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

February 11, 2015 F/SER47:JK/pw

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-2003-06863 (SP-MIB) dated January 23, 2015. Richard C. Walker requests authorization from the Department of the Army to expand an existing marina in waters adjacent to the Atlantic Ocean in Key West, Monroe County. Specifically, the applicant proposes to: 1) install 74 new wet slips along a dock structure that measures 10,741 square feet; 2) install 34 mooring piles (34 square feet total); and 3) install a sewage pump-out station. The Jacksonville District's initial determination is the proposed docking facility would not have a substantial adverse effect on approximately 10,775 square feet (0.25 acres) of seagrass and mangrove designated Habitat Areas 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
By email dated January 23, 2015, the Jacksonville District provided NMFS results from a benthic survey and a hydrographic survey. Fringing mangrove wetland surrounds the marina, and the marina bottom is largely composed of patchily distributed seagrass and macroalgae. The seagrass patches are composed of *Thalassia testudium* and *Halodule wrightii* and range in density from less than 5% to 75% cover. According to the information provided, the marina bottom and connecting waters exhibit sufficient water depths for the anticipated vessel utilization.

SAFMC identifies seagrass and mangrove habitats as EFH for larval and juvenile pink shrimp (*Farfantepenaeus duorarum*), adult white grunt (*Haemulon plumieri*), juvenile and adult gray snapper (*Lutjanus griseus*), and juvenile mutton snapper (*Lutjanus analis*). SAFMC also designates mangrove and 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 located in an environmentally stressed area. Seagrass directly benefit fishery resources of the area by providing water quality benefits,

foraging opportunities, and nursery habitat. Further, seagrass and mangroves are part of a habitat complex that includes sand bottom and coral. This complex supports a diverse community of fish and invertebrates. SAFMC provides additional information on EFH and HAPCs and their support of federally managed fishery species in *Fishery Ecosystem Plan of the South Atlantic Region* (available at *www.safmc.net*).

Avoidance and Minimization through Implementing Best Management Practices
The public notice describes implementation of best management practices (BMPs) to avoid and minimize impacts to seagrass and mangroves, including:

- All dock structures will be constructed at least 5 feet above mean high water.
- The finger piers will measure 3 feet by 30 feet and located to avoid the higher density seagrass.
- The marina bottom exhibits sufficient water depths (greater than 4 feet) for the anticipated vessel utilization (maximum 30 feet in length and 2.5 feet in draft).
- All dock structures will be constructed waterward of the mangrove fringe and with grated decking[1].
- Live-aboard boats will not be able to use the facility and all boats will have access to pump-out facilities.
- Turbidity screens will be deployed to isolate the construction site from ambient waters.

Impacts to Essential Fish Habitat
While NMFS acknowledges and appreciates the avoidance and minimization integrated into the project design, NMFS remains concerned impacts to seagrass could still occur from boat traffic. The information provided indicates there is sufficient water depth for ingress and egress from the marina, however this route is not marked and aerial imagery shows considerable prop scarring in seagrass habitats surrounding this unmarked route. NMFS requests the applicant amend the project to include marking the ingress/egress route.

EFH Conservation Recommendations
NMFS finds the proposed docking facility expansion 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. The permitted project design shall include channel markers to identify the ingress/egress route to avoid impacts to seagrass from prop scarring.
2. The permit shall include a condition to require implementation of the BMPs identified above and to specify the grated decking shall include materials with no less than 43% light transmittance.

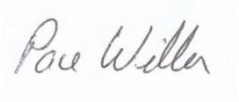
Section 305(b)(4)(B) of the Magnuson-Stevens Act and implementing regulation at 50 CFR Section 600.920(k) require the Jacksonville District to provide a written response to this letter within 30 days of its receipt. If it is not possible to provide a substantive response within 30

[1] The specifications for the grated decking are not provided

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, Maria.I.Bezanilla@usace.army.mil
FWS, Ashleigh_Blackford@fws.gov
EPA, Miedema.Ron@epa.gov
FWCC, Lisa.Gregg@MyFWC.com
FDEP ERP Gus.Rios@dep.state.fl.us
SAFMC, Roger.Pugliese@safmc.net
FKNMS, Joanne.Delaney@noaa.gov
F/SER4, David.Dale@noaa.gov
F/SER47, Jocelyn.Karazsia@noaa.gov, Kurtis.Gregg@noaa.gov