



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

<http://sero.nmfs.noaa.gov>

December 9, 2014

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(Sent via Electronic Mail)

Colonel Allan M. Dodd, Commander
Jacksonville District Corps of Engineers
Antilles Office
400 Fernandez Juncos Avenue
San Juan, Puerto Rico 00901-3299

Attention: Johann M. Sasso

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2014-02968 (SP-JMS) dated October 23, 2014, for work in Water Bay, St Thomas, U.S. Virgin Islands. Law House proposes to improve the drainage between the Margaretville Vacation Club and Pineapple Village by excavating material from and discharging fill material into approximately 1.23 acres (53,750 square meters) of estuarine wetlands. The Jacksonville District's initial determination is the proposed action would not have a substantial adverse impact on essential fish habitat (EFH) or federally managed fisheries in the Caribbean. As the nation's federal trustee for the conservation and management of marine, estuarine, and anadromous fishery resources, the following comments and recommendations are provided pursuant to authorities of the Fish and Wildlife Coordination Act and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Description of the Proposed Project

The proposed drainage channel would require excavating approximately 9,000 cubic yards of material from disturbed estuarine wetlands that primarily include white mangroves (*Laguncularia racemosa*), pond apples (*Annona glabra*), seaside mahoe (*Thespesia populnea*), and marsh grasses. Geo-textile material (3,430 square yards), rock riprap (1,580 cubic yards), and soil for planting (630 cubic yards) would be placed within the excavated channel to control erosion. When possible, the earth work would be performed from the uplands. A concrete weir wall and spill way would be placed around the existing bridge to help maintain wetland hydrology and to minimize erosion caused by the turbulence created by the bridge. The proposed plantings are not described clearly in the public notice. While the notice states *Sporobolus virginicus* (salt couch grass) and *Distichlis spicata* (seashore saltgrass) would be planted to aid sediment catchment and nutrient uptake, there also is a reference to planting mangroves along the impacted channel. The applicant also proposes to remove an old outfall concrete structure that sits about 20 feet from the shore inside Water Bay. No detail is provided on how the outfall would be removed. Several seagrass species occur near the outfall.

In September 2014, NMFS visited the project site, accompanied by the applicant's environmental consultant, BioImpact. During the site visit, BioImpact discussed with NMFS, and provided figures illustrating: (1) replacement of the existing wooden dock with a fixed dock that has graded decking and concrete caps; (2) reverse-osmosis water intake and outfalls under the dock; (3) a swim area designation by buoys and a swim platform; and (4) compensatory mitigation for project impacts would include improvements to the ghut outfall at the southwestern side of the bay. Seagrass, primarily *Thalassia testudinum*, occurred near the ghut outfall and concrete block structure. The areas proposed for swim



buoys and toys, dock replacement, and placement of reverse osmosis outfall and in-take system is primarily a mixed macro-algal bottom. It is not clear why the public notice is limited to the drainage channel.

Essential Fish Habitat

The Caribbean Fishery Management Council (CFMC) identifies mangroves, seagrass, and sandy bottoms as EFH under the fishery management plans for spiny lobster, queen conch, coral, or reef fish. These habitats serve as nursery areas for fishery species. Seagrass and mangroves are part of a habitat complex that includes hardbottom and coral, and this complex supports a diverse community of fish and invertebrates. Seagrass and mangroves also provide important water quality maintenance functions (such as pollution uptake), stabilize sediments, attenuate wave action, and produce and export detritus (decaying organic material), which is an important component of marine and estuarine food chains. Additional information about these EFH designations and how these habitats support fishery species is found in *Essential Fish Habitat (EFH) Generic Amendment to the Fishery Management Plans (FMPs) of the U.S. Caribbean*¹.

Impacts to Essential Fish Habitat

While establishing the proposed drainage channel would impact 1.23 acres of wetland EFH, the net result may benefit EFH via improved water quality. To minimize impacts to EFH, most of the excavation would occur in areas disturbed by past development. The public notice also indicates some vegetation within excavation areas would be transplanted to nearby areas, although no detail is provided on the number of transplants, how they would be selected, and how the transplants would be cared for. As compensatory mitigation for the unavoidable impacts to EFH, the applicant would grade to intertidal elevations a 9,100-square-foot area, plant mangroves and other wetland species within the graded area, remove intrusive fill and debris from a 41,250-square-foot area, and plant 23 clumps of red mangroves 80 feet apart along the channel. A monitoring program is needed to verify the mangroves and marsh grasses achieve the coverages expected and necessary to yield nursery habitat for fishery species. NMFS is concerned about potential impacts to seagrass from removal of the outfall structure, modification of the dock, and installation of the swim toys and buoys.

Conservation Recommendations

NMFS concludes impacts to seagrass may occur from removal of the outfall structure and impacts to mangrove wetlands from the channel construction may not be offset unless the mitigation efforts are monitored closely so that adaptive management measures can be taken when needed. Section 305(b)(4)(A) of the Magnuson-Stevens Act requires NMFS to provide EFH conservation recommendations when an activity is expected to adversely impact EFH. Based on this requirement, NMFS provides the following:

EFH Conservation Recommendations

- Any permit issued for the proposed work shall expressly note impacts to seagrass are not authorized. NMFS recommends this prohibition be noted specifically in the portion of the permit that authorizes removal of the outfall structure. If the permit also includes dock modifications and installation of swim toys and buoys, these sections of the permit also should expressly not allow impacts to seagrass.
- Any permit issued for the proposed work shall include Best Management Practices to reduce sediment-laden runoff from the site impacting mangroves, seagrass, and estuarine waters.
- Any permit issued for the work shall include a monitoring plan that gauges survival and growth of the transplanted mangroves and marsh grasses with respect to clearly established performance

¹ Available at caribbeanfmc.com/fmp_efh.html.

criteria. The plan shall include quantitative performance criteria and a requirement for remedial action should those criteria not be met.

Section 305(b)(4)(B) of the Magnuson-Stevens Act and implementing regulation at 50 CFR Section 600.920(k) require the Jacksonville District to provide a written response to this letter within 30 days of its receipt. If it is not possible to provide a substantive response within 30 days, in accordance with the “findings” with the Jacksonville District, an interim response should be provided to NMFS. A detailed response then must be provided prior to final approval of the action. The detailed response must include a description of measures proposed by the Jacksonville District to avoid, mitigate, or offset the adverse impacts of the activity. If the response is inconsistent with the EFH conservation recommendations, the Jacksonville District must provide a substantive discussion justifying the reasons for not following the recommendations.

Species protected under the Endangered Species Act and under the jurisdiction of NMFS occur may occur in vicinity of the proposed boat ramp replacement. Impacts to endangered or threatened species and their critical habitat may require consultation with the NMFS Protected Resources Division. Further questions about consultations under the Endangered Species Act should be directed to Dr. Lisamarie Carrubba at Lisamarine.Carrubba@noaa.gov.

Thank you for the opportunity to provide these comments. Related questions or comments should be directed to the attention of Ms. Lia A. Ortiz at NOAA HCD, 3013 Estate Golden Rock, Almeric Christian Federal Building Box 4, Christiansted, St. Croix, US Virgin Islands. She may be reached by telephone at 340-718-1236 or 305-213-3089 or by e-mail at Lia.Ortiz@noaa.gov.

Sincerely,



/ for

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc:

COE, Johann.M.Sasso@usace.army.mil
FWS, Michael_Evans@fws.gov
EPA, Casey.Jim@epa.gov
DPNR, JP.Oriol@dpnr.gov.vi
CFMC, Graciela_CFMC@yahoo.com
F/SER3, Lisamarie.Carrubba@noaa.gov
F/SER4, David.Dale@noaa.gov
F/SER47, Lia.Ortiz@noaa.gov, Jocelyn.Karazsia@noaa.gov