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 F/SER47:KG/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: Nicole Liette

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2014-01639 (LP-NML), dated February 16, 2015. South Treasure, LLC, requests authorization to construct a marginal dock, boatlift, concrete piles, and new seawall cap over the existing seawall cap within Biscayne Bay, Miami-Dade County. The public notice includes a biological assessment, performed by the Miami-Dade County Department of Environmental Resources Management on February 2, 2014, showing the proposed structure would impact 432 square feet 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 made 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 seagrass within and adjacent to the footprint of the proposed structure is composed of sparse (<5% density) turtle grass (*Thallasia testudinum*). 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 (*Epinephilus itijara*); and larval and juvenile pink shrimp (*Farfantepenaeus duorarum*). SAFMC also identifies seagrass and all of Biscayne Bay as HAPCs 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 provides 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 HAPCs and how they support federally managed fishery species in *Fishery Ecosystem Plan of the South Atlantic Region*, which is available at *www.safmc.net*.

Impacts to Essential Fish Habitat

The benthic survey was not done during the time of year optimal for mapping seagrass (June 1 through September 30). Seagrass densities presented in the public notice likely underestimate seagrass coverage and impacts resulting from the project. The applicant proposes to impact seagrass habitat by shading and installing pilings. The size and dimensions of the marginal dock (24 feet by 24 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. In order to minimize impacts to seagrass, NMFS recommends the dock be revised to an L or T-shaped dock with an access walkway no more than 4 feet wide and a terminal platform no more than 120 square feet.

Conservation Recommendations

NMFS concludes the proposed structure 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 Recommendations

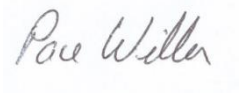
- Revise the permitted dock to adhere to the dimensions in *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat*; i.e., a 4-foot-wide access walkway to a terminal platform that does not exceed 120 square feet, if sited over seagrass and wood planks are used.
- Provide compensatory mitigation to address losses to seagrass from the project, in the case the above recommendation is not met. The mitigation plan should use benthic habitat surveys conducted within the seagrass growing season and include functional assessments evaluating project impacts and mitigation benefits.
- Incorporate best management practices into the project design to minimize indirect impacts and water quality degradation. Recommended best management practices include use of staked turbidity curtains around the project area during construction.

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.

NMFS appreciates the opportunity to provide these comments. Please direct related questions to the attention of Mr. Kurtis Gregg at our Palm Beach Office, 400 N Congress Ave, Suite 110, West Palm Beach, Florida 33401, at 561-249-1627, or Kurtis.Gregg@noaa.gov.

Sincerely,



/ for

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc:

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