



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
Palm Beach Gardens Permits Section
4400 PGA Boulevard, Suite 500
Palm Beach Gardens, Florida 33410

Attention: Linda Knoeck

Dear Colonel Kirk:

NOAA's National Marine Fisheries Service (NMFS) reviewed public notice SAJ-2015-01570 (SP-LCK) dated September 14, 2015. The Florida Department of Environmental Protection Parks Service (FDEP) requests authorization to improve water access and stabilize the shoreline at Hugh Taylor Birch State Park adjacent to the Intracoastal Waterway in Broward County. Specifically, FDEP requests authorization to: 1) install 2,770 linear feet of sheet wall approximately three feet waterward of the existing bulkhead and backfill 8,310 square feet (0.19 acres) of estuarine bottom located between the two walls; 2) install 2,530 linear feet of a sloping rock revetment that extends six to 12 feet from the existing bulkhead; 3) install a floating dock that measures 9 feet by 230 feet that will have eight slips for day use only; and 4) construct a visitors center over approximately 100 feet of estuarine bottom including a gangway connecting to the dock. 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).

Essential Fish Habitat within the Area of the Proposed Project

The public notice includes a map showing results from a seagrass survey conducted during June 2015 by an agent for the applicant. In addition, The Jacksonville District provided the NMFS with the full survey report by email on September 14, 2015. The survey shows a contiguous bed of paddle grass (*Halophila decipiens*) two to 25 feet west of the existing seawall and extending towards (and within) the Intracoastal Waterway. As noted in the report, there is a considerable amount of debris, largely composed on concrete piles, in this area. A NMFS biologist visited a portion of the submerged bottoms in the project area with the Jacksonville District on July 1, 2015, and observations during that visit are consistent with the survey report.

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



(*Epinephilus itijara*); and larval and juvenile pink shrimp (*Farfantepenaeus duorarum*). Seagrass habitats are also designated EFH for spiny lobster (*Panulirus argus*). These habitats benefit fishery resources by providing food or shelter.

The SAFMC also identifies seagrass 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 and unvegetated estuarine bottoms are part of a habitat complex that includes mangrove and hardbottoms, and this habitat complex 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

The NMFS does not object to the dock installation or the construction of the visitor center because these structures would be built over unvegetated estuarine habitat and the construction would be conducted from uplands to minimize impacts. The notice states there is a buffer of no less than 15 feet between the rock revetment and the mapped seagrass. As an impact minimization measure in areas where seagrass is located in close proximity to the existing seawall, sheet wall installation and backfilling with rock is proposed in lieu of the rock revetment. However, there are three small areas where seagrass will be directly impacted by this activity; these areas are depicted on sheets 4, 5, and 6 in the public notice drawings. The District estimates these areas would impact 0.01 acres of seagrass, in addition to the impacts to 0.19 acres of estuarine bottom that would be permanently impacted by fill material placed between the two seawalls. An additional 0.55 acres of unvegetated estuarine bottom would be converted to artificial hard substrate.

Compensatory Mitigation

The applicant does not propose compensatory mitigation. The applicant believes the rock revetment and reduced reflection of boat wakes off the seawall will establish and enhance the submerged bottoms, and the applicant has proposed a five-year post-construction monitoring plan (but not provided with the notice). While the NMFS agrees the riprap would result in a different community, the NMFS does not have sufficient information to determine if ecological enhancement would occur. The project would impact approximately 0.74 acres of unvegetated estuarine bottom through placement of riprap or fill between the seawalls, thereby eliminating the potential for these unvegetated habitats to become colonized by seagrass due to the lessened wave energy. The NMFS recommends the FDEP develop a compensatory mitigation to offset the permanent losses of seagrass and estuarine bottom. The NMFS recommends the mitigation plan focus on removing the marine debris because the debris is likely limiting recruitment of seagrass and fragmenting existing beds. The NMFS offers to assist FDEP in the preparation of functional assessments to determine the amount of marine debris removal needed to offset the impacts.

EFH Conservation Recommendations

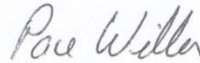
Section 305(b)(4)(A) of the Magnuson-Stevens Act requires NMFS to provide EFH Conservation Recommendations for any federal action or permit which may result in adverse impacts to EFH. Therefore, NMFS recommends the following to ensure the conservation of EFH and associated fishery resources:

- 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.
- The permit requires compensatory mitigation to offset impacts to unavoidable impacts to seagrass. The NMFS recommends removal of marine debris as the mitigation and requests an opportunity to review the functional assessment prepared for the project.

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, Linda.C.Knoeck@usace.army.mil
FWS, Ashleigh_Blackford@fws.gov
FWCC, Lisa.Gregg@MyFWC.com,
FDEP, Sophie.Dimitrova@dep.state.fl.us
EPA, Miedema.Ron@epa.gov
SAFMC, Roger.Pugliese@safmc.net
F/SER4, David.Dale@noaa.gov
F/SER47, Jocelyn.Karazsia@noaa.gov