



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

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December 19, 2010

F/SER4:JK/pw

(Sent via Electronic Mail)

Colonel Alfred Pantano
District Engineer, Jacksonville District
Department of the Army Corps of Engineers
Jacksonville Regulatory Office, South Permits Branch
PO Box 4970
Jacksonville, Florida 32232

Attention: Edgar W. Garcia

Dear Colonel Pantano:

NOAA's National Marine Fisheries Service (NMFS) reviewed the public notice dated November 19, 2010, for SAJ-2010-02881 (IP-EWG). The applicant, Autoridad de Energia Electrica, requests authorization from the Department of the Army to construct and install a 24-inch diameter, steel natural gas (NG) pipeline approximately 92 miles long with a construction right-of way (ROW) of 150 feet that traverses the island of Puerto Rico from the EcoEléctrica Liquid Natural Gas Terminal in the municipality of Peñuelas to the Cambalache Thermoelectric Power Plant in the municipality of Arecibo, and then eastward to the Palo Seco power plant facility in the municipalities of Toa Baja and San Juan. The total project area is about 1,672 acres and the pipeline will traverse 235 rivers and wetlands, including 369 acres of jurisdictional Waters of the United States. The public notice indicates that the work would impact approximately 28.5 acres of Estuarine Forested Wetland and Canals which are identified as essential fish habitat (EFH) by the Caribbean Fishery Management Council (CMFC). The need for compensatory mitigation is acknowledged by the applicant, but the applicant defers specific proposals until additional construction detail is available. Based on a preliminary review of this application, the Jacksonville District concludes an Environmental Impact Statement is not be required, and the District also concludes that the project would not adversely impact EFH or federally managed fishery resources. 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).

Project Area

The public notice indicates that the work would impact approximately 28.5 acres of Estuarine Forested Wetland and Canals. NMFS also reviewed aerial imagery of the project site as part of our review of impacts to EFH. The public notice does not include results from a survey of estuarine inhabitants of the specific areas to be impacted.



Essential Fish Habitat at the Proposed Project Site

The site of the proposed project includes mangroves, seagrass, sandy bottom, and algal communities. CFMC identifies these habitats as EFH for several species, including juvenile and adult gray snapper (*Lutjanus griseus*); juvenile mutton snapper (*Lutjanus analis*); juvenile nassau (*Epinephelus striatus*) and goliath grouper (*Epinephelus itajara*); and juvenile spiny lobster (*Panulirus argus*). Seagrass and mangrove directly benefit the fishery resources of the Atlantic Ocean and the Caribbean Sea by providing nursery habitat. Seagrass and mangrove habitats are part of a habitat complex that includes hard bottoms and coral reefs, and this habitat complex supports a diverse community of fish and invertebrates within the Atlantic Ocean and the Caribbean Sea. Seagrass and mangrove 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 cumulative loss of these habitats continues to reduce fisheries production within the waters of Puerto Rico.

Request for Additional Information

At this time, NMFS does not have sufficient information to complete a review of the proposed work; we request that the Jacksonville District provide the following:

- 1) Please clarify what is meant by “ALL wetland impacts will be temporary.” The proposed ROW of 150 feet seems to imply that impacts to wetlands are not temporary.
- 2) Based on the answer to #1, please provide the total square footage of resource impacts (seagrass, other submerged vegetation, mangroves, and other benthic resources). The public notice indicates a total of 28.5 acres of EFH will be impacted but does not indicate the acreage for each habitat type.
- 3) Please provide additional explanation that can help us determine if HDD will be utilized when encountering “Estuarine Forested Wetland” and the other types of EFH habitats, such as seagrass and other submerged vegetation. This would help NMFS evaluate alternatives to the proposed action.
- 4) Please provide the results of an actual survey of the organisms in the estuarine areas that the proposed project impacts.

EFH Conservation Recommendations

Additional information is needed for NMFS to complete the EFH consultation. Based on the information provided this far, NMFS finds the project would have substantial adverse impacts on EFH. 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. Based on this requirement, NMFS provides the following:

EFH Conservation Recommendation

The Department of the Army shall not authorize the project as proposed. To make the project acceptable, the applicant shall revise the project to include the following items, which NMFS may revise based upon review of the additional information requested above.

1. No clearing shall be authorized in areas that support seagrass or mangroves.
2. Best management practices to minimize seagrass and mangrove impacts and water quality degradation shall be incorporated into the project design.
3. Once the final design for the project is set, the applicant shall develop a compensatory mitigation plan that offsets all direct and indirect impacts to EFH. The plan shall be based on a functional assessment and provided to NMFS for review and approval before the project is authorized.

Section 305(b)(4)(B) of the Magnuson-Stevens Act and implementing regulation at 50 CFR Section 600.920(k) require your office 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 our “findings” with

your Regulatory Functions Branch, an interim response should be provided to NMFS. A detailed response then must be provided prior to final approval of the action. Your detailed response must include a description of measures proposed by your agency to avoid, mitigate, or offset the adverse impacts of the activity. If your response is inconsistent with our EFH Conservation Recommendation, you must provide a substantive discussion justifying the reasons for not following the recommendation.

Thank you for the opportunity to provide these comments. Related questions or comments should be directed to the attention of Mr. José A. Rivera at NOAA HCD, c/o US Army Corps of Engineers, 400 Fernandez Juncos Avenue, San Juan, Puerto Rico, 00901-3299. He may be reached by telephone at 787-501-7639 or by e-mail at Jose.A.Rivera@noaa.gov.

Sincerely,



/ for

Miles M. Croom
Assistant Regional Administrator
Habitat Conservation Division

cc:

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