



**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>

March 18, 2015

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

Attention: Albert Gonzalez

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2009-01824 (LP-AG) dated February 13, 2015. The Miami Beach Jewish Community Center requests authorization from the Department of the Army to construct a new fixed-concrete dock with a walkway and floating terminal platform on the Indian Creek canal off Biscayne Bay, Miami-Dade County. Specifically, the applicant proposes an L-shaped docking structure with a concrete platform (14.5 feet by 7.5 feet), a prefabricated aluminum access walkway (4 feet by 30 feet), and a floating dock terminal platform (6 feet by 50 feet). A biological assessment, performed by the Miami-Dade County Department of Environmental Resources Management on June 19, 2014, was provided with the public notice. The assessment indicates the proposed structure would impact 526 square feet (0.012 acres) of seagrass habitat. The initial determination by the Jacksonville District is the proposed impacts to seagrass 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 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*

The biological assessment indicates the seagrass present within and adjacent to the footprint of the proposed structure is composed of sparse (<5% density) paddle grass (*Halophila decipiens*) and Johnson's seagrass (*H. johnsonii*). SAFMC identifies seagrass habitat as EFH for several species, including adult white grunt (*Haemulon plumieri*); juvenile and adult gray snapper (*Lutjanus griseus*) and Lane snapper (*Lutjanus synagris*); juvenile mutton snapper (*Lutjanus analis*), schoolmaster (*Lutjanus apodus*), and dog snapper (*Lutjanus jocu*); goliath grouper (*Epinephelus itijara*); and larval and juvenile pink shrimp (*Farfantepenaeus duorarum*). SAFMC also identifies seagrass or all of the Biscayne Bay Aquatic Preserve as a HAPC under the fishery management plans for spiny lobsters and the 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 fishery resources by providing nursery habitat. Seagrass is part of a habitat complex that includes mangrove and hardbottom, 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 its support of federally managed fishery species in *Fishery Ecosystem Plan of the South Atlantic Region*, which is available at [www.safmc.net](http://www.safmc.net).

#### *Impacts to Essential Fish Habitat and Recommended Avoidance and Minimization*

The applicant proposes to impact seagrass habitat by shading and installing pilings. The relative height of the structure (zero feet above Mean High Water because it is floating), the use of concrete decking instead of wood planks or grated decking, and the size of the terminal platform (6 feet by 50 feet) do not follow the recommendations in *Dock 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. Consequently the dock does not reflect all practicable avoidance and minimization of impacts to seagrass habitat.

#### *EFH Conservation Recommendations*

NMFS finds the proposed dock 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**

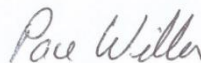
1. The permitted dock fully adhere to the submerged aquatic vegetation specifications contained within *Dock Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat*. Specifically, the concrete platform should have a 6-foot width, the floating dock should be no more than 6 feet by 20 feet, and the portions of the dock over seagrass habitat should have grated decking.
2. The permit requires best management practices to minimize indirect impacts and water quality degradation, including staked turbidity curtains around the project area.

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.

In accordance with section 7 of the Endangered Species Act of 1973, as amended, it is the responsibility of the Jacksonville District to review and identify any proposed activity that may affect endangered or threatened species and their designated critical habitat. Determinations involving species under NMFS jurisdiction should be reported to NMFS Protected Resources Division at the letterhead address. Please note Johnson's seagrass is protected under the Endangered Species Act and reported in the area of the proposed project.

Thank you for the opportunity to provide comments. Please direct related correspondence to the attention of Mr. Kurtis Gregg at our West Palm Beach office, 400 North Congress Avenue, Suite 110, West Palm Beach, Florida, 33401. He may be reached by telephone at (561) 249-1627, or by e-mail at Kurtis.Gregg@noaa.gov.

Sincerely,



/ for

Virginia M. Fay  
Assistant Regional Administrator  
Habitat Conservation Division

cc:

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