



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>

May 6, 2015

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(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: Maria I. Bezanilla

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2008-01864 (SP-MIB), dated April 16, 2015. NHC-FL 136 LLC, applicant, requests authorization to construct a 24-slip docking facility within a canal tributary of the Atlantic Ocean, Monroe County. The initial determination by the Jacksonville District is the proposed impacts to seagrass and coral habitats, each 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 public notice includes a biological assessment performed by SWC, Inc., on December 19, 2014. While the assessment indicates the proposed structure would not impact seagrass or coral habitat, it also indicates seagrass and coral occur adjacent to the proposed structure footprint. Species present include a moderate density (25 to 75 percent cover) of turtle grass (*Thalassia testudinum*) and shoal grass (*Halodule wrightii*). Four colonies of coral are located near the western end of the project area, adjacent to the proposed dock. The SAFMC identifies seagrass and coral 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 itajara*); and larval and juvenile pink shrimp (*Farfantepenaeus duorarum*). SAFMC also identifies seagrass and coral as HAPCs under the fishery management plan for 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 and coral directly benefit fishery resources



of the Atlantic Ocean by providing nursery habitat. Seagrass and coral are part of a habitat complex that includes mangrove and hardbottom. This habitat complex is abundant in the Florida Keys 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. The 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*

The biological assessment was not done during the time of year optimal for mapping seagrass (June 1 through September 30). Based on past experiences in the project area, NMFS believes the public notice likely underrepresents seagrass density. The applicant proposes to avoid impacts to seagrass and coral habitats by designing the dock structure and mooring areas to prevent shading and damage from installing pilings. However, the water depths within some proposed slips would not allow a one foot clearance below the bottom of the boat to prevent grounding, scouring, and suspending organic and other fine materials when vessels use the proposed slips

#### **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 for any federal action or permit which may result in adverse impacts to EFH. Therefore, NMFS recommends the following to ensure the conservation of EFH and associated fishery resources:

1. The permitted design of the docking structure should ensure vessels have at least one foot of clearance to prevent grounding and prop wash from creating turbidity.
2. The permitted dock alignment should avoid intersection with seagrass and coral and the locations of these resources should be based on a benthic habitat survey conducted between June 1 and September 30.
3. The permit should require the locations of coral and seagrass adjacent to the project to be marked with stakes or floats and for construction operations to avoid these areas.
4. The permit should require best management practices, such as staked turbidity curtains, to minimize indirect impacts and water quality degradation.

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

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