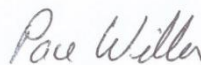
Section 305(b)(4)(A) of the Magnuson-Stevens Act requires NMFS to provide EFH Conservation Recommendations for any federal action or permit which may result in adverse impacts to EFH. Therefore, NMFS recommends the following to ensure the conservation of EFH and associated fishery resources:

- No dredging should be authorized in SAV and SAV habitat.

Section 305(b)(4)(B) of the Magnuson-Stevens Act and its implementing regulations at 50 CFR 600.920(k) requires your office to provide a written response to our EFH recommendations within 30 days of receipt. If it is not possible to provide a substantive response within 30 days, in accordance with our "findings" with your Regulatory Functions Branch, an interim response should be provided to the NMFS. A detailed response must then be provided prior to final approval of the action. Your detailed response must include a description of measures proposed by your agency to avoid, mitigate, or offset the adverse impacts of the activity. If your response is inconsistent with our EFH conservation recommendations, you 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 questions correspondence 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, Sarah.E.Hair@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