



**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>

October 14, 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 107<sup>th</sup> Avenue, Suite 203  
Miami, Florida 33176

Attention: Maria Bezanilla

Dear Colonel Kirk:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2013-02837 (LP-MIB), dated September 2, 2015. Barbara Quach requests authorization to construct two concrete marginal docks and to dredge 3,720 square feet of sea bottom within a canal connected to Florida Bay, Monroe County, to allow moorage at the docks. In addition, the applicant requests authorization to place 180 cubic yards of fill within 511 square feet of estuarine bottom for the construction of a seawall and associated backfill. The public notice describes the proposed dredging area as dense shoal grass (*Halodule wrightii*) and manatee grass (*Syringodium filiforme*). The total impact listed in the public notice is 4,231 square feet (0.10 acre).

Compensatory mitigation would be provided through the Keys Restoration Fund (KRF), although the amount of mitigation needed to offset project impacts is not specified. The initial determination by the Jacksonville District is the proposed loss of seagrass 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 NMFS offers the following comments and recommendations pursuant to authorities of the Fish and Wildlife Coordination Act and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

*Project History*

In response to a public notice from the Jacksonville District dated March 10, 2014, the NMFS by letter dated March 27, 2014, provided recommendations on a similar project at the same site. In the current public notice, project additions include backfill and seawall construction and an increase to the dredging area by 2,334 square feet (0.05 acres). In the earlier letter, the NMFS stated seagrass impacts are likely an underestimate because no information was provided to show water depths within the canal are sufficient for the vessels to be docked without physically disturbing the bottom with the boat propeller or hull. The NMFS recommended the District



evaluate whether the canal depths were sufficient for expected boats without further damaging seagrass habitat. The NMFS also recommended the adequacy of the compensatory mitigation be evaluated using a functional assessment comparing impact and mitigation areas. The new public notice provides a bathymetric survey (drawing S-7). The water depths are between one and three feet mean low water (MLW), insufficient for the expected boat use, hence the proposed additional dredging.

#### *Essential Fish Habitat*

The public notice included a biological assessment performed by an agent for the applicant on May 28, 2014. The assessment indicates macroalgae, sponges, and seagrass are present. The assessment also notes seagrass, composed of moderate (40 percent density) manatee grass and sparse (less than 5 percent density) shoal grass is present within and adjacent to the footprint of the proposed dredging.

The SAFMC identifies estuarine bottom as EFH for cobia (*Rachycentron canadum*), black seabass (*Centropristis striata*), king mackerel (*Scomberomorus cavalla*), Spanish mackerel (*S. maculatus*), spiny lobster (*Panulirus argus*), and pink shrimp (*Farfantepenaeus duorarum*). The SAFMC identifies seagrass habitat as EFH for several species, including 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 itajara*); and larval and juvenile pink shrimp. The SAFMC identifies sponges as EFH for spiny lobster as well.

The SAFMC also identifies seagrass or all of the Florida Bay 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 directly benefit 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 provide important water quality maintenance functions (such as pollution uptake), stabilize sediment, 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 dredging, and the District has not indicated the amount of compensatory mitigation it will require. Additional impacts to seagrass could occur if best practices are not followed to minimize degradation of water quality and to minimize bottom-disturbing activities in adjacent seagrass habitats.

### **EFH Conservation Recommendations**

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

- Best management practices should be incorporated into the project design to minimize indirect impacts and water quality degradation. These best management practices should include use of staked turbidity curtains around the project area.
- The permit requires a post-construction survey to verify seagrass impacts and determine if additional impacts have occurred in adjacent seagrass habitats.
- The permit prohibits staging or anchoring of construction equipment over seagrass located outside of the area to be dredged.
- The permit requires compensatory mitigation to offset impacts to unavoidable impacts to seagrass. The NMFS requests an opportunity to review the functional assessment prepared for the seagrass impact area.

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 Ms. Jocelyn Karazsia at our West Palm Beach Office, 400 N Congress Ave, Suite 110, West Palm Beach, Florida 33401, at 561-249-1925, or at [Jocelyn.Karazsia@noaa.gov](mailto:Jocelyn.Karazsia@noaa.gov).

Sincerely,



/ for

Virginia M. Fay  
Assistant Regional Administrator  
Habitat Conservation Division

cc: COE, [Maria.I.Bezanilla@usace.army.mil](mailto:Maria.I.Bezanilla@usace.army.mil)  
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