



**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 13, 2015

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(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 C. Knoeck

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2015-00949 (IP-LCK) dated June 5, 2015. The City of Pompano Beach requests authorization to remove an existing municipal fishing pier and replace it with a larger pier within the Atlantic Ocean, Broward County. The proposed structure would shade a total of 26,000 square feet of unconsolidated sediment and hardbottom habitats. Direct impacts include filling 80 square feet and shading 3,100 square feet of nearshore hardbottom habitat. The applicant proposes to provide compensatory mitigation by constructing an artificial reef beneath the fishing pier. The initial determination by the Jacksonville District is the proposed impacts to nearshore hardbottom habitat, 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 public notice includes habitat characterization surveys performed by an agent for the applicant during April and May 2014 and February 9, 2015. The survey reports describe the habitats in the project area as unconsolidated sediment and hardbottom also referred to as the nearshore ridge complex. The nearshore ridge complex in the project area is dominated by turf and macroalgae with sponge, bryozoan, zoanthid, octocoral in addition to scleractinian coral. Surveys were conducted to determine the presence of species listed under the Endangered Species Act. Two colonies of *Acropora cervicornis* were observed in the surveys; one colony approximately 300 feet east-northeast of the existing pier and another colony approximately 500 feet southeast of the pier.

The 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 a 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 designated EFH for cobia (*Rachycentron canadum*), black seabass (*Centropristis striata*), king mackerel (*Scomberomorus cavalla*), Spanish mackerel (*S. maculatus*), 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](http://www.safmc.net)).

#### *Impacts to Essential Fish Habitat and Recommended Avoidance and Minimization*

The applicant proposes to impact 0.53 acres of unconsolidated sediment and 0.07 acres of hardbottom habitat by shading and installing pilings. Measures proposed to minimize impacts to EFH include moving the pier alignment southward to shade less hardbottom and reducing the number of pilings within hardbottom habitat. However, the proposed increase in width of the pier from 20 to 30 feet increases the proposed shading impacts. Relocation of scleractinian corals 10 centimeters in diameter or greater from shading or fill impact locations would minimize impacts from the project and support the lower time lag and risk scores in the proposed Unified Mitigation Assessment Method (UMAM) assessment. Consequently, the proposed pier does not reflect all practicable avoidance and minimization of impacts to nearshore hardbottom habitat.

#### *Compensatory Mitigation*

The applicant has proposed mitigation of shading and filling impacts to nearshore hardbottom by constructing an artificial reef adjacent to the south side of the proposed pier, along the west side of the terminal platform. The NMFS determines the close proximity to the fishing pier would reduce the overall performance of the mitigation due to an expected high level of extraction of reef fish. Locating mitigation structures further away from the pier would more appropriately offset the ecological losses from the proposed impacts and maximize replacement of lost ecological functions. The NMFS believes the location of the proposed mitigation should be approximately 400 feet south-southeast of the proposed pier, between Investigation Site 4 and Investigation Site 5 and south of Investigation Site 7, as shown on Figure No. 4 of Attachment No. 28-1.

#### **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:

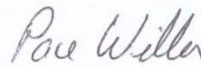
1. The width of the pier be reduced where over nearshore hardbottom.
2. The permit require best management practices, such as staked turbidity curtains, to minimize indirect impacts to nearshore hardbottom and water quality degradation. The NMFS also recommends the locations of hardbottom be marked with buoys or stakes in the vicinity of the pier and no anchoring, spudding, or other bottom disturbing activities be allowed within 30 feet of the hardbottom.

3. The permit require relocation to the proposed mitigation reef all scleractinian corals 10 centimeters or greater in diameter located within the nearshore hardbottom habitat proposed for shading or fill impacts. The NMFS would support relocation of smaller corals. Relocated corals should be monitored for a minimum of five years with 85 percent successful attachment and positive increase in live tissue after two years of monitoring.
4. The permit require compensatory mitigation to offset unavoidable impacts to nearshore hardbottom habitat. The plan should be based on functional assessments evaluating how the proposed mitigation would offset direct and indirect impacts. The siting of the mitigation structures should be outside the vicinity of the fishing pier to maximize functional lift of the proposed mitigation. The NMFS request an opportunity to comment on the plan before it is considered final.

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 the 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 at Kurtis.Gregg@noaa.gov.

Sincerely,



/ for

Virginia M. Fay  
Assistant Regional Administrator  
Habitat Conservation Division

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