



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 31, 2015

F/SER47:JK/pw

(Sent via Electronic Mail)

Colonel Jason A. Kirk, 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: Alisa Zarbo

Dear Colonel Kirk:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-1993-02610 (SP-AAZ) dated July 2, 2015. The City of Riviera Beach requests authorization to expand an existing marina to accommodate larger and deeper-draft vessels in Lake Worth Lagoon, Palm Beach County. Specifically, the applicant proposes to dredge 48,000 cubic yards of material over approximately six acres to depths of -15 feet Mean Low Water (MLW) or -12 feet MLW (plus 2 feet of over dredge), depending on the dredging location. In addition, the applicant proposes to construct a fixed concrete pier and breakwater measuring 320 feet long by 14 feet wide along the southern property line. Concrete panels suspended beneath the deck would serve as a wave break to protect vessels in the marina. The applicant also proposes to expand the marina to the northeast by constructing a floating dock that measures 14 feet by 70 feet, which connects to a larger floating dock measuring 14 feet wide by 275 feet long. The dock would have six floating finger piers measuring 5 or 6 feet wide by 40 feet long and one terminal dock measuring 12 feet wide by 40 feet long. The dredged material would be disposed at an approved Palm Beach County environmental enhancement site or in the Peanut Island Dredge Material Management Area. The Jacksonville District's initial determination is the impacts to 1.29 acres of rubble hardbottom and 4.80 acres of unconsolidated sediments would have a substantial adverse impact on essential fish habitat (EFH) or federally managed fishery species. The NMFS agrees with this determination and believes approximately 1.37 acres¹ of the 4.80 acres described unconsolidated sediments are seagrass habitat the South Atlantic Fishery Management Council (SAFMC) designates 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 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 within the Area of the Proposed Project

The public notice includes a map showing results from a seagrass survey conducted during March 2015, which is outside the time of year optimal for seagrass surveys (June 1 to September 30). This survey did not document seagrass within the footprint of the proposed dredging, dock, and breakwater construction, which is not consistent with *Benthic Habitat Assessment Report for the Intracoastal Waterway Deepening Project in the Vicinity of Palm Beach Harbor* prepared by Scheda Ecological Associates and Pinnacle Group International for the Florida Inland Navigation District (Scheda and Pinnacle 2012). Scheda and Pinnacle (2012) shows a mix of paddle grass (*Halophila decipiens*) and Johnson's seagrass (*H. johnsonii*)

¹ Based on scaled drawings, the dock construction in the northeast marina expansion area would directly impact 6,630 square feet of seagrass (0.15 acres) and the dredging would impact 1.22 acres.



within the northeastern portion of the project area where dock construction and dredging are proposed. Within other proposed dredging areas, Scheda and Pinnacle (2012) describe a mix of unconsolidated sediment and hardbottom with limerock, boulders, and rubble encrusted by macroalgae and sponges, which is consistent with the public notice, except the public notice indicates octocorals also is present.

The SAFMC identifies seagrass habitat, hardbottom, and sponges as EFH for several species. Seagrass and hardbottom habitats are designated EFH for adult white grunt (*Haemulon plumieri*); juvenile and adult 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 itijara*); and larval and juvenile pink shrimp (*Farfantepenaeus duorarum*). Seagrass, hardbottom, sponge, and algal communities (*Laurencia*) are also designated EFH for spiny lobster (*Panulirus argus*). These habitats benefit fishery resources by providing food or shelter.

The SAFMC also identifies seagrass and hardbottom as a HAPC 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 and hardbottom directly benefit fishery resources by providing nursery habitat. Seagrass and hardbottom are part of a habitat complex that includes mangrove, and this habitat complex is abundant in the Lake Worth Lagoon and supports a diverse community of fish and invertebrates within the area. Seagrass also provide 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 their support of federally managed fishery species in *Fishery Ecosystem Plan of the South Atlantic Region*, which is available at www.safmc.net.

Minimization of Impacts to Essential Fish Habitat

Marina expansion to the northeast including dredging and dock construction

Based on scaled drawings and information contained in Scheda and Pinnacle (2012), the dredging and dock construction would directly impact approximately 1.37 acres of seagrass habitat. Additional impacts are likely from side-slope equilibration, sedimentation, turbidity, and dock shading. It appears the project purpose could be met while eliminating the need to dredge seagrass in the northeast extension area. In addition, impacts to seagrass can be minimized by modifying the design of the structure to incorporate specifications contained in *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. Although these guidelines focus on single-family residential docks, several specifications to minimize impacts to seagrass are practicable for larger docks. In this case, the City of Riviera Beach could further minimize impacts to seagrass by elevating dock structures to no less than 5.0 feet above Mean High Water (MHW) and reducing the width of the access walkway and finger piers to 4.0 feet. In addition, use of wood decking with ½-inch spacing or grated decking with no less than 43 percent light transmittance would minimize seagrass impacts. Consequently, the dock does not reflect all practicable avoidance and minimization of impacts to seagrass habitat.

South basin deepening component of the project

Based on scaled drawings (drawing 13 provided with the public notice), this area measures approximately 0.80 acres and is outside of the area examined by Scheda and Pinnacle (2012). Seagrass occurs just westward of the area in public notice drawing 16. The NMFS recommends a seagrass survey be completed for this area during the seagrass growing season (June 1 to September 30) to fully evaluate project impacts and minimization measures.

Breakwater and pier construction along the south boundary of the project site

The pier construction area is also outside the area examined by Scheda and Pinnacle (2012). Similar to the proposed south basin deepening area, the NMFS recommends a seagrass survey be completed for the proposed pier construction area during the seagrass growing season to fully evaluate project impacts and minimization measures. Lastly, the NMFS agrees the proposed breakwater would be in area of unconsolidated bottom. The NMFS has no recommendations for this component of the project.

The remaining dredging of hardbottom habitats

The public notice indicates the applicant will move to a safe location the “minimal” amount of octocorals present prior to dredging. The NMFS recommends the permit identify suitable recipient sites and require performance standards of no less than 85 percent survival (and attachment) and exhibition of positive growth after two years.

Transport of dredged material to the disposal areas

Based on the information provided, it is not clear if transport of dredged material to the disposal site would impact additional habitat. The NMFS recommends the City of Riviera Beach describe habitat in and near transit corridors and how the pipeline, dredge, and support vessels would be monitored and managed to ensure no damage to seagrass or hardbottom communities results from towlines, equipment, or pipeline leakage.

Identification of the Least Damaging Practical Alternative and Compensatory Mitigation

Once the Jacksonville District identifies the least damaging practical alternative for dredging and dock construction, the NMFS recommends the Jacksonville District evaluate an updated impact assessment that includes indirect impacts resulting from side-slope equilibration, sedimentation, turbidity, and dock shading. This assessment should include results from a seagrass survey conducted during the growing season for assessing impacts in the south basin and the pier along the southern project boundary. The public notice states mitigation will be provided, as necessary. The NMFS requests an opportunity to review the compensatory mitigation plan, its supporting functional assessment, and the biological monitoring used for gauging results with respect to the performance standards established.

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:

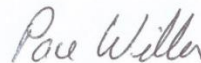
- The permit prohibits dredging seagrass habitat and requires a buffer of no less than 25 feet between dredge areas and seagrass habitats. Seagrass locations should reflect a survey conducted during the optimal time of year for determining seagrass distribution (June 1 to September 30). The permit should also require a similarly timed post-construction survey to verify seagrass impacts.
- The permitted dock structures reflect the recommendations in *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat*; i.e., for docks constructed over seagrass habitat, the height be at least 5.0 feet above MHW and the width of the access walkways and finger piers be no more than 4.0 feet. In addition, wood decking with ½-inch spacing or grated decking with no less than 43 percent light transmittance is preferable to aluminum or concrete panels.
- The permit prohibits staging or anchoring of construction equipment over seagrass.
- The permit requires corals be relocated to suitable recipient sites and monitoring to verify a performance standard of no less than 85 percent survival (and attachment) and exhibition of positive growth after two years.

- The permit requires monitoring of the pipeline for leaks no less than twice daily and for repair of leaks in a timely manner.
- The permit requires immediate cleanup of any marine debris entering the water from dock construction, dock demolition, or during execution of the event.
- The permit requires compensatory mitigation to offset impacts to unavoidable impacts to seagrass and hardbottom. As noted above, the NMFS requests an opportunity to review the compensatory mitigation plan, its supporting functional assessment, and the biological monitoring used for gauging results with respect to the performance standards established.
- The City of Riviera Beach voluntarily has this marina participate in the Florida Department of Environmental Protection's Clean Marina Program.

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

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