



**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 4, 2014

F/SER47:JK/pw

(Sent via Electronic Mail)

Colonel Alan Dodd, Commander  
U.S. Army Corps of Engineers, Jacksonville District  
Palm Beach Gardens Regulatory Office  
4400 PGA Boulevard, Suite 500  
Palm Beach Gardens, Florida 33140

Attention: Linda Knoeck

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed Jacksonville District public notice SAJ-1990-00902 (MOD-LCK) dated November 5, 2014. The Palm Beach County Department of Environmental Resources Management requests authorization to conduct beach nourishment along the Atlantic Ocean shoreline between Jupiter Inlet and the southern end of Carlin Park. Approximately 1.2 miles of shoreline between Florida Department of Environmental Protection (FDEP) monuments R-13 to R-19 would be filled with 300,000 cubic yards of material obtained from an unspecified upland mine. The initial determination by the Jacksonville District is the proposed filling of 1.85 acres of nearshore hardbottom, which is designated a Habitat Area of Particular Concern (HAPC) by the South Atlantic Fishery Management Council (SAFMC), would not have an adverse impact on essential fish habitat (EFH) or federally managed fishery species. As the nation's federal trustee for the conservation and management of marine, estuarine, and anadromous fishery resources, the following comments and recommendations are made pursuant to authorities of the Fish and Wildlife Coordination Act and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**Project History**

By letter dated May 19, 2011, NMFS responded to a public notice issued by the Jacksonville District on April 6, 2011, for beach nourishment within the same fill template, although considerably more fill material was proposed (995,600 cubic yards) and the fill source was an offshore borrow site. At that time, NMFS provided three EFH recommendations:

1. A buffer of at least 400 feet shall be maintained between the equilibrium-toe-of-fill and all hardbottom habitat, including worm reefs.
2. Best management practices to minimize effects from sedimentation and turbidity shall be incorporated into the project design. This shall include providing NMFS with a compatibility analysis, with overfill ratios, of the proposed beach fill and native sediments. In addition, clarification on which portions of the borrow site will be dredged and how information learned from dredging the borrow site in 2010 will be integrated into the current plan to dredge.
3. Compensatory mitigation shall be provided for any impacts to nearshore hardbottom habitat that have not been addressed previously via successful mitigation projects. A report shall be provided to NMFS reviewing the status of the past mitigation efforts with respect to their success criteria. Any new mitigation amounts shall be supported by a functional assessment.



By letter dated July 3, 2011, the Jacksonville District provided a response to the EFH conservation recommendations and indicated recommendation 2 would be met. In response to recommendation 1, the District determined a buffer of 400 feet was not feasible for this project, but District required the applicant to conduct physical monitoring to determine if unanticipated indirect impacts occurred. The District indicated compensatory mitigation would be required in the case indirect impacts were documented. In response to recommendation 3, the District determined the hardbottom impacts had been previously mitigated. The District's did not provide the requested report on the status of past mitigation efforts.

By email dated November 24, 2014, the District clarified its intent to modify the previous permit in lieu of requiring a separate permit. All permit conditions would remain the same, with the only difference being the reduced fill amount and the change in sand source.

### **EFH in the Project Area**

The summary description of EFH in the project are that NMFS provided in the letter dated May 19, 2011, does not require amendment based on the revised project description.

### **Impacts to EFH**

Additional information is needed on the fill material compatibility in order for NMFS to evaluate the suitability of the material as beach fill. Beach nourishment can significantly lower fish abundances and species diversity (Lindeman and Snyder 1999)<sup>1</sup>. Beach nourishment can also affect fishery resources by covering hardbottom habitat and by creating a chronic source of suspended material and turbidity, which can interfere with foraging by fish and shrimp and abrade their gills and other soft tissues. NMFS also requires assurances that impacts from past projects have been adequately mitigated. As noted above, the District did not provide this information when requested in 2011.

### **EFH Conservation Recommendations**

NMFS concludes the proposed filling of nearshore hardbottom material would adversely impact 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. In consideration of this requirement, provides the following:

1. The results from the physical monitoring for indirect impacts from the previous nourishment shall be reviewed and compensatory mitigation shall be required if indirect impacts were documented.
2. Best management practices to minimize effects from sedimentation and turbidity shall be incorporated into the project design. This shall include providing a compatibility analysis, with overfill ratios, of the proposed beach fill and native sediments.
3. An assessment of the status of the past mitigation efforts with respect to their success criteria shall be provided to NMFS. In the case past mitigation efforts did not meet success criteria, additional mitigation shall be required.

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

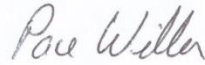
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<sup>1</sup> Lindeman, K.C., and D.B. Snyder. 1999. Nearshore hardbottom fishes of southeast Florida and effects of habitat burial by dredging. *Fishery Bulletin* 97:508-525.

Jacksonville District must provide a substantive discussion justifying the reasons for not following the recommendations.

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:

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