



**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

F/SER47:KG/pw

(Sent via Electronic Mail)

Colonel Alan Dodd, Commander  
U.S. Army Corps of Engineers, Jacksonville District  
North Permits Section  
Post Office Box 4970  
Jacksonville, FL 32232-0019

Attention: Dana K. Gentry

Dear Colonel Dodd:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2006-02410 (LP-DKG) dated June 22, 2015. Quentin Renck requests authorization to remove existing piles and to construct a wood dock, mooring piles, and a boatlift 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 June 12, 2014, showing the proposed structure would impact 248 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 report indicates habitats within and adjacent to the footprint of the proposed structure are composed of patchy, sparse (up to five percent density) turtle grass (*Thalassia testudinum*) and manatee grass (*Syringodium filiforme*) waterward of the riprap and seawall. The SAFMC identifies seagrass habitat as EFH for several species, including adult white grunt (*Haemulon plumieri*); 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*). The SAFMC also identifies seagrass and all of Biscayne Bay as HAPCs 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 benefits 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 provides 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 how they support 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 applicant proposes to impact seagrass habitat by installing pilings and shading the bottom with a dock. The proposed access walkway is 88 square feet (4 feet by 22 feet), and the proposed terminal platform is 160 square feet (6 feet by 24 feet); both would be constructed at an elevation of +4.8 feet above mean high water (MHW) and located over seagrass. The dock has been designed to orient the over-seagrass portions of structure in a north-south orientation to the maximum extent practicable, which is consistent with the *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. However the elevations of the dock and dimensions of the terminal platform do not follow the recommendations in the *Construction Guidelines*. Consequently the dock does not reflect all practicable avoidance and minimization of impacts to seagrass habitat. In order to minimize impacts to seagrass, NMFS recommends the minimum elevation of the dock be +5 feet MHW and the terminal platform be no more than 120 square feet, if wood planks remain as the type of decking. If grated decking with 43 percent light transmittance is used for the terminal platform, 160 square feet would meet the *Construction Guidelines*.

#### **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:

- 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 minimum elevation of the dock should be increased to +5 feet MHW and the terminal platform should not exceed 120 square feet, if sited over seagrass and wood planks are used.
- The permit require compensatory mitigation to address losses to seagrass from the project, in the case the above recommendation is not adopted. The mitigation plan should use benthic habitat surveys conducted during the seagrass growing season and include functional assessments evaluating project impacts and mitigation benefits.
- The permit require best management practices to minimize indirect impacts and water quality degradation. Recommended best management practices include use of staked turbidity curtains around the project area during construction.

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 Kurtis.Gregg@noaa.gov.

Sincerely,



/ for

Virginia M. Fay  
Assistant Regional Administrator  
Habitat Conservation Division

cc: COE, Dana.K.Gentry@usace.army.mil  
FWS, Ashleigh\_Blackford@fws.gov  
EPA, Miedema.Ron@epa.gov  
FDEP, Jason.Andreotta@dep.fl.state.us  
SAFMC, Roger.Pugliese@safmc.net  
F/SER4, David.Dale@noaa.gov  
F/SER47, Jocelyn.Karazsia@noaa.gov  
F/SER47, Kurtis.Gregg@noaa.gov