



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 30, 2015

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-1994-05293 (MOD-LCK) dated January 8, 2015. Yachting Promotions, Inc., requests a 10-year extension of its permit to install temporary floating docks, dock ramps, and pilings for the Palm Beach Boat Show in Lake Worth Lagoon, Palm Beach County. The initial determination by the Jacksonville District is the proposed dock construction and vessel shading of approximately 3 acres of estuarine bottom, which includes seagrass habitat 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 April 15, 2009, NMFS responded to a public notice issued by the Jacksonville District on March 25, 2009, for temporary dock installation in a similar footprint. At that time, NMFS provided two EFH recommendations:

1. A compensatory mitigation plan shall be developed to offset seagrass impacts at the site. NMFS notes that if in-kind mitigation opportunities are not available at the site, we would support water quality improvements in the Lake Worth Lagoon in the form of storm water retrofitting or other means to lessen the pollutant load to estuarine waters. The compensatory mitigation plan shall be coordinated with NMFS prior to permit issuance. NMFS offered to assist development of this plan.
2. Any approval of the project shall include a condition that requires a project-wide pre-show and post-show survey for 2010, 2012, and 2014. The survey shall adhere to the *Recommendations for Sampling Johnson's Seagrass at a Project Site*. In addition, the



survey shall record spatial extent and location of impacts from pile installation and propeller wash. The survey plan shall be coordinated with NMFS prior to permit issuance.

In January and March 2010, NMFS provided comments to the Jacksonville District on a conceptual compensatory mitigation plan submitted by the applicant describing mitigation in the form of water quality improvements to Lake Worth Lagoon. Although this plan lacked the level of detail normally considered sufficient for a permit decision, NMFS noted the Jacksonville District was requiring, as a permit condition, submission of a complete compensatory mitigation plan with 60 days that included information consistent with the U.S. Army Corps of Engineers and Environmental Protection Agency Final Compensatory Mitigation Rule, i.e., C.F.R. 332.4(c)(2) through (c)(14). The District also agreed to require completion of the compensatory mitigation action within 30 days of the next scheduled [2010] Palm Beach International Boat Show and committed to jointly completing with NMFS the functional assessment scores and determining the needed mitigation amounts.

The Jacksonville District agreed to require, as a permit condition, the applicant conduct pre-event and post-event seagrass surveys within 30 days before and after each show. In addition, the District agreed to require the applicant to conduct annual surveys within the seagrass growing season (June 1 to September 30). The District specified each survey must adhere to the *Johnson Seagrass Recovery Team's Recommendations for sampling Johnson's Seagrass at a Project Site*. In addition, the District agreed to condition the permit to require the assessment of spatial extent and location on impacts from pile installation and propeller wash and that all survey information must be provided to NMFS.

Lastly, the Jacksonville District agreed with the determination summarized in the letter dated April 15, 2009, from NMFS that past boat shows impacted EFH and the proposed new activities for future boat shows are also likely to impact EFH, therefore compensatory action is necessary. As a result, the District agreed to require the applicant to provide a functional assessment and mitigation plan for these impacts within 60 days. The District agreed to jointly review this information with NMFS and agree on the final functional assessment scores and needed mitigation amounts.

EFH in the Project Area

The summary description NMFS provided in the letter dated April 15, 2009, of EFH in the project area does not require amendment based on the applicant's request to extend the permit duration until March 2025.

Impacts to EFH and a summary of seagrass survey reports from 2010 to 2014

NMFS received pre- and post-show seagrass surveys from 2010 and 2013 and received a post-show seagrass survey report from 2014. NMFS has not received seagrass survey reports from the annual survey event that was supposed to occur during the seagrass growing season (June 1 to September 30). In general the 2010 pre-show seagrass survey depicts mixed beds of paddle grass (*Halophila decipiens*) and Johnson's seagrass (*H. johnsonii*) along a distinct area of the shoreline south of the West Palm Beach public dock, referred to as the central dock. In addition, the post-show survey depicts an expansion of this bed to the north of the central dock. This trend of the bed expanding to the north was also observed between the 2013 pre- and post-show surveys. Both the 2010 pre- and post-shows also depict beds of paddle grass slightly further offshore. The survey

findings from 2013 and 2014 differ from 2010 findings in that the seagrass beds exhibited a change in species composition to monospecific paddle grass and the beds located further offshore were absent in surveys performed after 2010.

Based on a review of the available survey information, NMFS determines an adverse effect to seagrass habitat has resulted between 2010 and 2014 and requests the District uphold commitments to require compensatory mitigation. While measurement scales are not provided on the seagrass survey maps, a preliminary estimate shows approximately 0.25 acres of seagrass (i.e., the beds located further offshore) have been impacted between 2010 and 2014. Prior to authorizing the periodic installation of temporary docks for another 10 years, NMFS requests a meeting with the District to review the seagrass survey reports and refine impact estimates, determine the compensatory mitigation amounts needed to offset the impacts, and determine if the seagrass surveys conducted between 2010 and 2014 are in compliance with the permit (i.e., seagrass surveys from 2011 and 2012 have not been provided, the pre-survey from 2014 was not successfully completed, and the annual surveys from 2010 to 2014 have not been provided to NMFS). Furthermore, based on the review of the surveys, NMFS believes it may be possible to minimize the survey area (i.e., areas that have been surveyed multiple times in deeper waters and found to be unvegetated can potentially be eliminated from the survey area).

EFH Conservation Recommendations

NMFS concludes the proposed temporary installation of docks and vessel shading will continue to 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:

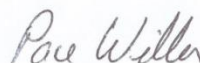
1. Prior to authorizing the work to continue for another 10 years, the Jacksonville District shall meet with NMFS to review the seagrass survey reports from 2010 to 2014 in order to refine impact estimates, determine the compensatory mitigation amounts needed to offset the impacts, and determine if the seagrass surveys conducted between 2010 and 2014 are in compliance with the permit.
2. A compensatory mitigation plan shall be developed to offset seagrass impacts at the site. If in-kind mitigation opportunities are not available at the site, NMFS would support water quality improvements in the Lake Worth Lagoon in the form of storm water retrofitting or other means to lessen the pollutant load to estuarine waters. NMFS can assist in the development of this plan. The compensatory mitigation plan and functional assessment scores shall be coordinated with NMFS prior to permit issuance.
3. Any extension of the permit shall include a condition requiring a project-wide pre-show and post-show survey for the duration of the permit. The survey shall adhere to the *Recommendations for Sampling Johnson's Seagrass at a Project Site*. The survey plan shall be coordinated with NMFS prior to permit issuance.

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 Ms. Jocelyn Karazsia at our West Palm Beach office, 400 North Congress Avenue, Suite 110, West Palm Beach, Florida, 33401. She may be reached by telephone at (561) 249-1925, or by e-mail at Jocelyn.Karazsia@noaa.gov.

Sincerely,



/ for

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc:

COE, Linda.C.Knoeck@usace.army.mil
FWS, Ashleigh_Blackford@fws.gov
FWCC, Lisa.Gregg@MyFWC.com,
FDEP, Benny.Leudike@dep.state.fl.us
EPA, Miedema.Ron@epa.gov
SAFMC, Roger.Pugliese@safmc.net
F/SER4, David.Dale@noaa.gov
F/SER47, Jocelyn.Karazsia@noaa.gov