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# United States Department of the Interior

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July 29, 2019

Mr. Tyler Crumbley
Project Manager
Wilmington District, Corps of Engineers
69 Darlington Avenue
Wilmington, NC 28403-1343

Subject: Town of Sunset Beach; Dredging of South Jinks Creek and Feeder Channels and Canals, with Sand Placement
Action ID No. SAW-2019-01155

Dear Mr. Crumbley:

This letter is in reference to your July 3, 2019 email, requesting comments on the permit application for the Town of Sunset Beach, Brunswick County, North Carolina. The Town has applied for a programmatic Coastal Area Management Act – U.S. Army Corps of Engineers (CAMA-Corps) permit to dredge Canals A-D, the Feeder Channel, Bay Area and an area of South Jinks Creek on the east end of Sunset Beach, with beneficial placement on 1,600 linear feet (lf) of ocean shoreline in Sunset Beach.

A biological assessment (BA) was provided in the email, along with other project information. For the sand placement portion of the project, the applicant proposes to comply with all conservation measures, reasonable and prudent measures (RPMs), and terms and conditions (T&Cs) of the August 28, 2017 Statewide Programmatic Biological Opinion for North Carolina Beach Sand Placement (SPBO), particularly the "B set" of RPMs and T&Cs. However, the applicant and Corps made a determination of No Effect (NE) or May Affect, Not Likely to Adversely Affect (MANLAA) for all of the species covered under the SPBO. The Service does not concur with any of those determinations, due to the potential for take, but we acknowledge that the take would be covered by the SPBO. We recommend that the BA be corrected to indicate that the project May Affect, and is Likely to Adversely Affect (MALAA) all five sea turtle species, red knot, piping plover, and seabeach amaranth. For these eight species, the BA should state "MALAA, and relying on findings of the August 28, 2017 Statewide Programmatic Biological Opinion for North Carolina Beach Sand Placement to fulfill our project-specific Section 7 responsibilities."

In addition, the BA does not provide any species occurrence data for red knot, piping plover, or seabeach amaranth. The BA also does not provide any information on nesting shorebirds in the Action Area, though American oystercatcher and Wilson's plover are known to nest on the south side of Tubbs Inlet. The BA does not explain why the "B set" of RPMs, T&Cs are proposed to be followed, instead of the "A set." The SPBO has two sets of RPMs and T&Cs. The "A set" is for traditional sand placement projects, primarily for shore protection. These projects are usually larger-scaled, but not always. The "B set" is intended for sand placement events associated with navigation maintenance dredging projects which have no local sponsor, are smaller-scaled, conducted at closer time intervals, and the sand often does not remain on the beach for an extended period of time. This project does not fit many of those descriptors, as "maintenance" dredging has not been conducted since 2002 (or in the case of the material proposed for beach placement, since the 1970s). The project does have a local sponsor, and is not proposed to be conducted at additional intervals in the future. There is no erosion history to indicate how long the material is expected to stay on the beach. The only descriptor that this project meets is "smaller-scaled," since the beneficial sand disposal area is only 1,600 lf. The "B set" of RPMs and T&Cs omits several RPMs and T&Cs which we believe are important for this project, including those pertaining to piping plovers, red knots, and nesting shorebirds.

**Service Recommendations**

1. It is clear from the July 3, 2019 email that the applicant has proposed to conduct the work in accordance with the SPBO, but no action is proposed in that regard by the Corps. The Corps should notify the Service in writing of its intent to cover the project using the SPBO, request agreement, and request that this project be appended to the SPBO.

2. Please revise the BA to state that the project May Affect, and is Likely to Adversely Affect (MALAA) all five sea turtle species, red knot, piping plover, and seabeach amaranth. For these eight species, the BA should state "MALAA, and relying on findings of the August 28, 2017 Statewide Programmatic Biological Opinion for North Carolina Beach Sand Placement to fulfill our project-specific Section 7 responsibilities."

3. The Service will agree to the application of the "B set" of RPMs and T&Cs for this project, as long as the Corps includes a permit condition to require close coordination with the Service and North Carolina Wildlife Resources Commission (NCWRC) on the pipeline route and other potential impacts to wintering and nesting shorebirds and their habitat. This coordination may result in recommendations to avoid work after March 31, since shorebird breeding activities may begin in early April. If the project is ongoing and shorebirds begin territorial or other nesting behaviors within the project area, then the Corps or Permittee must contact the Service and NCWRC as soon as possible.