



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, CORPS OF ENGINEERS
ATTN: REGULATORY BRANCH
10 S. HOWARD STREET
BALTIMORE, MD 21201

APR 04 2016

Operations Division

Mr. Chris Judy
Maryland Department of Natural Resources, Fisheries Service
Chesapeake Shellfish Program
Tawes State Office Building, B-2
580 Taylor Avenue
Annapolis, Maryland 21401-2397

Dear Mr. Judy:

This is in reference to the resubmitted application dated July 17, 2015, by the Maryland Department of Natural Resource (MDNR) requesting a Department of the Army (DA) permit, **CENAB-OP-RMN (MD DNR/FISHERIES SERVICE/MAN O' WAR SHOAL DREDGING) 2009-61802-M04**, to dredge five million bushels of oyster shell from the Man O'War Shoal in the Chesapeake Bay, near the mouth of the Patapsco River, Baltimore County, Maryland. The project purpose is to obtain a supply of shell to be used for the restoration of oyster populations and oyster fisheries in the Bay.

This office has reviewed the comments received in response to the Joint Public Notice published by the Baltimore District (Corps) and the Maryland Department of the Environment (MDE), and the two transcripts of the recent public hearings held at Edgemere and Cambridge, Maryland. You have already received the bulk of the comments from MDE by e-mail on March 14, 2016. I'm also enclosing a few others not yet provided, which includes letters from the National Marine Fisheries Service (NMFS) and the Environmental Protection Agency (EPA). Please note that the NMFS cannot conclude their Essential Fish Habitat (EFH) review of this project since the application is incomplete until their requested information is provided.

In addition to providing the information specified in NMFS' and EPA's letters, the Corps requires the following:

- 1) Provide the known history of, and any data and information collected from, past shell removal operations from the Man O'War Shoal; this should include location and the areal size and amount of shell removed.
- 2) Provide a chart/plan that accurately shows the location and site limits of the recent two years (2013 and 2015?) of oyster spat planting of the shoal by Baltimore County watermen and all other viable oyster beds with an approximate estimate of their density within the shoal.
- 3) Attachment #1, included with the resubmitted application, presents information that conflicts with other information that MDNR subsequently provided us during our review of the current application. One item of particular significance is it

stating that the bottom of the cuts will have a two-foot layer of oyster shell left in place, while additional information provided to the Corps indicated a 10- to 15-foot layer of sediment and shell bits from the washing would be put back into the cuts. The entire Attachment #1 must be reviewed and revised to accurately present the project.

- 4) Provide the specific proposed testing parameters which are to be used in Year 1. They will be subject to the agencies' comments and approval as part of our permit application review. Also please note that, should a DA permit be issued, the conclusion of any study will also require the concurrence of the agencies.
- 5) Please note that DA permit #2008-00512, a significant permit that MDNR proposes to use for the shell placement, will expire on March 18, 2017. This is prior to Year 2 when the shell dredging is to be performed, if authorized.

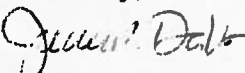
We also received a response from the U.S. Coast Guard that provided a couple of special conditions concerning navigation should a DA permit be issued.

To assist you in preparing your response to the above, the agencies have all indicated they are available to discuss in more detail. Also, due to the size and scope of this project the Protected Resources Division (PRD) of NMFS has also recommended that this project be subject to informal consultation under Section 7 of the Endangered Species Act.

We request that you submit the required information by August 1, 2016. Considering the magnitude of issues and required information, the Corps recognizes that more time may be needed to address and respond. Please notify this office if additional time is needed. When you do submit the requested information, please reference the application name and number cited above.

If you have any questions concerning this matter, please contact me at (410) 962-6080 or by e-mail at abbie.hopkins@usace.army.mil.

Sincerely,


 FOR Abigail A. Hopkins
 Project Manager, Maryland Section Northern

Enclosures

Cc:
 MDE, Tidal Division – Justin Berezna
 NMFS, HCD – Kristy Beard
 NMFS, PRD – Brian Hopper
 EPA – Mike Mansolino
 FWS – Chris Guy
 US Coast Guard - Ron Houck