

APPENDIX D

EFH Determination Sheet

**Essential Fish Habitat (EFH)
Determination Sheet**

Applicant: SHM Rockland, LLC c/o William Morong

Corps File Number: NAE-2021-01934

Corps Project Manager: Stukas

USFWS Grant Number: F19Ap00378

USFWS Project Manager: Perry

Project Location: Below MHW and HTL of Rockland Harbor off Ocean St. in Rockland, Maine.

Project Description: Dredge by mechanical means approximately 12,520 cubic yards of silt and sand from a 138,000 s.f. area to a depth of -6 to -13' mlw in Rockland Harbor at Rockland, Maine in order to improve and restore access to an existing marina. The dredging is both maintenance and improvement dredging. The dredged material will be disposed in an upland, non-wetland site. In addition, maintain and upgrade the facility's existing floats to include in kind repairs and replacements, resetting concrete footings, and installing additional float systems.

ESSENTIAL FISH HABITAT (EFH):

EFH Present: Yes, adverse effect(s), ind. consultation required (abbreviated)

EFH Determination:

ACTIVITY 1. REPAIR, REPLACEMENT AND MAINTENANCE

Activities that require individual consultation:

1. Impacts >100 SF of tidal SAV or natural rocky habitats.

N/A. No impacts to tidal SAV or natural rocky habitats.

No natural rocky habitat is present on site. The rocks along the seawall is existing riprap; Corps File No. NAE-2000-02618, authorized placement of approximately 7600 sf. of rip rap along 750LF of seawall. The Corps authorized the repair of the existing jetty and the placement of rip rap at the base (NAE-2000-02133).

2. Impacts >1000 SF of tidal SAS or intertidal areas.

N/A. Impacts are less than 1000SF of tidal SAS or intertidal areas at 116sf.

3. All expansions >1/2 acre.

N/A. All expansions are less than 1/2 ac.

4. Replacement or maintenance of: a) sloped stabilization structures >200 LF and waterward of the existing toe, or b) vertical structures >18 inches waterward of the existing face and >200 LF.

N/A.

5. Dam and flood control or levee repairs that will alter water levels or flood elevations.

N/A.

6. Controls in streams that exceed the widths in #6 below or don't provide downstream passage.

N/A.

7. Discharges of more than de minimum quantities of accumulated bottom sediments from or through a dam.

N/A.

8. All work to tide gates without a Corps-approved operation and maintenance plan or alterations to tide gates that will affect the hydraulic regime.

N/A.

Conservation recommendations for all other activities not identified above:

1. Require an SAV survey for activities within mapped or adjacent to known tidal SAV if a survey has not been conducted in 3 years in accordance with SAV Survey Guidance. Tidal SAV at the project site should be identified in the field prior to the start of work and equipment should not anchor or impact SAV.

A field survey conducted on June 18, 2021 at low tide and no tidal SAV nor saltmarsh was present in the footprint of project area.

2. No impacts to tidal SAS.

No impacts to tidal SAS. The work involves resetting concrete footing within existing rip rap.

3. Work should not produce sedimentation in tidal SAS or natural rocky habitats. This may be achieved using setbacks of 100 feet from tidal SAV or 25 feet from tidal SAS or natural rocky habitats.

Work is above MLW and MHW will occur in-the-dry, as such, no greater than minimal turbidity or sedimentation is not expected it will be very minor and short-term.

The following special condition will be incorporated into the permit: “All in-water work shall be conducted between November 8- March 15th work window in any given year. No in-water work (dredging or pile driving) is authorized to be conducted between March 16th to November 7th in order to minimize impacts to federally listed species and Essential Fish Habitat.”

4. The TOY restriction in App. B should be required for work that produces greater than minimal turbidity or sedimentation in diadromous streams or tidal waters.

Work is above MLW and MHW will occur in-the-dry, as such, no greater than minimal turbidity or sedimentation is not expected it will be very minor and short-term.

The following special condition will be incorporated into the permit: “All in-water work shall be conducted between November 8- March 15th work window in any given year. No in-water work (dredging or pile driving) is authorized to be conducted between March 16th to November 7th in order to minimize impacts to federally listed species and Essential Fish Habitat.”

5. Appropriate soil erosion, sediment and turbidity controls should be used and maintained in effective operating condition during construction. Activities capable of producing greater than minimal turbidity or sedimentation should be done during periods of low-flow or no flow, when the stream or tide is waterward of the work, or when controls are used to obtain

dry work conditions. Work that produces greater than minimal turbidity or sedimentation should not be done during the TOY restriction(s) in App. B.

Work is above MLW and MHW will occur in-the-dry, as such, no greater than minimal turbidity or sedimentation is not expected it will be very minor and short-term.

The following special condition will be incorporated into the permit: “All in-water work shall be conducted between November 8- March 15th work window in any given year. No in-water work (dredging or pile driving) is authorized to be conducted between March 16th to November 7th in order to minimize impacts to federally listed species and Essential Fish Habitat.”

6. Controls in streams should be installed and removed during the same TOY work window when practicable. Controls (e.g., cofferdams) should not encroach: i) >25% from OHW in diadromous streams during the TOY restriction in App. B; or ii) >25% from MHW in tidal waters during the TOY restrictions for shellfish and w.flounder in App B); or iii) >50% from MHW in tidal waters during the TOY windows for shellfish and w.flounder in App B. This is to protect upstream fish passage. Maintain downstream fish passage throughout the project. Controls should be removed upon completion of work, but not until all exposed soil and other fills, as well as any work waterward of OHW or the HTL, are permanently stabilized. Sediment and debris collected by these devices should be removed and placed at an upland location in a manner that will prevent its later erosion into a waterway or wetland.

NA; no streams in the footprint of the project or in the immediate vicinity.

7. For replacement or maintenance of sloped stabilization structures, stabilization materials such as riprap should not extend waterward of the existing toe of slope. Replaced vertical structures should be located within the existing footprint where possible, but limited to the area within 18 inches of existing structures.

N/A; no replacement or maintenance of sloped stabilization structures are purposed for the project.

8. Compensatory mitigation should be provided for impacts to tidal SAS, intertidal areas, or natural rocky habitats.

There is no impacts to tidal SAS, intertidal area or, natural rocky habitats. The work involves resetting concrete footing within existing rip rap. USFWS and the Corps has determined that impacts associated with the project are minimal, therefore determined that no compensation mitigation is warranted and/or required.

ACTIVITY 3 – PILE-SUPPORTED STRUCTURES, FLOATS AND LIFTS

Activities that required individual consultation:

1. Structures (piers, ramps floats, etc.) in tidal SAV or 150 LF over salt marsh waterward of MHW.

N/A. SAV nor salt marsh is not present within the footprint of the project.

2. New public, community, government, or commercial boating facilities: or expansions of existing facilities within intertidal or tidal SAV.

N/A. The expansion of the facility is subtidal and no tidal SAV is present in the footprint of the project

Conservation Recommendations for all other activities not identified above.

1. The lower most parts of the floats should be >18 inches above the substrate at all times.

The lower most of part of the float will be elevated a minimum of 6 ft. above the substrate at all tides.

2. Structures shall have 1:1 height/width ration over salt marsh.

No salt marsh is present in the footprint of the pier.

3. Docks, piers, ramps or floats are not located within 25 feet of tidal SAV.

No SAV present in the footprint of the project or in the immediate vicinity.

4. Compensatory mitigation should be provided for impacts to tidal SAS.

USFWS and the Corps has determined that impacts associated with the project are minimal, therefore determined that no compensation mitigation is warranted and/or required.

ACTIVITY 5. DREDGING, DISPOSAL OF DREDGED MATERIAL, BEACH NOURISHMENT

Activities that require individual consultation:

1. Impacts to >100 SF of tidal SAV or natural rocky habitats.

N/A. No impacts to tidal SAV or natural rocky habitats.

No natural rocky habitat is present on site. The rocks along the seawall is existing riprap; Corps File No. NAE-2000-02618, authorized placement of approximately 7600 sf. of rip rap along 750LF of seawall. The Corps authorized the repair of the existing jetty and the placement of rip rap at the base (NAE-2000-02133).

2. Impacts to >1000 SF of tidal SAS, intertidal areas, or areas containing shellfish.

N/A. No impacts to tidal SAS, intertidal areas, or areas containing shellfish.

3. New dredge activities.

The Corps authorized dredging within area (54,500 sf.) which include both west and east of jetty (Corps File No. NAE-2000-02133). The file indicated that the possibility that dredging at that time was maintenance. This history would suggest that dredge could be maintenance rather than new, however, the applicant states it is new dredging.

4. Nearshore disposal or beach nourishment material is inconsistent with the grain-size or type (e.g., sand over cobble) of the existing substrate.

N/A. Upland disposal.

5. Nearshore disposal or beach nourishment activities within: 1) 100 feet of tidal SAV; or 2) 25 feet of other tidal SAS, natural rocky habitats or areas containing shellfish.

N/A. Upland disposal.

6. New dredging to facilitate residential projects including docks or moorings, and new dredging conducted for the sole purpose of beach nourishment.

N/A. Upland disposal.

Conservation recommendations for all other activities not identified above:

1. Require an SAV survey for activities within mapped or adjacent to known tidal SAV if a survey has not been conducted in 3 years in accordance with SAV Survey Guidance. Tidal SAV at the project site should be identified in the field prior to the start of work and equipment should not anchor or impact SAV.

A field survey conducted on June 18, 2021 at low tide and no tidal SAV nor saltmarsh was present in the footprint of project area.

2. No dredging or disposal should be performed within the TOY restrictions stated in App. B.

The following special condition will be incorporated into the permit: “All in-water work shall be conducted between November 8- March 15th work window in any given year. No in-water work (dredging or pile driving) is authorized to be conducted between March 16th to November 7th in order to minimize impacts to federally listed species and Essential Fish Habitat.”

3. No nearshore disposal or beach nourishment activities within: a) 100 feet of tidal SAV; or b) 25 feet of other tidal SAS, natural rocky habitats or areas containing shellfish.

N/A. Upland disposal.

4. No dredging should produce sedimentation in tidal SAS, natural rocky habitats or areas containing shellfish. This may be achieved using setbacks of 100 feet from tidal SAV or 25 feet from tidal SAS or natural rocky habitats.

No sedimentation will be produce in tidal SAS, natural rocky habitats or areas containing shellfish. Turbidity barriers will be used during dredging operations.

5. Rocks should be relocated to an area of equivalent depth and substrate type.

The dredge material is fine sediments over glacial till; however could be some boulder and cobble mixed with fine sediment on the east side of the jetty. The Corps authorized the repair of the existing jetty and the placement of rip rap at the base (NAE-2000-02133). NAE-2000-02133 also authorized dredging within area (54,500 sf.) which include both west and east of jetty and the dredge material was slit and clay. This history suggest that the boulder and cobble mixed with fine sediment may not be natural rocky habitat but shifted rip rap.

6. Dredged materials should be deposited and retained in an upland area to prevent sediments from reentering aquatic habitats; unless they are disposed of at either a U.S. EPA/Corps designated disposal site or a CAD cell.

Prior to dredging, jersey barriers and silt fencing shall be erected around the perimeter of the dredged material dewatering area. Dewatered material will then be loaded onto trucks and delivered to an existing gravel pit (approximately 12 miles away) for final placement and grading in accordance with MDEP’s Beneficial Use of Dredge Material permit (S-022546-W3-A-N).

7. Compensatory mitigation should be provided for impacts to tidal SAS, intertidal areas, natural rocky habitats, and areas containing shellfish. Compensatory mitigation should generally not be provided for: a) new or maintenance dredging in areas without these resources; or b) maintenance dredging in areas with these resources if compensatory mitigation was provided in the past.

USFWS and the Corps has determined that impacts associated with the project are minimal, therefore determined that no compensation mitigation is warranted and/or required.