



**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>

November 21, 2014

F/SER47:JK/pw

Colonel Alan Dodd, Commander  
U.S. Army Corps of Engineers, Jacksonville District  
Miami Permits Section  
9900 Southwest 107th Avenue, Suite 203  
Miami, Florida 33176

Attention: Gletys Guardia-Montoya

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2014-02691 (SP-GGM) dated October 31, 2014. EHP LLC requests authorization from the Department of the Army to place 725 cubic yards of fill within 8,280 square feet of disturbed salt marsh to prepare the site for construction of a home and related infrastructure, including a riprap retaining wall. In addition, the applicant proposes to construct a single-family dock (40 feet long by 12 feet wide) in waters adjacent to Florida Bay, Monroe County. The Jacksonville District's initial determination is the fill placement in disturbed wetlands would not adversely affect essential fish habitat (EFH). While NMFS agrees impacts from the proposed fill would be offset by the mitigation measures proposed, which include purchasing credits from the Keys Restoration Fund, it appears the dock construction would also require removal of approximately 480 square feet of mangrove designated Habitat Areas of Particular Concern (HAPC) by the South Atlantic Fishery Management Council (SAFMC). 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).

*Essential Fish Habitat within the Project Area*

Aerial images and project drawings show a fringing mangrove shoreline at the project site. SAFMC identifies mangroves as EFH for several species, including adult white grunt (*Haemulon plumieri*); juvenile and adult gray snapper (*Lutjanus griseus*); juvenile mutton snapper (*Lutjanus analis*); and larval and juvenile pink shrimp (*Farfantepenaeus duorarum*). SAFMC also designates mangrove as a HAPC for several species within the snapper/grouper complex. HAPC's are subsets of EFH that are rare, particularly susceptible to human-induced degradation, especially important ecologically, or located in an environmentally stressed area. Mangrove wetlands directly benefit fishery resources of Florida Bay by providing water quality benefits, foraging opportunities, and nursery habitat. Further, mangroves are part of a habitat complex that includes sand bottom, seagrass, and coral reefs. This complex supports a diverse community of fish and invertebrates within Florida Bay. SAFMC provides additional information on EFH



and HAPCs and how they support federally managed fishery species in *Fishery Ecosystem Plan of the South Atlantic Region* (available at [www.safmc.net](http://www.safmc.net)).

#### *Avoidance and Minimization Measures*

The public notice describes measures (i.e., turbidity curtains) planned to minimize water quality degradation. Additional impact minimization measures that could be taken include revising the dock design to meet the mangrove specifications described in *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over SAV, Marsh or Mangrove Habitat* developed by the Jacksonville District and NMFS. From the project drawings, it appears the dock would be approximately 6 feet waterward of the mean high water (MHW) line and approximately 6 feet landward of the MHW line. The drawing depicts mangrove landward of the MHW line. The dock could be redesigned to include a 4-foot access pier through the narrowest portion of the mangrove fringe to a dock that measures 4 feet wide by 40 feet long. This design would not require further encroachment into the channel, it would restrict mangrove clearing to the width of the pier, and be consistent with the Guidelines. The remaining mangroves could be trimmed in accordance with Florida Department of Environmental Protection's best practices on mangrove trimming<sup>1</sup>.

#### *EFH Conservation Recommendation*

NMFS finds the proposed dock construction would have an adverse impact on EFH. 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 Recommendation**

The dock shall be redesigned to be in accordance with the mangrove specifications contained within *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over SAV, Marsh or Mangrove Habitat* developed by the Jacksonville District and NMFS. Specifically, the dock shall be redesigned to include a 4-foot wide access pier through the narrowest portion of the mangrove fringe to a dock that measures 4 feet wide by 40 feet long.

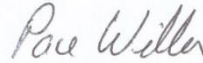
Section 305(b)(4)(B) of the Magnuson-Stevens Act and implementing regulation at 50 CFR Section 600.920(k) require the Jacksonville District to provide a written response to this letter within 30 days of its receipt. If it is not possible to provide a substantive response within 30 days, in accordance 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.

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<sup>1</sup> For more information, see: <http://www.dep.state.fl.us/south/Marathon/UsefulTips-MangroveTrimmingAppl.pdf>

Thank you for the opportunity to provide comments. Related correspondence should be directed to the attention of Ms. Jocelyn Karazsia at our West Palm Beach office, 400 North Congress Avenue, Suite 120, West Palm Beach, Florida, 33401. She may be reached by telephone at (561) 249-1925, or by e-mail at [Jocelyn.Karazsia@noaa.gov](mailto:Jocelyn.Karazsia@noaa.gov).

Sincerely,



/ for

Virginia M. Fay  
Assistant Regional Administrator  
Habitat Conservation Division

cc:

COE, [Gletys.Guardia-Montoya@usace.army.mil](mailto:Gletys.Guardia-Montoya@usace.army.mil)  
FWS, [Ashleigh\\_Blackford@fws.gov](mailto:Ashleigh_Blackford@fws.gov)  
EPA, [Miedema.Ron@epa.gov](mailto:Miedema.Ron@epa.gov)  
FWCC, [Lisa.Gregg@MyFWC.com](mailto:Lisa.Gregg@MyFWC.com)  
FDEP ERP, [Gus.Rios@dep.state.fl.us](mailto:Gus.Rios@dep.state.fl.us)  
SAFMC, [Roger.Pugliese@safmc.net](mailto:Roger.Pugliese@safmc.net)  
FKNMS, [Joanne.Delaney@noaa.gov](mailto:Joanne.Delaney@noaa.gov)  
F/SER4, [David.Dale@noaa.gov](mailto:David.Dale@noaa.gov)  
F/SER47, [Jocelyn.Karazsia@noaa.gov](mailto:Jocelyn.Karazsia@noaa.gov)