



**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 27, 2015

F/SER47:JK/pw

(Sent via Electronic Mail)

Colonel Alan Dodd, Commander  
U.S. Army Corps of Engineers, Jacksonville District  
Miami Permits Section  
9900 Southwest 107<sup>th</sup> Avenue, Suite 203  
Miami, Florida 33176

Attention: Stephen Fleming

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2014-2050 (LP-SJF), dated March 13, 2015. Kristi Jernigan requests authorization to remove an existing dock and to construct a new L-shaped dock 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 July 31, 2014. The assessment indicates the proposed structure would impact 420 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 present within and adjacent to the footprint of the proposed structure is composed of sparse to moderate (<5% to 20% 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 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 HAPCs and their 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*

NMFS agrees the applicant has demonstrated impact minimization by siting the new dock in an area that avoids the locally higher seagrass density and by overlapping the footprint the new dock with that of the existing dock (to be removed). However, the new dock would still impact seagrass habitat by shading and installing pilings. The relative height of the structure (up to 4.5 feet above Mean High Water), the width of the access walkway (5 feet), and the size of the terminal platform (13 feet by 25 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.

#### *Conservation Recommendation*

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:

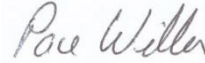
#### **EFH Conservation Recommendation**

- The permitted dock 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., the height be at least 5 feet above Mean High Water, the width of the access walkway should not exceed 4 feet, and the size of the terminal platform not exceed 120 square feet if sited over seagrass and wood planks are used.

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 Ms. Jocelyn Karazsia at our Palm Beach Office, 400 N Congress Ave, Suite 110, West Palm Beach, Florida 33401, at 561-249-1925, or at [Jocelyn.Karazsia@noaa.gov](mailto:Jocelyn.Karazsia@noaa.gov).

Sincerely,



/ for

Virginia M. Fay  
Assistant Regional Administrator  
Habitat Conservation Division

cc:

COE, [Stephen.J.Flemming@usace.army.mil](mailto:Stephen.J.Flemming@usace.army.mil)  
FWS, [Ashleigh\\_Blackford@fws.gov](mailto:Ashleigh_Blackford@fws.gov)  
EPA, [Miedema.Ron@epa.gov](mailto:Miedema.Ron@epa.gov)  
FDEP, [Benny.Leudike@dep.fl.state.us](mailto:Benny.Leudike@dep.fl.state.us)  
SAFMC, [Roger.Pugliese@safmc.net](mailto:Roger.Pugliese@safmc.net)  
F/SER4, [David.Dale@noaa.gov](mailto:David.Dale@noaa.gov), [Jocelyn.Karazsia@noaa.gov](mailto:Jocelyn.Karazsia@noaa.gov)