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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

JUL 2 2012

Mr. Robert J. DeSista
Chief, Permits and Enforcement Branch
Regulatory Division
US Army Corps of Engineers
New England District
696 Virginia Road
Concord, MA 01742-2751

Re: Narragansett Bay Dredging NAE-1010-1410

Dear Mr. DeSista:

We have reviewed the Public Notice #NAE-10101400 and the Essential Fish Habitat (EFH) Assessment, dated May 15, 2012, for dredging of the Port of Davisville, in the Narragansett Bay, Rhode Island. According to the Public Notice, the proposed project includes mechanical dredging of approximately 260,000 cubic yards of sand and silt. The dredge area encompasses the south berth area between Piers 1 and 2 and the approach channel to the port facility. The proposal is to dredge to a depth of minus 32-feet mean low water (MLW), including a one-foot allowable over dredge along the channel; and -25 feet MLW, including an allowable one-foot over dredge near the bulkhead along the south side of Pier 1. The material will be disposed of at the Rhode Island Sound Disposal Site.

As you are aware, the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Fish and Wildlife Coordination Act require Federal agencies to consult with one another on projects such as this. Because the project involves EFH, this process is guided by the requirements of our EFH regulation at 50 CFR 600.905, which mandates the preparation of EFH assessments and generally outlines each agency's obligations in this consultation procedure. We offer the following comments and recommendations on this project pursuant to the above referenced regulatory process.

The Public Notice states that the project will affect 37 acres of EFH for a number of federally managed species, including winter flounder, windowpane flounder, Atlantic sea herring, bluefish, summer flounder, and black sea bass. The application notes that as a mitigation measure, dredging would occur during the permitted environmental windows; however, those windows were not specifically defined in the application or Public Notice.

We have determined that mudflats and subtidal habitats will be adversely affected by the proposed dredging; however, no salt marsh or eelgrasses are present within the proposed dredging site. Although the Public Notice and application do not mention shellfish habitat, subsequent conversations with Rhode Island Division of Environmental Management (RIDEM)

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personnel staff member, Eric Schneider, indicated that it is very likely that shellfish habitat occurs in the proposed dredge site and may be a relatively productive shellfish habitat.

The information we have reviewed via e-mail from Wendy P. Rocha, Project Manager, CLE Engineering, Inc., indicates this area was last dredged in 1940 when the deep water port was created in the Port of Davisville. Since that time we believe that the shellfish and benthic habitats in the project area have recovered. We are, therefore, concerned about potential impacts to the benthic resources within the dredge footprint. Additionally, our ability to assess potential impacts to EFH and associated marine resources is being complicated by deficiencies and inconsistencies in and between the EFH Assessment and the Public Notice documents, specifically, lack of an assessment of shellfish habitat and the potential impacts from the proposed project.

General Comments

The Port of Davisville supports a number of important living marine resources, as well as species and habitats that are critical to a healthy estuarine ecosystem. The area has been identified as EFH for 33 federally-managed species, including all life stages for winter flounder and windowpane flounder, Atlantic sea herring (larvae, juveniles and adults), bluefish (juveniles and adults), summer flounder (larvae, juveniles, and adults), and black sea bass (juveniles and adults).

Areas within the proposed dredge footprint include intertidal and subtidal mudflats. Intertidal mudflats serve as an important habitat for shellfish and benthic invertebrates living within or on the substrate, which serve as an important food source for federally managed winter flounder (Pereira *et al*, 1999). Mudflats also serve as foraging habitats for windowpane flounder, and summer flounder. Loss of prey may have an adverse effect on EFH and managed species because the presence of prey makes waters and substrate necessary to fish for feeding; therefore, actions that reduce the availability of prey species, either through direct harm or capture, or through adverse impacts to the prey species' habitat may also be considered adverse effects on EFH. Steimle et. al. (2000) reported that the siphons of hard clams were an important part of the diet of winter flounder. As a result, loss of hard clam habitat can adversely affect the EFH for winter flounder by reducing the availability of prey. Intertidal mudflats have been designated by the US Environmental Protection Agency as a "special aquatic site" pursuant to Section 404(b)(1) of the Federal Clean Water Act because of their important role within the marine habitat. The proposed project would affect EFH and shellfish habitat by dredging mudflat and subtidal habitats that are used for spawning, forage and shelter for a variety of the above species.

Dredging for the proposed project would also lead to elevated suspended sediments which can result in impacts to fishery resources. Of particular concern, is the impact to winter flounder. Adult winter flounder utilize this area for spawning and feeding, while eggs, larvae, and juveniles use the area for early life stage development. Winter flounder eggs and larvae, once present on the substrate, will be directly affected by dredging activity. Suspended sediment deposition associated with dredging can have direct impacts on winter flounder eggs and larval stages due to smothering and suffocation.

Essential Fish Habitat Conservation Recommendations
In order to avoid, minimize or mitigate impacts to the EFH, we recommend pursuant to Section 305(b)(4)(A) of the MSA that the Corps of Engineers adopt the following conservation recommendations:

1. A shellfish survey should be conducted to determine the abundance of shellfish within the project area. In particular, the shallow reaches of the dredge area, side slopes of the channel, and the areas adjacent to the top of slope, that may be affected by turbidity plumes from the dredging, should be included in the survey area. The shellfish survey should be developed in coordination with RIDEM and our agency prior to the field work.
    a. The results of the survey should be provided to us for review to assess the potential impacts to shellfish resources in the project area.
    b. Upon completing our review of the shellfish survey results, we will determine if impacts to shellfish resources will require us to provide further recommendations to avoid, minimize, or offset those impacts.

2. To avoid and minimize impacts to winter flounder and shellfish spawning habitats, no dredging should occur between February 1 and October 14 of any year.

Please note that Section 305(b)(4)(B) of the MSA requires you to provide us with a detailed written response to these EFH conservation recommendations, including a description of measures you have adopted for avoiding, minimizing, mitigating, or offsetting the impact of the project on EFH. In the case of a response that is inconsistent with our recommendations, Section 305(b)(4)(B) of the MSA also indicates that you must explain your reasoning for not following the recommendations. Included in such reasoning would be the scientific justification for any disagreements with us over the anticipated effects of the proposed action and the measures needed to avoid, minimize, mitigate, or offset such effects pursuant to 50 CFR 600.920(k). Please also note that a distinct and further EFH consultation must be re-initiated pursuant to 50 CFR 600.920(l) if new information becomes available or the project is revised in such a manner that affects the basis for the above EFH Conservation Recommendations.

Fish and Wildlife Coordination Act Recommendations
In order to protect shellfish spawning habitats, no dredging should occur during the months recommended above.

Narragansett Bay functions as a migratory corridor for diadromous alewives, blueback and Atlantic herring, and American shad that spawn in the tributaries; however, given the location of this project, little or no impacts are anticipated for diadromous species from suspended sediments due to the dredging.

Conclusions
In summary, the EFH assessment and the application lack important information for us to make well-informed recommendations as they relate to shellfish habitat. Resulting data from a shellfish survey will provide us with information that allows us to consider whether further

avoidance, minimization and mitigation recommendations are necessary. If you have any questions about this matter, please contact Carol Shé at 978-675-2154 or Carol.She@noaa.gov.

Sincerely,

Louis A. Chiarella
Acting Assistant Regional Administrator
for Habitat Conservation

cc: Michael J. Elliott, USACOE
Phil Colarusso, USEPA
Mark Murray-Brown, PRD
Carol Shé, HCD
Eric Schneider, RIDEM

References

Pereira, Jose J., Ronald Goldberg, John J. Ziskowski, Peter L. Berrien, Wallace W. Morse, and Donna L. Johnson. 1999. Essential Fish Habitat Source Document: Winter Flounder, *Pseudopleuronectes americanus*, Life History and Characteristics. NOAA Technical Memorandum NMFS-NE-138. Northeast Fisheries Science Center, Woods Hold, MA.

Steimle, F.W., R.A. Pikanowski, D.G. McMillan, C.A. Zetlin, and S.J. Wilk. 2000. Demersal fish and American lobster diest in the Lower Hudson-Raritan Estuary. NOAA Technical Memorandum NMFS-NE-161. Woods Hole, MA. 106 p.