



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 18, 2014

F/SER47:JK/pw

(Sent via Electronic Mail)

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: Maria Bezanilla

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2009-04052 (SP-MIB), dated December 2, 2014. Water's Edge Marina, LLC, requests authorization to remove an existing concrete dock (that measures 5,920 square feet or 0.14 acres) and replace it with a new, larger concrete dock (that measures 8,635 square feet or 0.20 acres) in waters that connect to the Atlantic Ocean in Monroe County. The footprint of the landward portion of the new dock would be similar to the existing dock, however the seaward portion of the dock would be further to the east. The initial determination by the Jacksonville District is the proposed impacts to corals and seagrass, which are designated Habitat Areas of Particular Concern (HAPC) by the South Atlantic Fishery Management Council (SAFMC), would not have a substantial 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).

Essential Fish Habitat

A biological resource survey was conducted on May 21, 2014, and a report summarizing the survey findings was provided by the Jacksonville District via email on December 3, 2014. Seagrass habitats composed of *Halodule wrightii* and *Thalassia testudinum* and corals (20 colonies of *Siderastrea radians*) occur where the dock construction is planned. SAFMC identifies coral and seagrass habitat as EFH for several species, including adult white grunt (*Haemulon plumieri*), juvenile and adult gray snapper (*Lutjanus griseus*), juvenile mutton snapper (*Lutjanus analis*), juvenile goliath grouper (*Epinephilus itijara*), and juvenile spiny lobster (*Panulirus argus*). SAFMC also identifies coral and seagrass as a HAPC under the fishery management plans for spiny lobsters and the snapper/grouper complex. HAPCs are subsets of EFH that are rare, particularly susceptible to human-induced degradation, especially important ecologically, or located in an environmentally stressed area. Seagrass directly benefit the fishery resources by providing nursery habitat. Seagrass and corals are part of a habitat complex that includes mangrove and hardbottom, and this habitat complex is abundant in waters



offshore Monroe County and supports a diverse community of fish and invertebrates within the area. Seagrass 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. 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*, which is available at www.safmc.net.

Impacts to Essential Fish Habitat

The applicant proposes to impact seagrass; however, neither the public notice nor the biological survey report quantifies these impacts. Using the scaled drawings in the public notice, it appears up to 2,600 square feet (0.06 acres) of seagrass would be impacted. Since it is a floating dock, the height of the structure does not follow the recommendations in *Dock Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat* developed by the Jacksonville District and NMFS. The width of the access walkways (8.4 feet wide) and finger piers (5.2 feet wide) also do not follow these guidelines. Consequently, the dock does not reflect all practicable avoidance and minimization of impacts to seagrass habitat.

The applicant proposes to leave the corals in place rather than relocate them to a safe area because the coral morphology is characterized as thin and plate-like. The biological resource survey report notes 10 of the 20 corals are attached to debris, so presumably the debris could be relocated outside of the impact area as an impact minimization measure. NMFS recommends the unavoidable impacts to corals be mitigated through the NOAA Florida Keys National Marine Sanctuary Coral Nursery Program.

Conservation Recommendations

NMFS concludes the dock construction 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:

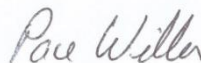
EFH Conservation Recommendations

- The permitted dock structures shall reflect the height and access walkway specifications recommended in *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat*; i.e., the height shall be at least 5 feet above Mean High Water, and all access walkways and finger piers shall be no wider than 4 feet.
- Corals colonized to debris shall be moved outside the project area to the extent practicable.
- All unavoidable impacts to coral shall be mitigated through the NOAA Florida Keys National Marine Sanctuary Coral Nursery Program.
- If the project results in unavoidable impacts to seagrass, mitigation should be performed at the Keys Restoration Fund. The mitigation amount shall be determined through use of the Uniform Mitigation Assessment Method and score sheets I and II shall be provided to NMFS for review prior to authorization of seagrass impacts.

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.

NMFS appreciates the opportunity to provide these comments. Please direct related questions to the attention of Ms. Jocelyn Karazsia at our Palm Beach Office, 400 N Congress Ave, Suite 110, West Palm Beach, Florida 33401, at 561-249-1925, or at Jocelyn.Karazsia@noaa.gov.

Sincerely,



/ for

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc:

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