



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 18, 2015

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(Sent via Electronic Mail)

Colonel Allan M. Dodd, Commander
Jacksonville District Corps of Engineers
Antilles Office
400 Fernandez Juncos Avenue
San Juan, Puerto Rico 00901-3299

Attention: Johann M. Sasso

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed the letter dated February 2, 2015, from the Jacksonville District regarding public notice SAJ-2014-02968 (IP-JMS). The applicant, George Dudley of Law House, requests authorization from the Department of the Army to minimize local flooding by improving the current drainage channel between the Margaritaville Vacation Club by Wyndham and Pineapple Village, Water Bay, St. Thomas, U.S. Virgin Islands. The letter transmits the Jacksonville District's reply to conservation recommendations NMFS provided by letter dated, December 9, 2014, to protect essential fish habitat (EFH).

NMFS provided three EFH conservation recommendations:

1. Any permit issued for the proposed work shall expressly note impacts to seagrass are not authorized. NMFS recommends this prohibition be noted specifically in the portion of the permit that authorizes removal of the outfall structure. If the permit also includes dock modifications and installation of swim toys and buoys, these sections of the permit also should expressly not allow impacts to seagrass.
2. Any permit issued for the proposed work shall include Best Management Practices to reduce sediment-laden runoff from the site impacting mangroves, seagrass, and estuarine waters.
3. Any permit issued for the work shall include a monitoring plan that gauges survival and growth of the transplanted mangroves and marsh grasses with respect to clearly established performance criteria. The plan shall include quantitative performance criteria and a requirement for remedial action should those criteria not be met.

In response to EFH conservation recommendation 1, the Jacksonville District finds there will be no adverse impacts to seagrass. The proposed removal of the concrete structure at the mouth of the ghut outfall will be done using land-based equipment and turbidity control measures, including double turbidity barriers.



The applicant has affirmed in-water activities contemplated for the development (such as replacing the existing wooden dock, installing intakes and outfalls for a reverse-osmosis system, and installing buoys and a swim platform) will be addressed in a future permit application and likely claim the improvements to the gnut outfall in the current application as compensatory mitigation for the work proposed in that future application. Accordingly, NMFS prefers submission of one application for all contemplated activities at the site. NMFS recommends the Jacksonville District assess if the application is a case of what the 2008 Federal Mitigation Rule refers to as “double-counting,” where requirements of one project/program are also used as mitigation for a different project/program. If the applicant continues to pursue separate applications, the future application should clearly identify the additional compensatory mitigation for the direct and indirect impacts to seagrass from the new work. Please note NMFS does not consider educational activities as compensatory mitigation.

While the applicant has further explained the methodology for removing the concrete structure and the BMPs to be implemented, there is still potential for impacts to seagrass. NMFS continues to recommend any permit authorized for this project specify no impacts to seagrass are authorized and a trained environmental consultant be present during removal of the outfall to monitor and document (e.g., through surveys and photographs) compliance with this requirement. NMFS also recommends the permit require compensatory mitigation for the seagrass impacts should they occur.

In response to EFH conservation recommendation 2, the Jacksonville District notes the permit will require silt fencing and double turbidity barriers be installed throughout the proposed work when soils are exposed. In addition, the applicant states there are breaks in the wetland vegetation from construction and landscaping debris dumped by third parties. NMFS suggests the applicant consider planting vegetation in these breaks to reduce the illegal dumping and to reduce runoff.

In response to EFH conservation recommendation 3, the applicant states there will be minimal loss of wetland, 0.008 acres, at the concrete spillway. The project will create 0.2 acres of wetland and enhance 0.94 acres of existing wetland. The mitigation plan includes monitoring and ecological performance standards. Further, the applicant is prepared to take additional steps to accomplish the mitigation if difficulties arise during implementation or performance standards are not met, including extending the monitoring and maintenance of the site. The Jacksonville District also will require Margaritaville Vacation Club by Wyndham to secure a performance bond for the mitigation program and monitoring. NMFS finds the mangrove planting methods (e.g., tossing seeds and planting of propagules) remain poorly defined and recommends the permit include additional detail, such as the origin of seeds and propagules, information on the hydrology of the proposed restoration site, evaluation of potential stressors that may influence survival, assessment of natural recruitment, and planting considerations (e.g., plant spacing and soil type).

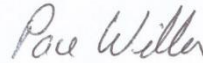
Closing

NMFS continues to recommend the permit require BMPs to ensure these impacts to seagrass habitat do not occur. Specific BMPs include installing and maintaining silt fencing and double turbidity curtains and having a trained environmental specialist on site to supervise construction

activities that may impact seagrass and mangroves. In order to ensure restoration success, NMFS continues to recommend the wetland restoration methodology, specifically the planting, be well detailed as part of the mitigation and monitoring plan required by the permit. While NMFS supports the applicant's desire to coordinate educational activities with NMFS, these activities are not compensatory mitigation. Should the District choose to issue the permit without these modifications, NMFS will not further elevate the decision.

Thank you for the opportunity to provide these comments. Related questions or comments should be directed to the attention of Ms. Lia A. Ortiz at NOAA HCD, 3013 Estate Golden Rock, Almeric Christian Federal Building Box 4, Christiansted, St. Croix, US Virgin Islands. She may be reached by telephone at 340-718-1236 or 305-213-3089 or by e-mail at Lia.Ortiz@noaa.gov.

Sincerely,



/ for

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc:

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