



**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>

April 1, 2015

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(Sent via Electronic Mail)

Colonel Alan Dodd, Commander  
U.S. Army Corps of Engineers, Jacksonville District  
North Permits Section  
Post Office Box 4970  
Jacksonville, FL 32232-0019

Attention: Dana K. Gentry

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2014-02820 (LP-DKG), dated March 5, 2015. Prime Group Management, LLC, requests authorization to remove an existing L-shaped dock, marginal dock, mooring piles, and boatlift and to construct: 1) an L-shaped wood dock, 2) marginal wood dock, 3) personal watercraft lift, and 4) two boatlifts 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 November 8, 2013, showing the proposed structure would impact 466 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 report indicates habitats within and adjacent to the footprint of the proposed structure are composed of macroalgae and sparse (<5 percent density) paddle grass (*Halophila decipiens*). 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 benefits 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](http://www.safmc.net).

#### *Impacts to Essential Fish Habitat*

NMFS believes the seagrass densities presented in the biological assessment, public notice, and follow-up survey done during December 2014 may underestimate seagrass coverage at the site of the proposed dock because the surveys were not done during the time of year optimal for mapping seagrass (June 1 through September 30). The applicant proposes to impact seagrass habitat by shading and installing pilings. The elevations of the marginal dock, L-shaped dock, and terminal platform of the L-shaped dock 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 docks be revised to meet the +5 feet mean high water (MHW) minimum elevation and the L-shaped dock include a terminal platform of no more than 120 square feet.

#### **EFH 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, NMFS recommends:

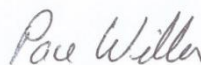
- The permitted dock to adhere to the dimensions in *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat*; i.e., increase the minimum elevation of the L-shaped and marginal docks to +5 feet MHW and revise the L-shaped dock to have a terminal platform that does not exceed 120 square feet, if sited over seagrass and wood planks are used.
- The permit require compensatory mitigation to address losses to seagrass from the project, in the case the above recommendation is not adopted. The mitigation plan should use benthic habitat surveys conducted during the seagrass growing season and include functional assessments evaluating project impacts and mitigation benefits.
- The permit require best management practices 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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