



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

F/SER47:JK/pw

(Sent via Electronic Mail)

Colonel Alan Dodd, Commander
U.S. Army Corps of Engineers, Jacksonville District
Miami Regulatory Office
9900 SW 107th Ave, Suite 203
Miami, Florida 33165

Attention: Stephen Flemming

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2014-2385 (LP-SJF), dated December 11, 2014. Timo Kipp requests authorization to dredge 170 cubic yards of material within a 2,380-square-foot area (0.05 acres); remove an existing unpermitted floating dock; construct a 351-square-foot floating dock with a landing ramp (5 feet by 5 feet) and gangway; and install a boat lift with four pilings within Biscayne Bay, Miami-Dade County. The initial determination by the Jacksonville District is the proposed impacts to benthic habitat in the Biscayne Bay Aquatic Preserve, which is designated a Habitat Area 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

The public notice includes results from an in-water survey performed on March 24, 2014, by staff from Miami-Dade County Department of Environmental Resources Management (DERM). While the survey did not document seagrass, the survey was performed outside the optimal time of year for surveying seagrass (June 1 to September 30). Seagrass maps produced by the Florida Fish and Wildlife Conservation Commission (FWC)¹ show seagrass within 60 feet of the project area. Considering both surveys, NMFS believes the project area likely includes seagrass habitat.

SAFMC identifies 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 (*Epinephelus itajara*), and larval and juvenile pink shrimp (*Farfantepenaeus duorarum*). SAFMC also identifies seagrass and all of the Biscayne Bay Aquatic Preserve as a HAPC under the fishery management plan for the

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



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 is part of a habitat complex that includes mangroves and hardbottoms, and this habitat complex is abundant in Biscayne Bay 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 habitat by dredging and shading. Since the dock is a floating dock, it does not follow the height specifications contained within *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. In addition, the dock is not designed to the width specifications of these guidelines. Consequently the dock and dredging do not reflect all practicable avoidance and minimization of impacts to seagrass habitat.

Conservation Recommendations

NMFS concludes the proposed dock and dredging 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, NMFS provides the following:

EFH Conservation Recommendations

- The permit shall prohibit impacts to seagrass habitat.
- The dredging authorization shall be held in abeyance until a seagrass survey is performed during the seagrass growing season (June 1 to September 30). The results of the survey shall be coordinated with NMFS for review prior to authorizing any work.
- The unauthorized floating dock shall be removed and the permitted dock design shall reflect the height and width 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 the maximum width of the platform should not exceed 4 feet.
- Compensatory mitigation shall be provided for the loss of seagrass habitat that resulted from the unauthorized placement of the floating dock. A mitigation plan with a detailed functional assessment justifying mitigation amounts shall be provided to NMFS.

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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