**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

January 23, 2015 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: Gletys Guardia-Montoya

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2014-02301 (SP-GGM), dated December 23, 2014. Rebecca Campillo requests authorization to place 310 cubic yards of fill within 6,000 square feet (0.14 acre) of wetlands, including red and black mangrove habitat, in order to construct a single-family residence and riprap retaining wall. An additional 480 square feet of subtidal shelf would be impacted to construct a marginal dock (60 feet by 8 feet) with a boatlift in waters connected to Florida Bay in Monroe County. Compensatory mitigation for the mangrove impacts would be provided through the Keys Restoration Fund (KRF), although the amount of mitigation needed to offset project impacts is not specified. The initial determination by the Jacksonville District is the proposed loss of mangroves 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 offered 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*
SAFMC identifies mangrove wetlands as EFH for several species, including adult white grunt (*Haemulon plumieri*), juvenile and adult gray snapper (*Lutjanus griseus*), juvenile mutton snapper (*Lutjanus analis*), and juvenile goliath grouper (*Epinephilus itijara*). SAFMC also designates mangrove wetlands as a HAPC under the fishery management plan for the snappers/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. Mangroves help maintain water quality by filtering pollutants, stabilizing shorelines, and attenuating wave action and serve as a source of detritus for marine and estuarine food chains. More information on the ecological services of mangrove habitat and the ecological connections between mangroves, seagrass, and coral habitat is available in *Fishery Ecosystem Plan of the South Atlantic Region*, which is available at *www.safmc.net*.

*Impacts to Essential Fish Habitat*
A biological resource survey was not provided with the public notice; however the notice indicates red and black mangroves and other estuarine emergent vegetation is present within the proposed fill area. NMFS believes the proposed mangrove fill is not consistent with the Environmental Protection Agency's Guidelines for Specification of Disposal Sites for Dredged or Fill Material. The fundamental precept stated in 40 CFR 230.1(c) that "dredged or fill material should not be discharged into the aquatic

ecosystem unless it can be demonstrated that such a discharge will not have an unacceptable adverse impact either individually or in combination with known and/or probable impacts of other activities affecting the ecosystems of concern" would not be met by this project. Furthermore, 40 CFR 230.10(d) states that "no discharge of fill material shall be permitted unless appropriate and practical steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem." In this regard, we note that 100% of the shoreline wetlands are proposed for impact and the current dock and davit design does not reflect any avoidance or minimization.

*Conservation Recommendation*
NMFS concludes the proposed mangrove fill 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:

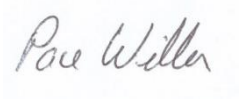
**EFH Conservation Recommendation**

- The fill placement in mangroves shall be denied as proposed. NMFS would reconsider this recommendation if the District concluded project plans reflect all practicable avoidance and minimization of impacts to mangroves and adequate compensatory mitigation were provided, as demonstrated through a functional assessment that compared impact and mitigation areas.

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.

We appreciate 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:

COE, Gletys.Guardia-Montoya@usace.army.mil
FWS, Ashleigh_Blackford@fws.gov
EPA, Miedema.Ron@epa.gov
SAFMC, Roger.Pugliese@safmc.net
FKNMS, Joanne.Delaney@noaa,gov
F/SER4, David.Dale@noaa.gov
F/SER47, Jocelyn.Karazsia@noaa.gov