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

July 9, 2015 F/SER47:JK/pw

(Sent via Electronic Mail)

Colonel Alan Dodd, Commander
U.S. Army Corps of Engineers, Jacksonville District
Palm Beach Gardens Regulatory Office
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-2000-00380 (SP-LCK) dated June 4, 2015. The Town of Palm Beach proposes to nourish approximately 2.1 miles of beach between Florida Department of Environmental Protection (FDEP) monuments R-116 to R-127; this stretch of beach includes areas referred to as Reach 7 (which includes Phipps Ocean Park) and Reach 8 North. The Town of Palm Beach only proposes dune fill between R-116 and R-118.5 and only beach fill between R-122 and R-127; both dune and beach fill are proposed between R-118.5 and R-121. The sand source, approximately 1,010,000 cubic yards, is three offshore borrow areas. The notice states no coral reef or hardbottom occurs within 1,000 feet of the borrow areas. Beach compatible sand would be transported from the borrow areas to the beach by hopper or hydraulic pipeline dredge. Approximately 500,000 cubic yards of material would be placed above the mean high water line (MHWL), and 510,000 cubic yards of material would be placed at or below the MHWL. Fill below the MHWL would be placed within a fill template previously authorized under permit SAJ-2000-00380 that has been lengthened by a southward extension from R-125 to R-127, where only dune fill has been previously permitted (SAJ-2005-07908). The Jacksonville District's initial determination is substantial adverse impacts to essential fish habitat (EFH) or federally managed fisheries are not expected from the project. 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).

Consultation History
Nourishment of this beach stretch has a lengthy consultation history under SAJ-2000-00380, SAJ-2005-07908, and a Draft Environmental Impact Statement (EIS) recently prepared by the Jacksonville District's Regulatory Division for the Southern Palm Beach Island Comprehensive Shoreline Stabilization Project. In previous reviews of a proposed beach fill between R-125 and R-127 (authorized under permit SAJ-2005-07908), the NMFS concluded impacts to hardbottom habitats downdrift from the fill area are likely. By letter dated June 8, 2012, the NMFS indicated

it would not object to placement of fill in this area so long as the permit required biological monitoring of the downdrift hardbottom habitats within the area referred to as Reach 8 South, approximately located between R-129.5 and R-133 based on a field investigation by biologists from NMFS and the U.S. Environmental Protection Agency on February 24, 2011. By letter dated March 9, 2015, the NMFS provided the District with comments on the Draft EIS and revised public notice for SAJ-2005-07908.

Essential Fish Habitat within the Proposed Disposal Area Expansions
The South Atlantic Fishery Management Council (SAFMC) identifies corals and live/hardbottom habitat as EFH for several species, including adult white grunt (*Haemulon plumieri*); juvenile and adult gray snapper (*Lutjanus griseus*) and lane snapper (*Lutjanus synagris*); and juvenile mutton snapper (*Lutjanus analis*), schoolmaster (*Lutjanus apodus*), and dog snapper (*Lutjanus jocu*). Hardbottoms and sponges are also EFH for coral and spiny lobster (*Panulirus argus*). All demersal fish species under SAFMC management that associate with coral habitats are contained within the fishery management plan for the snapper-grouper complex and include some of the more commercially and recreationally valuable fish of the region. All of these species show an association with coral or hardbottom habitat during their life history. For groupers, the demersal life history of almost all *Epinephelus* species, several *Mycteroperca* species, and all *Centropristis* species takes place in association with coral habitat. Coral, coral reef, and hardbottom habitats benefit fishery resources by providing food or shelter. These habitats are part of a habitat complex that supports a diverse community of fish and invertebrates.

The SAFMC also identifies corals, coral reef, and hardbottom as Habitat Areas of Particular Concern (HAPC) for species within the snapper/grouper complex. HAPCs are subsets of EFH that are either rare, particularly susceptible to human-induced degradation, especially important ecologically, or located in an environmentally stressed area. The SAFMC also designates live/hardbottom between Jupiter Inlet and Dry Tortugas as a HAPC for spiny lobster. In light of their designation as HAPC's and Executive Order 13089, NMFS applies greater scrutiny to projects affecting corals, coral reefs, and hardbottom to ensure practicable measures to avoid and minimize adverse effects to these habitats are fully explored.

The habitat in this area also includes marine sandy bottom is designated EFH for cobia (*Rachycentron canadum*), black seabass (*Centropristis striata*), king mackerel (*Scomberomorus cavalla*), Spanish mackerel (*S. maculates*), spiny lobster, and pink shrimp (*Farfantepenaeus duorarum*). Tidal, sandy bottom habitats directly benefit fishery resources by providing foraging habitat. The SAFMC provides detailed information on federally managed fisheries and their EFH in amendments to fishery management plans and in *Fishery Ecosystem Plan of the South Atlantic Region* (available on-line at *www.safmc.net*).

Impacts to Essential Fish Habitat
Pipeline and Vessel Corridors: It is not clear if transport of the dredged material to the beach by pipeline or dredge (including any supporting vessels) would impact coral, coral reef, or hardbottom habitat. The NMFS requests the Jacksonville District and Town of Palm Beach describe habitat in and near the offshore connection points and transit corridors and how the pipeline, dredge, and support vessels would be monitored and managed to ensure no damage to coral or hardbottom communities results from tow lines, equipment, or pipeline leakage.

Beach and/or dune fill between FDEP Monuments R-116 to R-127: The public notice does not discuss monitoring for indirect impacts to coral and hardbottom habitat. By email dated June 30, 2015, a representative from the Town of Palm Beach explained the monitoring of coral and hardbottom habitat between FDEP monuments R-116 to R-127 would be done through FDEP's beach management agreement. By email dated July 2, 2015, a copy of the monitoring plan was provided to the NMFS. The plan describes monitoring five transects located approximately at R-113, R-115, R-116, R-132, and R-133. The NMFS does not believe the location of these monitoring transects would capture impacts to hardbottom, if those impact were to occur, i.e., R-113 is approximately one mile north of R-118.5 and the component of the project that includes placement of fill below the MHWL. The NMFS recommends the transects be sited where impacts are most likely. It appears that two transects placed between R-118.5 and R-120, two between R-129 and R-131, and one transect at R-132 and R-133 would provide greater resolution of project related impacts. In addition, the plan should identify the biological differences that will be determined to constitute a project impact. This would address the recommendation the NMFS provided by in the letter dated June 8, 2012. The NMFS requests the District coordinate the updated monitoring plan with the NMFS prior to authorizing the project.

Dune fill between R-116 to R-118.5: The public notice does not describe a plan for verifying that no material is placed waterward of the MHWL in areas where placement below the MHWL is not authorized. The NMFS requests the District coordinate with the NMFS and other resource agencies the plan for such monitoring.

Mitigation and Monitoring

The Town of Palm Beach is not proposing compensatory mitigation. The Town believes the hardbottom habitat within the template associated with SAJ-2000-000380 was mitigated in 2006 when 3.90 acres of boulder-based mitigation was constructed to offset the loss of 1.26 acres of hardbottom impacted by the initial beach nourishment. The Jacksonville District concurs and concludes the boulder-based mitigation has met all performance criteria established in the original permit. The Jacksonville District does not believe impacts would result from extending the fill template southward from R-125 to R-127 because no hardbottom habitat is present between R-125 to R-127. While the NMFS agrees no hardbottom habitat occurs close to the beach between these monuments, the NMFS is concerned high quality hardbottom habitats downdrift from the fill area may be impacted indirectly.

EFH Conservation Recommendations

Section 305(b)(4)(A) of the Magnuson-Stevens Act requires the NMFS to provide EFH conservation recommendations when an activity is expected to adversely impact EFH. In consideration of this requirement, the NMFS recommends:

1. The permit require biological monitoring in areas where hardbottom impacts are most likely. This includes hardbottom habitats located just south of R-129. The monitoring should be conducted before, during, and after fill placement and the plan should clearly identify the biological difference that will be determined to be an impact. The NMFS request an opportunity to comment on the plan before it is considered final.

2. The permit require clearly marking the MHWL in the field and having an independent contractor on-site to continuously verify no material is placed waterward of the MHWL in areas where the permitted construction template does not allow such placement. The NMFS request an opportunity to comment on the plan before it is considered final.
3. The permit require movement of the transport barges be limited to corridors lacking hardbottom and coral habitat and the securing of all tow lines to avoid any contact with hardbottom or coral habitats.
4. The permit require identification of pipeline corridors that avoid impacts to hardbottom habitat and require contractors to monitor the pipeline daily for leakage.

Section 305(b)(4)(B) of the Magnuson-Stevens Act and its 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 the NMFS. A detailed response then must be provided prior to final approval of the action. The Jacksonville District's detailed response must include a description of measures proposed by the District agency to avoid, mitigate, or offset the adverse impacts of the activity. If the Jacksonville District's response is inconsistent with our EFH conservation recommendations, the District must provide a substantive discussion justifying the reasons for not following the recommendation.

Thank you for the opportunity to provide comments. Please direct related correspondence to the attention of Ms. Jocelyn Karazsia at our West Palm Beach office, 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

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