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
https://www.fisheries.noaa.gov/region/southeast

July 22, 2021 F/SER46/AR:bh
225-380-0058

Mr. Marshall K. Harper, Chief
Environmental Planning Branch
Regional Planning and Environment Division South
U.S. Army Corps of Engineers
New Orleans Environmental Branch, CEMVN-PDS-C
7400 Leake Avenue
New Orleans, Louisiana 70118

Dear Mr. Harper:

NOAA's National Marine Fisheries Service (NMFS) has reviewed the Draft Integrated Feasibility Report (DIFR) and Draft Environmental Impact Statement (DEIS), for the St. Tammany Parish Louisiana, Feasibility Study (Study), transmitted by your letter dated June 11, 2021. The letter indicates the DEIS represents the U.S. Army Corps of Engineers (USACE) initiation of essential fish habitat (EFH) consultation under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The DIFR and DEIS have been prepared in response to the Bipartisan Budget Act of 2018, H. R. 1892 - 13, Title IV, Corps of Engineers - Civil, Department of the Army, Investigations, which authorized the expenditure of funds necessary for the completion, or initiation and completion, of flood and storm damage risk reduction projects or studies in multiple southeast Louisiana parishes. The NMFS has agreed to serve as a cooperating agency for this project under provisions of the National Environmental Policy Act. The following is provided in accordance with provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) and 600.920 of the Magnuson-Stevens Act.

Direct and indirect impacts to NMFS trust resources are anticipated through implementation of the Tentatively Selected Plan (TSP). The USACE proposes to construct and operate approximately 16.3 miles (85,900 feet) of hurricane and storm damage risk reduction levee and floodwall sections in west and south Slidell, Bayou Patassat channel improvements in Slidell, Mile Branch channel improvements in Covington, and nonstructural home elevations and flood proofing for approximately 15,800 structures in the study area. The levee and floodwall is approximately 16.3 miles and is a combination of 14 miles (73,700 feet) of levees and 2.3 miles (12,200 feet) of floodwall. The I-10 highway would be raised to the preliminary design elevation of 15 feet NAVD 88 to create a ramp over the new levee section. The levee alignment would impact a 169 acre staging area and require approximately 1,528,000 cubic yards of fill. Structures proposed for TSP implementation include five pump stations, four gate complexes, one channel floodgate, three sluice gates, seven vehicular gates, one railroad gate along the Norfolk Southern Railroad, and seven ramps.

The proposed project is in areas designated as EFH for various life stages of federally managed species, including white shrimp, brown shrimp, red drum, and bull sharks. The primary categories of EFH, affected by project implementation, are estuarine emergent marsh, estuarine water column, and estuarine mud bottoms. Detailed information on federally managed fisheries and their EFH is provided in the 2005 generic amendment of the Fishery Management Plans for the Gulf of Mexico prepared by the Gulf of Mexico Fishery Management Council and in the 2009 Amendment 1 to the Consolidated Atlantic Highly Migratory Species Fishery Management Plan prepared by NMFS as required by the Magnuson-Stevens Fishery Conservation and Management Act (MSA) (Magnuson-Stevens Act; P.L. 104-297). The 1996 amendments to the MSA require NMFS, regional fishery management councils, and other federal agencies to identify and protect important marine and anadromous fish habitat. The EFH provisions of the MSA support one of the nation's overall marine resource management goals — maintaining sustainable fisheries. Critical to achieving this goal is the conservation and enhancement of the quality and quantity of suitable marine and estuarine fishery habitats.

In addition to being designated as EFH for various federally managed fishery species, wetlands and water bottoms in the project area provide nursery and foraging habitats for a variety of economically important marine fishery species such as blue crab, Atlantic croaker, spotted sea trout, and gulf menhaden. Some of these species serve as prey for other fish species managed under the MSA by the Gulf of Mexico Fishery Management Council (e.g., mackerels, snappers, and groupers) and highly migratory species managed by NMFS (e.g., billfishes and sharks). Wetlands in the project area also produce nutrients and detritus, important components of the aquatic food web, which contributes to the overall productivity of the Lake Pontchartrain Basin.

Based upon the limited information provided in the DIFR and DEIS, NMFS is concerned direct wetland losses from construction of project features and water control structures would adversely impact EFH and associated marine fishery resources. Additionally, the proposed construction and operation of the west and south Slidell levee and floodwall system would result in impacts to EFH while the Mile Branch channel improvements is located within a non-tidal area. The DEIS is unclear if Bayou Patassat channel improvements are tidally influenced. The NMFS does not object to hurricane protection to reduce risk to life or property. However, NMFS can not determine the total impacts of the proposed project because the DEIS does not clearly quantify impacts to EFH by habitat type. A complete EFH assessment should be provided to NMFS incorporating all activities associated with this project, including a description of measures to avoid, minimize, mitigate, or offset the adverse impacts of the proposed activities on EFH. Avoidance and minimization of direct wetland impacts should be pursued to the greatest extent practicable. The EFH assessment should also include updated details delineating and quantifying impacts to EFH by habitat type, as well as differentiating between the flood side EFH and the protected side of all structures. The NMFS recommends tabular format, maps, and KMZ files be provided to inform the EFH assessment.

The NMFS is also concerned the construction of the levee system and all gate and pump structures may induce stacking during high water events which shifts vegetative communities' aquatic resources and fisheries relying upon them for habitat and foraging. The DEIS does not include a specific operational plan or plan and cross sectional views for all structures associated with this project (e.g., pump stations, ramps, and gate complexes including slice, vehicular,

channel, and railroad gates). Cross-sectional and plan view information should be provided to fully assess impacts to EFH. The operational plan for these structures should include triggers for gate closures (e.g., named storm events in the Gulf of Mexico, fixed water level elevations, crest setting, estimated frequency of closures, and etc.). The USACE should also provide hydrological modeling results for all structures justifying: (1) how particular locations were selected for each structure, (2) why each structure is needed, and (3) how the size and type of each structure was determined.

Given the USACE will need to further refine and quantify EFH impacts to determine the mitigation required for the final EFH assessment and EIS, NMFS recommends a second draft of the EIS be published for public review to incorporate all required revisions. Unavoidable impacts to EFH will require mitigation. The NMFS recommends intermediate and brackish marsh habitats be evaluated by a functional assessment since these types of estuarine emergent wetlands will be impacted by implementation of the TSP. The DEIS states mitigation measures will be considered in the following order: (1) purchase of mitigation bank credits to offset impacts to 227 acres of marsh, and/or (2) potential USACE constructed marsh mitigation sites. If the purchase of wetland credits is not available then the USACE should develop, in coordination with NMFS, a mitigation and monitoring plan which fully compensates for all EFH impacts. This robust mitigation and monitoring plan should be presented to NMFS for review prior to release of the final EFH assessment and EIS. To avoid additional mitigation for temporal impacts, NMFS recommends implementation of the mitigation plan concurrent with the construction of the development. The preliminary mitigation analysis, approximate total acres, and functional units of impacts to EFH provided in the DEIS should be refined to verify: (1) the final assessment of acres of impacts to EFH, (2) the final WVA or functional assessment analysis, (3) the types of mitigation required, and (4) the final project design. Open water should also be included among the habitat types requiring mitigation. Estimates of all direct and indirect project related impacts to tidally influenced habitat should be refined for inclusion in the project's final EFH assessment and EIS.

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 marine fishery resources:

EFH Conservation Recommendations

1. The USACE should provide an EFH assessment which clearly characterizes, delineates, and quantifies direct and indirect impacts to EFH by habitat type, as well as differentiating between the flood side EFH and the protected side of all structures.

2. Cross sectional and plan views for all structures (e.g., pump stations, ramps, and gate complexes including slice, vehicular, channel, and railroad gates) and operation plans should be provided and be assessed to determine if construction of levees and water control structures would impact fisheries access and water exchange in the Lake Pontchartrain Basin.

3. The applicant should be required to purchase mitigation bank credits and/or develop a mitigation and monitoring plan which fully compensates for all unavoidable impacts to EFH. The mitigation plan should be presented to NMFS for review. Should a permit be issued for this project, it should require the implementation of the mitigation plan concurrent with the construction of the development.

Consistent with Section 305(b)(4)(B) of the Magnuson-Stevens Act and NMFS' implementing regulation at 50 CFR 600.920(k), your office is required to provide a written response to our EFH conservation recommendations within 30 days of receipt. Your response must include a description of measures to be required to avoid, mitigate, or offset the adverse impacts of the proposed activity. If your response is inconsistent with our EFH conservation recommendations, you must provide a substantive discussion justifying the reasons for not implementing the recommendations. If it is not possible to provide a substantive response within 30 days, the New Orleans District should provide an interim response to NMFS, to be followed by the detailed response. The detailed response should be provided in a manner to ensure that it is received by NMFS at least 10 days prior to the final approval of the action.

We appreciate your coordination with our office on this project. If you wish to discuss this project further or have, questions please contact Alexis Rixner at (225) 380-0058 or by e-mail at Alexis.Rixner@noaa.gov.

Sincerely,

Rusty Swafford
Acting Assistant Regional Administrator
Habitat Conservation Division

c:
USACE, Dixon
LDNR, Balkum
F/SER46, Howard
F/SER4, Dale
F/SER1, Silverman
Files