



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 29, 2015

F/SER47:JK/pw

(Sent via electronic mail)

Colonel Jason A. Kirk, Commander
U.S. Army Corps of Engineers, Jacksonville District
Miami Permits Section
9900 Southwest 107th Avenue, Suite 203
Miami, Florida 33176

Attention: Robert Kirby

Dear Colonel Kirk:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-1989-00565 (SP-RJK) dated June 29, 2015. The applicant, Sunset Island Utilities Corporation, requests authorization from the Department of the Army to replace an existing utility line between Key West and Sunset Island along a route measuring 2,750 linear feet and approximately 64 feet below the bottom of the federal channel in Monroe County. Because horizontal directional drilling (HDD) is the proposed construction method, the public notice indicates the proposed work is not expected to impact seagrass, corals, or live/hardbottom within the vicinity of the route. The Jacksonville District's initial determination is the proposed action would not have a substantial adverse impact on federally managed fisheries or essential fish habitat (EFH), including seagrass, coral, and live/hardbottom which the South Atlantic Fishery Management Council (SAFMC) designates as a Habitat Area of Particular Concern (HAPC). 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).

Essential Fish Habitat within the Proposed Disposal Area Expansions

A habitat characterization was not provided with the public notice, however based on available habitat maps¹ seagrass, corals, and live/hardbottom habitats are present along and near the project route. The SAFMC identifies seagrass, 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 and live/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.

¹ Habitat maps available at: http://ocean.floridamarine.org/mrgis/Description_Layers_Marine.htm



The SAFMC also identifies seagrass, corals, and live/hardbottom as 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.

Impacts to Essential Fish Habitat

Horizontal Directional Drilling

During HDD drilling mud can escape into the environment through fractures in the rock potentially degrading EFH. The *Southeast Florida Coral Reef Initiative's Best Management Practices (BMPs) for Construction, Dredge and Fill and Other Activities Adjacent to Coral Reefs*² notes the risk of frac-outs occurring can be reduced through proper geotechnical assessment practices and prudent drill planning and execution. The BMPs also describe how the extent of damage from a frac-out can be limited by carefully monitoring the hydraulic pressure and having the appropriate response equipment and contingency plans ready in the event that a frac-out occurs. While these measures and BMPs are useful in reducing and limiting the occurrence of frac-outs, direct measures of borehole pressure may be necessary for the agencies to have reasonable assurance that damage from frac-outs would be minimal. Stauber et al. (2003)³ presents a method for predicting borehole pressure by means of a demand-capacity analysis. With a calculated maximum allowable borehole pressure curve for a given HDD bore profile, specifications could require borehole pressure be maintained below the maximum allowable value or to maintain rheological properties within specified limits.

The NMFS requests the Jacksonville District describe plans to perform close monitoring along the HDD route during construction to ensure frac-outs are identified and remediated immediately and, if necessary, compensatory mitigation implemented. To assist with developing this monitoring plan, the NMFS will send separate from this letter monitoring plans used by the NMFS, Jacksonville District, and Florida Department of Environmental Protection for similar projects.

Removal of the existing line and concrete mats

By email dated July 17, 2015, the NMFS received technical comments provided by the NOAA Florida Keys National Marine Sanctuary (FKNMS) to the Jacksonville District. The NMFS supports the recommendation provided by FKNMS to remove the existing utility line and dilapidated concrete mats. Due to the close proximity of seagrass, corals, and live/hardbottom, the NMFS and FKNMS agree removal activities need to be carefully planned and executed. The NMFS requests the Jacksonville District describe plans to remove the existing line and concrete mats.

EFH Conservation Recommendations

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:

- The Clean Water Act permit require the permittee to quickly identify and remedy frac-outs in the case they occur.

² Available at: www.floridadep.org/coastal/programs/coral/reports/MICCI/MICCI_6_BMP_Manual.pdf

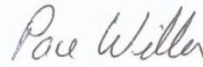
³ Stauber, R., Bell, J., and Bennett, R. 2003. A Rational Method for Evaluating the Risk of Hydraulic Fracturing in Soil during Horizontal Directional Drilling. Proceedings of North American Society of Trenchless Technology and International Society of Trenchless Technology International Conference (a.k.a. NoDig 2003), Las Vegas, Nevada, March 31, 2003.

- The Clean Water Act permit require the permittee to adhere to a utility line and concrete mat removal plan that reflects substantial input from the NMFS and FKNMS.

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.

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

cc: COE, Robery.J.Kirby@usace.army.mil
FWS, Ashleigh_Blackford@fws.gov
EPA, Miedema.Ron@epa.gov
FWCC, Lisa.Gregg@MyFWC.com
FDEP ERP Gus.Rios@dep.state.fl.us
SAFMC, Roger.Pugliese@safmc.net
FKNMS, Joanne.Delaney@noaa.gov
F/SER4, David.Dale@noaa.gov
F/SER47, Jocelyn.Karazsia@noaa.gov