



US Army Corps
of Engineers®

PUBLIC NOTICE

Applicant:
Neil M. Schuster
Sojourn South, LLC

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Jacksonville District
Permit Application No. SAJ-2023-01284

TO WHOM IT MAY CONCERN: The Jacksonville District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403). The purpose of this public notice is to solicit comments from the public regarding the work described below:

If you are interested in receiving additional project drawings associated with this public notice, please send an e-mail to the project manager by electronic mail at Maria.I.Bezanilla@usace.army.mil.

APPLICANT: Neil M. Schuster
Sojourn South, LLC
555 NE 15th Street
Miami, Florida 33132

WATERWAY AND LOCATION: The project would affect aquatic resources associated with the Florida Bay. The project site is located on an undeveloped upland lot legally described as Matecumbe Sandy Beach PB3-127 Lower Matecumbe Key PT Tract 5 in Section 20, Township 64 South, Range 36 East, Lower Matecumbe, Monroe County, Florida RE# 00394480-000108

EXISTING CONDITIONS: The property is an existing, established commercial fishing facility located in a man-made boat basin associated with the Florida Bay. The adjacent uplands are improved with commercial fishing facilities. The property supports 8 wet slips at the site. The property includes disturbed uplands with several clumps of mangroves and buttonwood located along the shoreline. The shoreline vegetation existing on the site is estimated to be 9,700 square feet and has been identified as "ACOE Avoided Area" on the project plans. The benthic habitat on the basin floor is a disturbed substrate composed of rock rubble and accumulated sediments. This substrate supports a sparse to moderate cover macroalgae community: no seagrass habitat, hardbottom habitat or hard or soft corals are present within the assessment area. Macroalgae species present include *Caulerpa prolifera*, *Batophora oerstedii*, *Acanthophora spicifera* and filamentous green algae.

PROJECT PURPOSE:

Basic: To improve boating access.

Overall: To improve boating access in Lower Matecumbe, Florida.

PROPOSED WORK: The applicant requests authorization to construct a new 3,020 square foot docking facility to accommodate up to 21 wet slips at the subject site, to install 40 mooring piles, to install permanent hand railing and “no mooring” signs within areas not designed as a mooring area, to install temporary floating turbidity barriers around all work areas that are in/over U.S. navigable waters, and to avoid the existing wetland shoreline.

AVOIDANCE AND MINIMIZATION: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The applicant will avoid 9,700 square feet of existing wetland shoreline. Turbidity curtains will be deployed to isolate the construction site from ambient waters.

COMPENSATORY MITIGATION: The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: If it is determined that the issuance of a DA permit is appropriate, mitigation will be required. The applicant has indicated that the mitigation proposal will be based on the Keys Restoration Fund (KRF). Time lag and risk will be a required component of any mitigation requirement.

CULTURAL RESOURCES:

The Corps evaluated the undertaking pursuant to Section 106 of the National Historic Preservation Act (NHPA) utilizing its existing program-specific regulations and procedures along with 36 CFR Part 800. The Corps’ program-specific procedures include 33 CFR 325, Appendix C, and revised interim guidance issued in 2005 and 2007, respectively. The District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

Should historic properties (i.e., properties listed in or eligible for inclusion in the National Register of Historic Places) be present within the Corps’ permit area, the proposed activity requiring the DA permit (the undertaking) is a type of activity that has no potential to cause an effect to an historic property.

The District Engineer’s final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking’s potential direct and indirect effects on historic properties within the Corps-identified permit area.

ENDANGERED SPECIES: The Corps has performed an initial review of the application, the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC), National Marine Fisheries Service (NMFS) Section 7 Mapper, and the NMFS Critical Habitat Mapper to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur in the vicinity of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project may affect species and critical habitat listed below. No other ESA-listed species or critical habitat will be affected by the proposed action.

Swimming green sea turtles (*Chelonia mydas*), loggerhead sea turtles (*Caretta caretta*), Kemp’s ridley sea turtles (*Lepidochelys kempii*), hawksbill sea turtle (*Eretmochelys imbricata*), the smalltooth sawfish (*Pristis pectinata*), giant manta ray (*Mobula birostris*), queen conch (*Alger gigas*); American crocodile (*Crocodylus acutus*), and West Indian manatee (*Trichechus manatus*) and/or its critical habitat.

This notice serves as request to the U.S. Fish and Wildlife Service and National Marine Fisheries Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

ESSENTIAL FISH HABITAT: Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act 1996, the Corps reviewed the project area, examined information provided by the applicant, and consulted available species information.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action may adversely affect EFH and/or fisheries managed by Fishery Management Councils and the National Marine Fisheries Service (NMFS). Implementation of the proposed project would directly impact approximately 3,060 square feet of submerged bottom. The effects of the project are determined to be minimal and temporary. These habitat(s) are utilized by the following species and their various life stages:

EFH (2 layers queried, 2 returned results)	
Layer: NOAA Essential Fish Habitat	
Species	Life Stage
Bluefish	Adult
Spiny Lobster	ALL
Bluefish	Larvae
Corals	ALL
Bluefish	Juvenile
Lemon Shark	Juvenile
Snapper Grouper	ALL
Atlantic Sharpnose Shark (Gulf of Mexico Stock)	Juvenile/Adult
Blacktip Shark (Gulf of Mexico Stock)	Neonate
Bluefish	Eggs
Shrimp	ALL
Sailfish	Adult
Caribbean Reef Shark	ALL
Sailfish	Juvenile

Source: <https://services2.arcgis.com/C8EMgrsFcRFL6LrL/arcgis/rest/services/EFH/FeatureServer/0>

Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: Water Quality Certification may be required from the Florida Department of Environmental Protection (FDEP). The project is being reviewed under FDEP application no. 44-0435890-002-EI.

COASTAL ZONE MANAGEMENT CONSISTENCY: Coastal Zone Consistency Concurrence is required from the FDEP. In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has not been verified by Corps personnel.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the

preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The Jacksonville District will receive written comments on the proposed work, as outlined above, until May 28, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to Maria Bezanilla at Maria.I.Bezanilla@usace.army.mil. Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, Jacksonville District, Attention: Maria Bezanilla, 9900 Southwest 107th Avenue, Suite 203, Miami, Florida 33176. Please refer to the permit application number in your comments.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.