



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 19, 2014

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Colonel Alan Dodd, Commander
U.S. Army Corps of Engineers, Jacksonville District
Palm Beach Gardens Permits Section,
4400 PGA Boulevard, Suite 500
Palm Beach Gardens, Florida 33410

Attention: Michael W. Smith

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2014-03061 (LP-MWS) dated December 5, 2014. South Ocean Living, LLC, requests authorization from the Department of the Army to dredge an area within Lake Worth Lagoon in Manalapan, Palm Beach County. Specifically, the applicant proposes to dredge approximately 500 cubic yards of sediment to -5 feet mean low water (MLW) from an existing boat slip, a boarding area on the northern side of an existing dock, and a new access channel connecting the slip to deeper waters. The Jacksonville District's initial determination is the proposed dredging would not have a substantial adverse effect on 6,000 square feet (0.14 acres) of seagrass habitat designated a Habitat Area 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

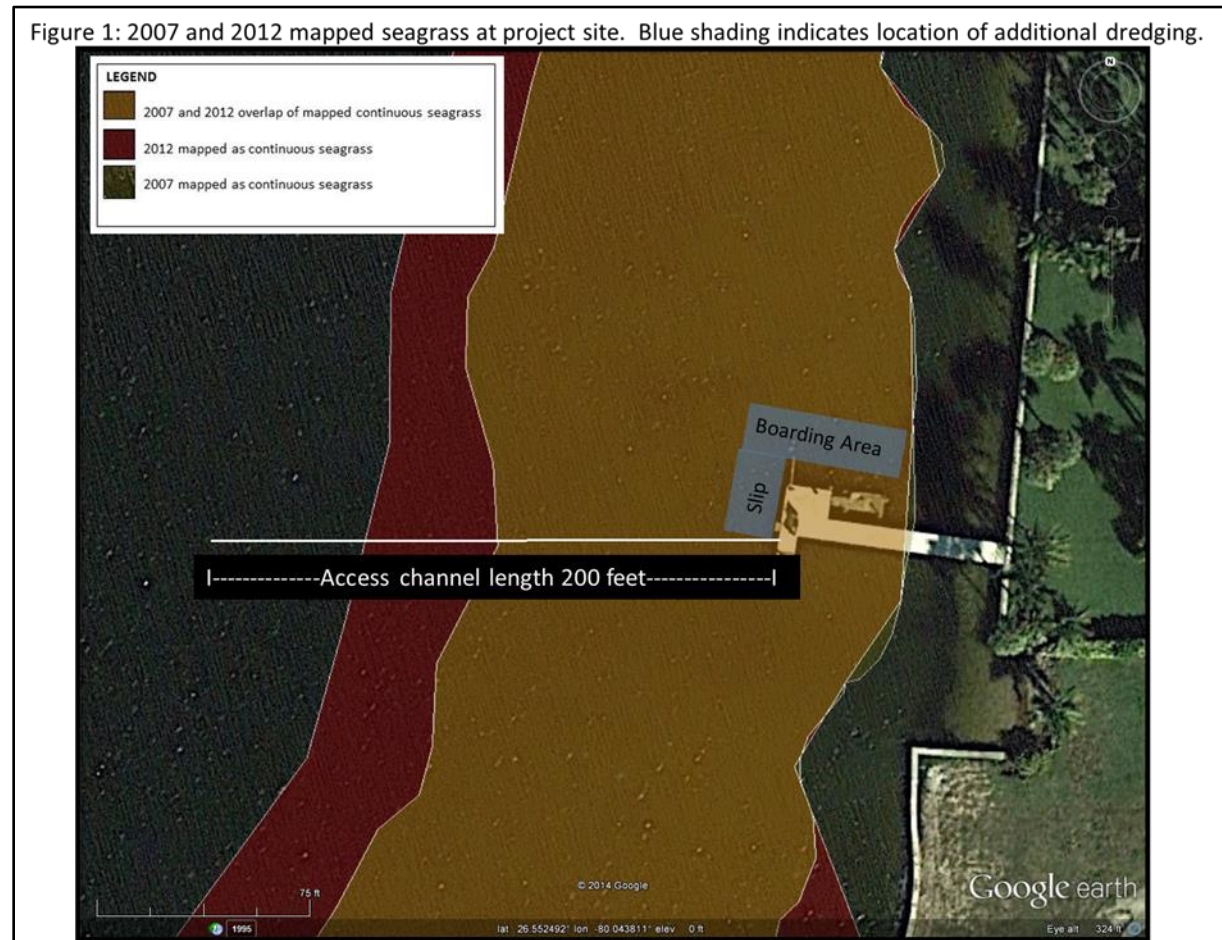
Results from a benthic survey performed on September 15, 2014, by the applicant's consultant shows paddle grass (*Halophila decipiens*) and shoal grass (*Halodule wrightii*) adjacent to the project area, but not within the dredge template. In contrast, maps produced by the Florida Fish and Wildlife Conservation Commission (FWC)¹ show the area planned for dredging is largely composed of continuous seagrass habitat (Figure 1). Based on the FWC maps, which include from 2007 and 2012, and NMFS' staff knowledge of the area, NMFS determines the project area is seagrass habitat.

SAFMC identifies estuarine bottom and seagrass habitats as essential fish habitat (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 seagrass 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

¹ Available on-line at http://ocean.floridamarine.org/mrgis/Description_Layers_Marine.htm



located in an environmentally stressed area. Seagrass directly benefit fishery resources of the Lake Worth Lagoon by providing water quality benefits, foraging opportunities, and nursery habitat. Further, seagrass is part of a habitat complex that includes sand bottom, mangroves, and coral. This complex supports a diverse community of fish and invertebrates within the Lake Worth Lagoon and the Atlantic Ocean. 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).



Avoidance and Minimization Measures

NMFS and Jacksonville District staff participated in a meeting on December 15, 2014, to discuss the project design, information needs, and potential options for avoidance and minimization of seagrass impacts. During the meeting, NMFS presented maps depicting differences between the seagrass distribution shown on Palm Beach County seagrass maps from 2007 and 2012 compared to the survey provided with the application (Figure 1). In addition, NMFS and the District discussed how the proposed access channel through the seagrass habitat would fragment an existing shallow water shoal and none of the adjacent property owners have an access channel through this shoal.

During the call, several ideas for avoidance and minimization of seagrass habitat impacts were discussed, including eliminating dredging at the proposed boarding area, reducing the width of

the proposed channel, and extending the dock to deeper water as an alternative to dredging. District staff asked about the likelihood of seagrass recolonizing the dredged channel bottom. After review of the bathymetry and data collected as part of the 2012 seagrass survey, it appears local sediment and water quality reduce the maximum depth seagrass occurs in this portion of Lake Worth Lagoon in comparison to other areas in southeastern Florida. Consequently, NMFS believes recolonization of the proposed dredged channel by seagrass would be unlikely or require several years. As a follow-up to this meeting, District staff agreed to contact the applicant to determine whether the 20-foot-wide channel would be a box cut, which would result in greater seagrass impacts due to sloughing of sediment into the dredged channel, or whether the 20-foot-width is a top width that includes a stable side slope.

EFH Conservation Recommendations

NMFS finds the proposed dredging 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 Recommendations

1. Proposed dredging in areas mapped as seagrass within the last ten years shall be eliminated from the project design. NMFS would support extending the dock the deeper water if the dock design met the seagrass specifications contained in *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over SAV, Marsh or Mangrove Habitat*.

Alternatively, in the case the District determines it is in the public interest to authorize dredging of seagrass habitat:

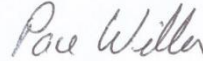
2. Impacts to seagrass habitat shall be avoided by eliminating the dredging near the proposed boarding area on the northern side of the dock and minimized by reducing the width of the proposed access channel to 15 feet, including side slopes.
3. A compensatory mitigation plan shall be developed to offset unavoidable impacts to seagrass habitat. This plan shall be coordinated with NMFS for approval prior to authorization of the work. The plan shall be based on functional assessments describing how the proposed mitigation would offset direct and indirect impacts to these seagrass habitat.
4. Best management practices shall be incorporated into the project design to minimize indirect impacts and water quality degradation. These best management practices shall include use of staked turbidity curtains around the project area, as described in the notice.

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.

Thank you for the opportunity to provide comments. Related correspondence should be directed to the attention of Mr. Kurtis Gregg at our West Palm Beach office, 400 North Congress Avenue, Suite 120, West Palm Beach, Florida, 33401. He may be reached by telephone at (561) 249-1627, or by e-mail at Kurtis.Gregg@noaa.gov.

Sincerely,



/ for

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc:

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