



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>

June 1, 2015

F/SER4:JK/pw

(Sent via Electronic Mail)

Colonel Alan Dodd, Commander
U.S. Army Corps of Engineers, Jacksonville District
Palm Beach Gardens Permits Section
4400 PGA Boulevard, Suite 500
Palm Beach Gardens, Florida 33410

Attention: Linda Knoeck

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-1992-01740 (MOD-LCK), dated May 4, 2015. The applicant, Town of Jupiter Island, in Martin County, requests authorization from the Department of the Army to dredge approximately 3,000,000 cubic yards (cy) of sand from one borrow area in the Atlantic Ocean and to place the material along 6.5 miles of shoreline between Florida Department of Environmental Protection (FDEP) monuments R-75 and R-117. The applicant requests authorization for two nourishment events spaced four to five years apart, and each event would place approximately 1,500,000 cy of sand. The borrow site, referred to as "borrow site B" in the public notice, is approximately 10,000 feet offshore the Town's southern limits. The Jacksonville District's initial determination is the proposed dredging and filling of approximately 839 acres of sand bottom 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).

Project and Consultation History

The public notice reports the initial nourishment of this stretch of beach occurred during 1995 and 1996 and renourishment occurred during 2002 and 2006. The Jacksonville District re-authorized the project in 2011 and issued modifications to that authorization in 2011 and 2012. Based on email correspondence with the Jacksonville District on May 26, 2015, one construction event occurred in 2012, and the public notice states the permit expired on May 5, 2014. In the 2011 authorization, the Jacksonville District agreed to implement the EFH conservation recommendations the NMFS provided by letter dated October 1, 2010, by:

- Eliminating borrow site A because of its proximity to hardbottom habitat.
- Requiring a 500-foot buffer between the equilibrium-toe-of-fill (ETOF) and hardbottom habitat and requiring between vessel movements, anchoring, and staging occur at least 100 feet from hardbottom habitat.
- Reducing fill placement between R-76 to R-84 and from R-90 to R-107 and eliminating fill placement between R-84 and R-88.
- Conditioning the permit to prohibit hardbottom impacts from pipeline placement and requiring monitoring of the pipeline corridors before and after pipeline placement to verify no hardbottom impacts occurred.



- Requiring implementation of a biological monitoring plan, pipeline survey plan, and contingency mitigation plan.
- Requiring best management practices, such as the use of beach compatible material with a low silt content (less than 0.4% silt), to minimize project related sedimentation and turbidity.

EFH in the Project Area

The summary description of EFH the NMFS provided in the letter dated October 1, 2010, does not require amendment to address the proposed project modifications.

Project Changes

The public notice identifies four design changes¹ to the previously authorized project:

1. Increasing the berm width by 25 feet from R-97.8 to R-99.5 and from R-101.2 to R-104. This volume increase is approximately 26 cubic yards per linear foot.
2. Constructing what the notice refers to as “dune feature” less than 5.0 cubic yards per linear foot from R-84 to R-86.
3. Expanding the fill template in the southern portion of the island from R-112 to R-117.
4. Modifying the top of berm construction slope from a flat (level) configuration to a 1:100 slope.

Item 2 is most germane to the EFH consultation because the nearshore hardbottom habitat is within 200 to 300 feet of the shoreline, based on scaled drawings provided with the notice. The NMFS does not object to construction of the dune feature provided the permit requires verification that no material is placed waterward of the annual highest tide line.

While it appears there may be a sufficient buffer distance between nearshore hardbottom and fill spreading along R-97 to R-117, the NMFS cannot fully evaluate items 1, 3, and 4, because the drawings provided with the notice only identify the construction toe of fill (TOF) and not the spreading over time (or ETOF). While it appears there would be at least 1,600 feet of buffer between the TOF and the hardbottoms, maps that identify the ETOF and proximity to hardbottoms are needed.

EFH Conservation Recommendations

The NMFS concludes the beach fill proposed would adversely impact EFH. Section 305(B)(4)(A) of the Magnuson-Stevens Act requires the NMFS to provide EFH conservation recommendations for any federal action or permit which may result in adverse impacts to EFH. Therefore, the NMFS recommends the following to ensure the conservation of EFH and associated fishery resources:

- The Clean Water Act permit reflects agreements reached between the NMFS and the Jacksonville District during the EFH consultation that occurred in 2010 to 2011 (summarized above).
- The Clean Water Act permit requires a buffer distance of 500 feet between the ETOF and hardbottoms between R-97 and R-117. The NMFS recommends the Jacksonville District obtain new drawings depicting buffers and proximity to hardbottoms and the ETOF and those drawings be shared with the NMFS.
- For stretches of the beach where dune fill only is proposed, the Clean Water Act permit requires clear marking of the annual highest tide line in the field and verification by an independent contractor that no material is placed waterward of that line.

¹ Five changes are described in the public notice, but the administrative item related to updating drawings is not included in this list.

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 NMFS' "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 agency to avoid, mitigate, or offset the adverse impacts of the activity. If your response is inconsistent with our EFH Conservation Recommendation, the Jacksonville District must provide a substantive discussion justifying the reasons for not following the recommendation.

The public notice states loggerhead sea turtles (*Caretta caretta*) and their designated critical habitat occur within the Project area. In addition, the public notice states hawksbill sea turtles (*Eretmochelys imbricate*), Kemp's Ridley sea turtles (*Lepidochelys kempii*), green sea turtles (*Chelonia mydas*), and leatherback sea turtles (*Dermochelys coriacea*) may also occur within and near the vicinity of the Project. Impacts to endangered or threatened species and their critical habitat may require consultation with the NMFS Protected Resources Division. If the Jacksonville District determines the permitted action may affect a listed species, the District should contact the NMFS Southeast Region, Protected Resources Division at the letterhead address.

Thank you for the opportunity to provide comments. Please direct related questions or comments to the attention of Ms. Jocelyn Karazsia at 400 North Congress Avenue, Suite 110, West Palm Beach, Florida, 33401. She may be reached by telephone at 561-249-1925 or by e-mail at Jocelyn.Karazsia@noaa.gov.

Sincerely,



/ for

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc:

CESAJ, Linda.C.Knoeck@usace.army.mil
FWS, Ashleigh_Blackford@fws.gov
FWCC, Lisa.Gregg@MyFWC.com
FDEP, Vladimir.Kosmynin@dep.state.fl.us, Lainie.Edwards@dep.state.fl.us
EPA, Miedema.Ron@epa.gov
SAFMC, Roger.Pugliese@safmc.net
F/SER4, David.Dale@noaa.gov
F/SER47, Jocelyn.Karazsia@noaa.gov