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Managing fish and wildlife resources for their long-term well-being and the benefit of people.

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April 29, 2020

Ms. Sarah Fangman
Superintendent
Florida Keys National Marine Sanctuary
33 East Quay Road
Key West, FL 33040

RE: NOAA-NOS-2019-0094; Draft Environmental Impact Statement for Florida Keys National Marine Sanctuary: A Restoration Blueprint; Comments from the Florida Fish and Wildlife Conservation Commission

Dear Ms. Fangman:

The Florida Fish and Wildlife Conservation Commission (FWC) has reviewed the Draft Environmental Impact Statement for Florida Keys National Marine Sanctuary: A Restoration Blueprint (DEIS) and provide the following comments for Florida Keys National Marine Sanctuary (FKNMS) consideration.

Background

Current management of the FKNMS is based on a 1996 Final Environmental Impact Statement and Management Plan (adopted in 1997), and a 2007 Revised Management Plan. The proposed DEIS provides detailed information and analyses of a range of alternatives that would change current management of the FKNMS as established in 1997 and revised in 2007. The alternatives proposed in this DEIS would: (1) change the FKNMS boundary, (2) modify existing sanctuary-wide regulations, (3) modify existing and create new marine zones, (4) modify existing and create new marine zone-specific regulations, and (5) update the FKNMS management plan to reflect the proposed changes.

Comments

As my fellow Commissioners and I consider the management changes proposed in the Restoration Blueprint, we find ourselves asking important fundamental questions including; whether or not the current management strategies are working; if the new proposed management approaches are the best way to ensure a healthy ecosystem as well as sustainable fisheries in the Florida Keys; and whether or not the proposed increased local level access restrictions will even accomplish the goals of the DEIS at the ecosystem level.

It is critical to understand that gaining public support for our management decisions, or at a minimum, providing the public with clear communication about the sound reasoning behind our decisions, is an important part of the Commissions' management process. We are concerned that the public will struggle with the same questions that we have, and that the lack of clear answers will make it difficult to gain public support for the proposed management actions. In order to satisfactorily address these questions, further evaluation of existing management measures, as well as proposed management measures, are needed to ensure that the actions we ultimately take are necessary and expected to produce results.

Further, we believe that a strong partnership with our Co-Trustees and a regular revaluation of our measures is necessary for adaptive management, as anticipated by

the five-year management plan review process identified in the National Marine Sanctuaries Act and the Co-Trustees Agreement for Cooperative Management.

Ecosystem Management
Ecosystem-level impacts significantly influence the health, abundance, and productivity of marine resources. Factors such as good water quality, suitable water flow from the Everglades, and habitat abundance are essential to a healthy Keys ecosystem, but unfortunately, management of these impacts are not appropriately addressed in the DEIS. Fisheries management and access restrictions alone may not be sufficient to meet the goals of the DEIS. We do understand that many of these ecosystem impacts are beyond the scope of the FKNMS to control, but the effects of these impacts should still be identified and the actions to address them should be recognized in the DEIS. A successful Management Plan must address basic factors essential to ecosystem health. FWC places ecosystem-level management issues a high priority for management of the FKNMS.

Fisheries Management
As you know, FWC is responsible for fisheries management in Florida state waters and over the years, FWC has extended our management authority into adjacent federal waters for a large number of species that reside within the FKNMS; primarily coral reef-associated species. FWC is committed to its continuing lead role, as part of the shared partnership with FKNMS, in promulgating fisheries management actions within the FKNMS, including area closures and access restrictions for fisheries management purposes.

Area closures and access restrictions should be an action of last resort and should be considered on a case-by-case basis, only after evaluating the science and potential ramifications of such actions. As each of these proposals are considered, the rationale behind the proposal should be clearly identified. This includes a clear description of the problem that needs to be addressed, the goals to be achieved, knowledge gained from similar past experiences, what the likely outcome is, and an evaluation of the proposed management alternatives relative to expected stakeholder impacts. All of these steps are absolutely necessary to reasonably ensure a successful outcome but are not addressed in the current iteration of the DEIS.

FWC will be considering a number of fisheries management items within the FKNMS for rulemaking in the coming months which may impact proposals contained in the DEIS. For example, the proposed closure of Western Dry Rocks is a fisheries management action under FWC's authority and we will consider whether alternative management strategies are warranted for this area. We also look forward to working with the Gulf and South Atlantic Councils to consider fisheries management changes for federal waters of the FKNMS through the councils' rulemaking process.

Law Enforcement
FKNMS regulations are enforced by FWC. FWC does not have enough resources to enforce the current FKNMS regulations as well as the hundreds of additional changes to the current FKNMS regulations as proposed in the DEIS. FWC is requesting that the FKNMS take immediate action to secure additional funding for FWC officers and equipment before finalizing the DEIS.

DEIS Process
FWC would like to bridge the gap between those who support the actions proposed in the DEIS and those who oppose them. As managers, FWC and the FKNMS need to improve public confidence in the management process and find ways to gain stakeholder trust.

The current DEIS process has not built public confidence and needs to be reset in order to best implement adaptive management measures. Providing sound justification for management actions, as well as transparency about the process and the roles of each manager, will go a long way in gaining that confidence. If we are implementing adaptive management correctly, it should allow for access restoration as management goals are achieved and fisheries and their habitats rebound. That is how we build trust and confidence in the process.

Additionally, in order to provide clarity and transparency for our partners and the public, FWC is requesting that all FKNMS implementing agreements be reviewed and updated, including the Protocol for Cooperative Fisheries Management.

Additional Comments

My Commissioners and I are requesting that the five-year reviews required by the National Marine Sanctuaries Act and its supporting regulations, and the Co-Trustees Agreement for Cooperative Management, be presented to the FWC every five years. At the time of a five-year review, the Co-Trustees Agreement also requires the FKNMS to re-propose both the Management Plan and all regulations in their entirety. FWC will utilize this 5-year review process to determine if fishery management actions included in the Management Plan are working as intended, need to be modified, or repealed in state waters.

FWC technical comments and recommendations with supporting information for the DEIS are included in Attachment 1. In summary:

- FWC supports making coral restoration and recovery in the Florida Keys a primary focus of the DEIS.

- FWC agrees with a re-evaluation of boundaries, but needs to see a more common-sense approach to this process. Boundary expansion could be warranted in areas where additional protections are necessary such as Pulley Ridge, but is not warranted in other areas and should be reduced.

- FWC does not support large, contiguous area closures such as the proposed areas around Carysfort Reef, Long Key/Tennessee Reef and the Tortugas Corridor. Ecosystem and fisheries benefits for these three large areas are poorly understood. Further biological and social science is needed to evaluate if large area management can be effective in the FKNMS.

- A more balanced approach between resource needs and user access is needed for proposed management of Wildlife Management Areas. FWC advocates for further evaluation of these areas on a case-by-case basis to determine better ways to achieve management goals and still provide user access. FWC does not support increased regulations or area closures, such as those proposed at Boca Grande Key, Woman Key, Snipes Key, and Marvin Key, where current regulations are deemed sufficient for resource needs or where the ecosystem/fisheries benefits of the proposed action are not understood.

- FWC does not support the proposed actions at Western Dry Rocks and recommends they be removed from the DEIS. FWC views the proposal as a fisheries management issue in state waters, which is under the authority of FWC. The Commission will consider rulemaking items for this area, and others, in the coming months.

FWC appreciates the coordination and cooperation with FKNMS and appreciates the opportunity to provide comments on the Draft Environmental Impact Statement for Florida Keys National Marine Sanctuary. Should you require additional assistance regarding our comments, please feel free to contact Jessica McCawley, Director for FWC's Division of Marine Fisheries Management at (850) 487-0554 or Jessica.McCawley@myfwc.com. We look forward to working with you and your staff as you move through the next phases of this process including finalizing the EIS, the rulemaking, and on each 5-year review of the management plan and changes to supporting regulations.

Sincerely,

Robert A. Spottswood
Chairman

rs/jm/mg/lg

Attachment

cc: John Armor
Noah Valenstein

This attachment (Attachment 1) includes Florida Fish and Wildlife Conservation Commission (FWC) comments on the Draft Environmental Impact Statement (DEIS) for Florida Keys National Marine Sanctuary (i.e., Restoration Blueprint).

Guiding principles
FWC has reviewed the DEIS through the lens of five guiding principles. These principles are as follows:

Guiding Principle 1 – Addressing ecosystem-level changes are a high priority
FWC recognizes the importance of addressing ecosystem-level changes that inherently have an impact on the marine resources of the Florida Keys, from the habitats to the fishes and invertebrates. Water quality, water flow through the Everglades, and the loss of corals are examples of conditions that are influenced by factors occurring both within and outside of the Florida Keys ecosystem.

Guiding Principle 2 – Reserve fisheries management to FWC in state waters

Guiding Principle 3 – Area closures and access restrictions
Area closures and access restrictions should be an action of last resort and should be considered on a case-by-case basis after an evaluation of the pertinent scientific information and potential ramifications of such actions has been conducted.

Guiding Principle 4 – Must have clearly defined rationale for proposed management actions
The rationale behind proposed actions should be clearly defined and provided for in the management actions. This includes a clear description of the issues that are being addressed, what has been learned from past experiences, what the likely outcomes are, and an evaluation of the proposed actions relative to the expected stakeholder impacts.

Guiding Principle 5 – Management actions must be fair to all stakeholders
Proposed actions should be as fair as possible to all stakeholders while protecting the resources.

Providing update every 5 years
The National Marine Sanctuaries Act (NMSA) section 16 U.S.C. § 1434(e) and the supporting regulations in 15 C.F.R. § 922.160(b), require that the Florida Keys National Marine Sanctuary (FKNMS) conduct a review of the sanctuary management plan and regulations every five years and following that review, re-propose FKNMS regulations for the Governor of Florida to review and certify. The NMSA stated purpose of this review process is to "evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of site-specific management techniques and strategies".

FWC looks forward to our continued partnership with FKNMS during the required five-year reviews and re-proposals.

Management agreements
FWC is requesting that FKNMS work with FWC, the Florida Department of Environmental Protection (DEP), and the Gulf and South Atlantic fishery management councils to expeditiously update all existing management agreements, including but not limited to, the Co-Trustees Agreement for Cooperative Management and the Protocol for Cooperative Fisheries Management. We look forward to working with all the affected entities to complete this task.

FWC rulemaking

FWC is responsible for fisheries management in Florida state waters and, over the years, has extended our management authority into adjacent federal waters for a large number of species that reside within FKNMS, primarily for coral reef-associated species. The Commission is committed to continuing its lead role in promulgating fisheries management actions within FKNMS in state waters and in federal waters for species managed by FWC in federal waters, including area closures and access restrictions for fisheries management purposes.

FWC recommends several proposed items in the DEIS that are within state waters be considered for rulemaking by the Commission. These regulations include adding no anchor zones to protect coral reefs in existing state waters Sanctuary Preservation Areas (SPAs). If the FWC prohibits anchoring in SPAs, which are sensitive coral reef areas, this regulation would provide added ecosystem benefits to the entire Florida Keys and help protect the Florida reef tract from accidental damage caused by boaters, divers, and fishers. Similarly, FKNMS is proposing to create several new SPAs and expand the areas of some SPAs to better protect coral reef habitat. For new SPAs or expanded SPAs in state waters, FWC could consider implementing regulations such as, no fishing, and no trapping, and possibly no anchoring in these areas. Additional rulemaking items for the Commission to consider are less restrictive fisheries management actions at Western Dry Rocks and changes to Florida's fish feeding regulations to align with the proposed FKNMS regulations. Because FWC exclusively manages fisheries in state waters, FKNMS should remove fisheries management regulations proposed for state waters from the next iteration of the Restoration Blueprint, as they will be handled by FWC.

The next steps for FWC are to proceed with fisheries management rules in state waters. As part of the state rulemaking process, FWC intends to hold public workshops in the coming months. Following these workshops, FWC would consider draft rules for management actions as needed.

Management Plan (pp. 63-75)

FWC is largely supportive of the proposed modifications to FKNMS management plan. However, the goals, objectives, and activities outlined in the DEIS are exceedingly vague and difficult to evaluate. More detail should be included to clarify how management plan goals, objectives, and activities complement proposed regulatory changes throughout the DEIS. We recommend that the next draft of the management plan section of the DEIS provide more details, similar to the 1997 FKNMS Management Plan, which includes specific activities or actions, timelines for implementation/completion, estimated costs, funding availability, and identification of who has authority or should be responsible for implementing each aspect of the plan (i.e., FKNMS and/or partners). We also request that the next draft of this management plan section include analyses and results of past management plan activities/actions. It should be clear which actions have been completed and not completed, whether completed actions were successful in achieving FKNMS goals and objectives, why actions were or were not successful, and whether incomplete actions should continue to be pursued. The outcomes of many of the past objectives/actions should drive currently proposed regulations in this DEIS.

Management Plan Goal 3: Reduce threats to sanctuary resources and manage human uses and associated impacts.

Law Enforcement

One of the objectives of the Management Plan is to facilitate and manage human use to ensure it is compatible with sanctuary resource protection goals. To meet this objective, the Management Plan includes four specific ways/activities (italicized below) to enhance regulatory compliance through law enforcement partnership opportunities. FWC provides the following information to assist FKNMS with expanding the Management Plan section of the DEIS:

- *Plan Recommends: Identify/obtain additional funding for resource related law enforcement.*

  Maintaining an adequate number of law enforcement personnel and funding to patrol Monroe County and FKNMS continues to be a critical need. Consideration must be given during the DEIS process to ensure that adequate law enforcement resources are available. Additional funding for positions and specialized equipment is critical to increasing enforcement efforts and providing the level of law enforcement presence necessary to make the new regulations effective within the sanctuary.

  In 1996, prior to FKNMS being established, the annual cost to NOAA for enforcement programs for the existing Key Largo and Looe Key National Marine Sanctuaries was $610,000. At that time, there were 45 DEP Florida Marine Patrol positions (which preceded FWC) and support personnel assigned to Monroe County as a whole to conduct patrols throughout the Keys. In that same year, the FKNMS Management Plan recommended an increase of 43 officers dedicated to patrolling FKNMS, in addition to the 45 positions already assigned to Monroe County. Of these proposed 43 positions, only 17 were ultimately funded by NOAA.

  In 2012, the FKNMS Scoping Notice reported enforcement levels had fallen well below what could be considered "minimally acceptable." This occurred despite numerous requests from FWC and responses from NOAA regarding the commitment of funding for the staffing of sufficient FWC law enforcement services. In actuality, law enforcement funding had fallen to levels which preceded the creation of FKNMS, when only the Key Largo and Looe Key National Marine Sanctuaries existed. Over the past twenty years, FWC has struggled to maintain an adequate law enforcement presence given the vast area to patrol, the small number of officers, and substantial budget cuts.

  Funding from NOAA to FWC for FKNMS patrols has fluctuated over the years and the current annual funds have been reduced by more than 70% since the peak. At its peak, which lasted for seven years, the average annual funding was $1.38 million, compared to the current annual funding of $366,859 provided through a Joint Enforcement Agreement (JEA) with NOAA. The JEA funding is paid based on time and resources committed to patrolling FKNMS, not for funding equipment or positions. All 17 positions funded by NOAA in 1996 have been either eliminated or the funding switched to a state funding source within FWC. Currently, a total of 56 law enforcement positions are assigned to patrol Monroe County, including the 3,800 square miles within FKNMS.

  Currently, there is no plan within NOAA for providing additional funding to FWC law enforcement in FKNMS. With the proposal to expand FKNMS by more than 700 square miles and adding many new areas and zones, there will be a significant lack of staffing to provide adequate patrols. FWC is concerned that current staffing levels are far below critical needs and will not provide a sufficient enforcement presence.

While FWC continues to stand beside NOAA in its efforts to protect the FKNMS's important resources, we also urge increased collaboration to re-develop the critical law enforcement resources needed to ensure long-term success of the FKNMS program and its priorities. Without additional support to increase law enforcement staff and equipment, FWC will be unable to provide the level of enforcement necessary to accomplish the goals proposed in the DEIS.

- *Plan Recommends: Explore and establish additional partnerships to support law enforcement (e.g., USCG, USFWS, DEP enforcement of vessel groundings through the Florida Coral Reef Protection Act, Monroe County).*

  FKNMS should financially support training and utilization of DEP Office of Resilience and Coastal Protection to investigate vessel groundings through the Florida Coral Reef Protection Act. This would provide DEP the opportunity to train subject matter experts on coral reef grounding investigations. FWC could assist where needed by providing vessel support. The USCG is already a patrol asset, depending on their primary mission (e.g., interdiction of smuggling or Search and Rescue Response vs. fisheries).

- *Plan Recommends: Explore the use of technology for enforcement activities (e.g., unmanned aerial systems, vessel monitoring systems).*

  The expansion of a Vessel Monitoring System (VMS) could be a valuable tool for enforcement of FKNMS regulations. VMS is a general term to describe systems that are used to allow tracking and monitoring of fishing vessel activities. VMS is currently required in the Gulf of Mexico on commercial vessels targeting reef fish and in the Atlantic on commercial vessels harvesting rock shrimp as well as other fisheries. VMS has proven to be an effective tool giving law enforcement the ability to remotely monitor commercial fisheries activity. VMS provides valuable data to law enforcement allowing officers to plan intelligence-based patrols and target areas of high activity or areas that are being overlooked. VMS is also an effective tool at identifying vessels conducting activity in prohibited areas or remote locations. However, if FKNMS wishes to explore VMS requirements for fishing vessels (commercial or recreational/for-hire), FKNMS should work with FWC and the federal councils to consider regulations through their respective processes, as appropriate. Such a proposal would need to be discussed extensively within the fishing community and wider public, given the controversial nature of VMS, and costs associated with installing, maintaining, and operating VMS on vessels.

- *Plan recommends: In conjunction with law enforcement and the community, develop a "see something, say something" app that facilitates public information sharing on impacts to sanctuary resources and potential illegal activity.*

  FWC already has this technology and is currently accomplishing this through Wildlife Alert. The public can report violations via phone by calling or texting. The public can also report violations online through the Fish|Hunt FL (FWC Mobile) App on their smartphone. We recommend FKNMS use this existing system to address this need.

- *Plan Recommends: Evaluate effectiveness of and, as needed, update the placement and number of marker, mooring, channel, and information buoys.*

As indicated in the Scoping Notice completed in 2012, FKNMS is not obligated by law to obtain waterway marker permits from FWC for signs or buoys placed in FKNMS waters, but FWC requests consideration of doing so for a variety of reasons. By permitting markers in FKNMS through FWC's straightforward process, FWC will be better able to inform FKNMS when damaged or missing markers are reported through FWC's statewide reporting program. This process will also help to ensure consistency with state and federal standards for waterway markers, thus making recognition of waterway markers and their meanings easier for boaters using the waters within FKNMS.

With regards to boating safety upon the waters of the state and within the Sanctuary boundaries, proper maintenance of waterway markers is a critical need. Neglected marker and/or buoys can become a navigation hazard for boaters operating at night or in inclement weather. A strong commitment and a firm plan of funding by the FKNMS for installation and maintenance of Sanctuary markers is imperative to keeping boaters and other user groups safe on the water. Currently, the FWC Boating and Waterways Section maintains over 10,000 waterway markers statewide. FWC has just enough manpower to catch up on maintenance and repairs needed due to the 2016 and 2017 hurricane season. As a result of these active hurricane seasons, along with the additional cost associated with ramping up maintenance operations, additional funds have been requested from the state Legislature to meet these existing statewide needs. Any requests for additional markers and their maintenance outside of the current FWC scope of responsibility must be accompanied by a firm commitment of funding for additional staff. FWC cannot assume the financial burden of these additional signs or of the maintenance of all the signs in the FKNMS.

Ultimately, if FKNMS utilizes FWC's process and requirements for markers, signage and buoys this will allow FWC and FKNMS to manage sanctuary waterways in the most effective and efficient manner possible. This approach will improve public understanding of the marked areas, will help with compliance, minimize impact on benthic resources due to groundings and prop scarring, and improve conservation efforts for species that rely on signage for protection. For example, during a site visit in 2012, FWC staff noted that only one of the islands in Key West NWR was posted; it had a single, dilapidated sign on it. Several of these islands contain nesting colonies of white-crowned pigeons (listed as a State-designated Threatened species) or nesting wading birds. FWC staff has received reports that some of these colonies were being disturbed by ecotour operations. FWC recommends these important colonies be better posted, especially where there is evidence of human disturbance. FWC also recommends that zoning information be easier to find on NWR web pages and maps.

Management Plan Goal 4: Increase awareness and support for FKNMS and its resources.

<u>Education</u>

Education is an integral component of any management plan and it is not adequately addressed within the management plan section of the DEIS. Ensuring the general public understands the problems, and what is being done to address the problems, and encouraging active engagement within the community will generate support for conservation and restoration efforts and spread awareness on issues that impact all user groups. We encourage FKNMS to work with FWC and other relevant entities to promote education on issues impacting the Florida Keys ecosystem. To that end, we support Goal 4 (Increase awareness and support for FKNMS and its resources). We look forward to seeing more detail about the outreach strategies FKNMS intends to use for various topics in the next version of the Restoration Blueprint.

Ecosystem Level Items

Water Quality

Concern about water quality has been a central issue discussed by federal fishery management councils, FWC, and stakeholders throughout the public comment period of the DEIS. Tropical coral, hardbottom, and seagrass communities have evolved to thrive in relatively low nutrient and chlorophyll conditions. As such, the Florida Keys ecosystem responds rapidly and significantly to nutrient loads that would be considered small in many other regions. Water quality within FKNMS is impacted not only by local factors, but also by perturbations that originate from outside sanctuary waters. FKNMS is influenced by the Florida Current, the Gulf of Mexico Loop Current, inshore currents of the Southwest Florida Shelf, discharge from the Everglades through Shark River and Taylor Sloughs, and by tidal exchange with both Florida Bay and Biscayne Bay. Water quality is a key element that connects all sanctuary resources and is essential in maintaining the richness and diversity of the Florida Keys ecosystem. The health and quality of these diverse habitats influences the productivity of numerous marine resources, including our fishery resources.

Although water quality is mentioned within the DEIS, FWC recommends that a full analysis of factors affecting water quality, including a discussion of corrective actions to improve water quality at local, regional, and far field scales, is warranted within the next version of the Restoration Blueprint. Additionally, we encourage FKNMS to increase its leadership role in addressing water quality issues within the Florida Keys ecosystem. That being said, FWC recognizes the complexity of inter-agency and inter-state coordination on addressing water quality issues and understands that FKNMS does not have funds available for water quality remediation and that much of the regulatory authority resides in other agencies. FWC also recognizes that because of these limitations FKNMS will need to be creative in its leadership role. First and foremost, we encourage FKNMS to clearly and consistently strive to communicate the importance of addressing water quality in FKNMS, the ecosystem and economic factors that are impacted, and on the types of corrective actions that will be required to affect change in water quality. This education effort needs to occur at all levels from local stakeholders to decision makers. FWC also recommends that FKNMS reinvigorate its participation and messaging in local and regional processes that have an impact on water quality. Finally, FWC encourages FKNMS to work with its partners on the Water Quality Protection Program (WQPP) Steering Committee to develop a bold new vision for improving water quality in the Florida Keys.

The WQPP has been an integral component of FKNMS from its inception. Its role, as defined in the organic act that created FKNMS, is to “recommend priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the Sanctuary including restoration and maintenance of a balanced, indigenous population of corals, shellfish, fish, and wildlife, and recreational activities in and on the water”. A renewed, reenergized effort among the agencies and stakeholders represented on the WQPP is critically needed to improve the health and promote the recovery of the Florida Keys ecosystem. In the sections below, we will highlight water quality issues in South Florida that should be addressed by the WQPP and within the DEIS, including: 1) local issues, such as improvements and issues associated with wastewater and stormwater disposal and improving conditions of canals, 2) regional South Florida influences, such as the restoration of freshwater from the Everglades and tidal flushing of Florida Bay and impacts of partially treated wastewater entering coastal waters, 3) far field external influences, such as those from the Gulf of Mexico and Mississippi River, and 4) large-scale global issues, such as climate change and ocean acidification.

Wastewater treatment is a central issue that impacts local nearshore conditions in the Florida Keys. Substantial progress has been made in moving to advanced wastewater treatment in recent years. Wastewater infrastructure upgrades and the decommissioning of outdated septic systems and subsequent conversion to sewer systems will likely reduce wastewater impacts, particularly in nearshore waters.

Continued corrective action is required on this issue, including but not limited to the closure of outfall pipes (including those upstream of the Florida Keys), continued upgrades of aging infrastructure, continued septic to sewer conversions in regions of the Florida Keys where this has not yet occurred, evaluation of shallow injection well impacts and the development of deep injection wells if appropriate, and ensuring that centralized wastewater treatment systems are able to accept wastewater from non-municipal sources (or updating collections systems to accommodate such effluent). Care should be taken to consider the unique geology of the Florida Keys in developing wastewater disposal systems. Wastewater from on-site sewage treatment disposal systems and from conventional, secondary wastewater treatment plants has been shown to seep into the porous limestone and pollute the groundwater. The groundwater and the nearshore waters in the Keys are closely connected. Research has shown that the polluted groundwater quickly migrates to nearby canals and basins, ultimately ending up affecting nearshore water quality. FWC recognizes that the WQPP is going through a process to identify water quality stressors and develop strategies to address these stressors. FWC recommends that these issues should be highlighted in subsequent versions of the Restoration Blueprint and that progress on and future directions for addressing wastewater be reported.

Stormwater impacts also affect water quality in the Keys by delivering excess nutrient loads into inshore waters. The Florida Keys presents a somewhat unique challenge for stormwater management as there is not enough elevation or land area available for conventional treatment methods such as the construction of artificial wetlands, and swales are often inundated by high tides in some areas. FWC recognizes that Monroe County is considering developing best management practices for stormwater throughout the County and applauds them for their efforts. However, the current county code is based on 30-year old rules established by the South Florida Water Management District and development has greatly increased since the county code was enacted. Previous surveys conducted in the Monroe County Stormwater Management Master Plan highlighted that only 10-20% of residential areas have stormwater systems. In some areas, untreated stormwater is injected into shallow wells and nutrients can leach into nearshore waters in the same manner as wastewater. Clearly more work needs to be done and coordination with multiple state, county, and municipal government agencies is required, perhaps through the WQPP steering committee. In addition to stricter stormwater management, FWC recommends the consideration of preventative measures such as reducing impervious surfaces, where feasible, to minimize the magnitude of stormwater runoff. A clear description of how FKNMS is working with other agencies to evaluate and address stormwater runoff within the DEIS would help alleviate concerns that FWC has heard from stakeholders and could provide educational information on stormwater issues and prevention.

There are more than 170 miles of residential canals in the Florida Keys mostly dredged decades ago largely without considering water quality impacts. Water quality monitoring has provided evidence that residential canals have high nutrient and bacteria concentrations that are the result of inadequate wastewater and stormwater containment/treatment, disposal of fish and yard waste, and accumulation of floating seagrass and sargassum. Poor mixing, and accumulation and decay of organic material at the bottom of canals causes many to periodically become anoxic. As a result, quite a few residential canals have very low dissolved oxygen concentrations. Residential canals with poor water quality readily exchange flow with nearshore waters and can have detrimental ecological impacts over a wide area. FWC recognizes that important work has been done to address canal water quality. All the canal systems have been inventoried and categorized by Monroe County, and a Canal Management Master Plan was endorsed by the WQPP in 2013. Recently Monroe County was awarded an EPA grant to investigate barrier technology for sargassum in canals, which has increased in frequency and intensity in recent years. FWC applauds these efforts and recommend these efforts are highlighted within the DEIS. Furthermore, FWC also advocates for FKNMS to highlight best practices for reducing water quality issues within residential canals.

In addition to these local stressors impacting water quality in the Keys, regional factors are a significant challenge and concern. Restoration of freshwater flow from the Everglades to downstream bays and estuaries is a critical component of addressing water quality issues in the Florida Keys. Elevated salinity conditions (and even seasonal hypersaline conditions) in Florida Bay, largely driven by a lack of freshwater input and increased evaporation, have contributed to massive changes in the ecosystem. Seagrass communities have changed in terms of species composition due to a shift from estuarine to marine conditions as a result of reduced freshwater flow. High temperatures and seasonal pulses of hypersaline conditions have resulted in extensive seagrass die-offs. Furthermore, persistent algal blooms are now more frequent in this region and have been associated with sponge die-offs and the associated communities dependent on them. Florida Bay serves as a critical nursery for many species and evidence suggests that direct and indirect effects of water quality in this area can impact other regions of the Florida Keys. For example, Florida Bay represents the primary nursery for shrimp that are harvested in offshore waters of the Dry Tortugas. Declines in catch in this fishery have been associated with perturbations in water quality in Florida Bay. A separate, but related, issue further exacerbating poor water quality conditions in Florida Bay is the lack of tidal flow between the Bay and Atlantic Ocean. After high priority local and regional water quality issues are addressed, FKNMS should consider evaluating the impacts of restoring tidal flow on marine resources, including coral reef health. It is imperative for FKNMS to advocate for and set defensible goals within the existing Comprehensive Everglades Restoration Program (CERP) framework, such as reducing the frequency and magnitude of hypersaline events. Without addressing regional South Florida water quality issues, restoration and habitat protection efforts will be limited in terms of success and scope. Corrective actions will require the coordination of multiple agencies and as such, FKNMS should explicitly define their role in this process.

Due to the connectivity of far field regions via oceanographic currents, conditions in the Gulf of Mexico and the Mississippi River basin can influence water quality issues in the Florida Keys. The Florida Keys are downstream from the Gulf of Mexico Loop Current and Yucatan Current which transports water from the western coast of Florida, Mississippi River outfall, and various other sources. Research has shown that a large source of phosphorus in Florida Bay is derived from Gulf of Mexico waters. Similarly, the Gulf of Mexico is a significant source of nitrogen to waters around the Florida Keys. However, more research is needed to evaluate the degree to which water quality within the Florida Keys is impacted by the greater Mississippi watershed and the Gulf of Mexico. FWC recommends FKNMS consider how watershed management practices in the Mississippi River Basin affect waters in the Keys and how the sanctuary can be involved in evaluating and managing far field external influences.

Climate change and related processes are likely to have impacts that are relevant to water quality issues in the Florida Keys. FWC recognizes that these processes operate on a global scale and multi-national cooperation is needed to address them. Rising ocean temperatures, sea-level rise, coastal erosion, storm intensity, and ocean acidification are all components of climate change and are of considerable concern to water quality issues within the Florida Keys ecosystem. Temperature extremes will directly impact sessile organisms such as corals, sponges, seagrass and other benthic organisms through poor growth conditions and/or death. Sea-level rise, coastal erosion, and storm intensity are all likely to increase as a result of climate change. More frequent shoreline inundation with seawater will subsequently increase turbidity and nutrients from wastewater and stormwater runoff into nearshore waters, thus furthering stress and pollution to coral reefs and other benthic communities. Although it is not possible to precisely predict how climate change will cascade through the sanctuary's marine ecosystems, local efforts to reduce the potential impact via a reduction in nutrient loading is recommended. FKNMS should work with the appropriate municipalities to ensure that wastewater and stormwater infrastructure is equipped to accommodate changing conditions associated with sea level rise and higher-intensity storms.

Coral Reef Restoration and Recovery

FWC recognizes that the degradation of the coral reef habitat is one of the most important ecosystem management issues for FKNMS. More frequent coral-bleaching events, Stony Coral Tissue Loss Disease (SCTLD), degraded water quality, and direct human impacts, such as anchoring, trapping, fishing, and diver contact with reefs, have all negatively impacted the health of coral reef communities in the Florida Keys. The most recent Coral Reef Evaluation and Monitoring project, which has monitored the condition of coral reefs in the Florida Keys since 1996, determined that only 2% coral cover remain at their sites. To put this in a historical context, healthy Florida Keys reefs typically have ~30% coral cover. The SCTLD has markedly impacted the abundance of many of the large, structure-forming coral species. The reef tract-wide presence of SCTLD has led to the Coral Rescue program, an unprecedented step that FWC and the coral conservation community have taken to remove healthy corals from the wild and place them at various aquariums around the country to preserve the genetic diversity of these at-risk corals. FWC supports and is an active participant in the ever-growing effort to restore reefs, including the Mission: Iconic Reefs initiative. FWC has significantly elevated our effort and attention toward coral reefs and has established coral reef restoration and recovery as one of our highest priorities which entails, among other things, increased coral reef science and conservation actions and outreach and education through our Coral Crew program. FWC is also committed to working closely with our partners to foster the needed renewed focus on water quality through the Water Quality Protection Program and other management venues. The DEIS serves as an opportunity to address aspects of coral reef restoration and recovery as part of the broader initiatives underway. FWC provides a discussion on six topic areas that could be a means to structure the next version of the Restoration Blueprint and provides explicit recommendations on the proposed zones and management actions presented in the DEIS. The six topic areas are:

- **Protect Coral Reef Habitat**
- **Protect Coral Nurseries**
- Develop **Best Site Management Practices** associated with coral reef restoration
- Evaluate the Efficacy of the 60 **Federal Lobster Trap Exclusion Zones** implemented by the South Atlantic and Gulf of Mexico Fishery Management Councils
- **Manage Diver Numbers** at high use reefs
- Consider **Artificial Reefs** to provide alternative dive and fishing opportunities

Protect Coral Reef Habitat

Protecting coral reef habitat from physical damage is an important part of the overall management strategy for restoring FKNMS reefs especially when such protection is paired with actions that address ecosystem-scale impacts (e.g., degraded water quality and conducting well-designed coral reef restoration actions). FKNMS has proposed new zones designed to protect previously under-represented patch reef and deep reef habitats and proposed some expansions of existing protective zones to better encompass key reef habitat and proposed additional protective measures, especially no anchoring to add additional protections from physical damage. FWC has applied our guiding principles first by evaluating the primary regulatory management additions to the existing SPA regulations, namely the addition of no anchoring and idle speed within SPAs, and then by evaluating each proposal on a case-by-case basis. In all instances, we apply our core value of balancing resource protection and user access.

The general SPA definition in the DEIS contains three central regulatory management actions: no fishing, no anchoring, and idle speed only. This contrasts with the existing SPA regulations which only prohibit fishing, except when explicitly modified on a locational basis. The key location-by-location exceptions are allowances for certain types of bait fishing and opportunities for trolling and we provide our recommendations on these management measures elsewhere in this comment letter. FWC supports continuing the no fishing regulation as described in other sections of this comment letter and where

specifically noted on a case-by-case basis in this portion of the Coral Restoration and Recovery Section. Similarly, FWC supports the no anchoring provisions except where noted. In contrast, FWC does not support the proposed idle-speed provisions at any of the SPAs discussed in this "Protect Coral Reef Habitat" topic area. By far, most of the area in the existing SPAs as well as the newly proposed SPAs are at such depths that the addition of an idle-speed regulation will not provide natural resource protection. Additionally, those areas of the SPAs that are shallow are well marked on charts and can easily be identified using onboard GPS chart plotters. FWC acknowledges that groundings on reefs still occur, but these groundings are typically the result of negligent actions that will not be altered by a sanctuary idle-speed regulation. Similarly, FWC has concluded that FKNMS-generated idle-speed regulations designed to address safety issues at popular dive reefs are unnecessary. Existing laws that require vessels to move at idle speed within 300 ft of a properly displayed dive flag provides enough enforcement authority to effectively address public safety.

Recommendations on the zones that are primarily designed to protect coral reef habitat are provided below. Note that when an alternative other than status quo is recommended without further clarification, it also means that idle speed is not included in our recommendations.

<u>Key Largo Existing Management Area (Alternative 2) (p. 87)</u>
FKNMS proposes to add a no-anchor zone to this area. FWC does not support this additional management measure and recommends Alternative 1 – Status quo. The resource benefits of no-anchoring across this large area are hard to assess and not developed in the DEIS, whereas the potential to negatively impact activities requiring anchoring is likely substantial.

<u>Turtle Rocks Sanctuary Preservation Area (SPA) (Alternative 2) (p. 88)</u>
FKNMS proposes this new zone in a shallow patch reef area as a no-fishing, no-anchor, and idle-speed zone in Alternative 2. This zone contains numerous high-relief patch reefs. This zone encompasses nearly 100 % of the existing Turtle Rocks Coral Formation Area within John Pennekamp Coral Reef State Park. The proposed SPA includes additional patch reefs not in the existing Park and provides added protection by prohibiting anchoring. Current FWC rule (68B-24.0065, FAC) prohibits all spiny lobster fishing in the Turtle Rocks Coral Formation Area, as well as all patch reefs within John Pennekamp Coral Reef State Park. FWC is supportive of components of Alternative 2, including no fishing and no anchoring, but is not supportive of the addition of an idle-speed regulation. FWC also notes that the SPA does not encompass the entire Turtle Rocks Coral Formation Area and recommends that the area be slightly expanded to the north to include the entire area. This can be accomplished by placing the northern boundary just north of the marker that marks the edge of this shoal. FWC looks forward to working with the FKNMS to better define the boundaries of Turtle Rocks SPA.

<u>Carysfort Reef Sanctuary Preservation Area (Alternative 2) (p. 90)</u>
FKNMS proposes a suite of alternatives for this area. Alternative 3 and 4 are respectively addressed in the "Manage Diver Numbers" topic area below, and in the "Large, Contiguous Areas" towards the end of this attachment. Here, Alternative 2 will be addressed. In Alternative 2, FKNMS proposes to expand the boundary of the existing SPA inshore and offshore to the edge of the deep reef. The inshore expansion will incorporate additional coral reefs in the back-reef portion of Carysfort Reef and the Coral Restoration Foundation's nursery. The offshore expansion will encompass the deep reef. The deep reef areas at Carysfort Reef (and other locations where similar SPA expansions have been proposed) were recently assessed by FWC and at each location they observed ESA-listed species and low incidence of Stony Coral Tissue Loss Disease. Those deep-reef corals are a likely source for wild coral larvae that can repopulate reefs that have been degraded and can be a source for gamete collection for active restoration efforts. FWC

is supportive of the Carysfort Reef SPA Alternative 2 with the following management actions within the Alternative 2 boundaries:

- No anchoring – entire Alternative 2 zone
- No fishing – as proposed in Alternative 2, except as modified below
    - Angling (hook and line only, drift fishing or trolling) permitted at depths greater than 60 feet within Alternative 2 zone boundaries
- FWC does not support idle speed within this SPA.

FWC desires to allow as much user access as possible while still protecting coral reef habitat. By limiting fishing activity to areas at depths greater than 60 feet, protection of deep reef corals from physical damage remains robust while retaining reasonable fishing access.

<u>The Elbow SPA (Alternatives 2 and 4) (p. 93)</u>
FKNMS has proposed two alternatives to update The Elbow SPA. FWC does not support the expanded boundary as proposed in Alternative 4. Rather, FWC supports the no-anchoring provision in Alternative 2 but not idle speed. Further, FWC supports a slight expansion of the inshore boundary of the existing SPA to encompass the Coral Restoration Foundation's nursery (See the "Protect Coral Nursery" section). FWC looks forward to working with the FKNMS to better define the boundaries of The Elbow SPA.

<u>Key Largo Dry Rocks SPA, Grecian Rocks SPA, and Key Largo Dry Rocks, Grecian Rocks, and North Rocks SPA (Alternative 2) (p. 95)</u>
FKNMS has proposed combining the two existing SPAs and connecting them to North Dry Rocks to create a new SPA in Alternative 2. FWC is not supportive of this action. Although the rationale for making one SPA and hence fewer markers and more habitat is logical, such changes should be accompanied by a careful evaluation of similar areas, namely the 60 Federal Lobster Trap Exclusion Zones already present. FWC, in a separate portion of this Coral Reef Restoration and Recovery section, outlines a process to address those zones. It is hoped that the outcome of that effort will be fewer habitat protection areas but an improvement in meaningful protection. FKNMS approach to these SPAs could be considered at that time. Therefore, FWC recommends Alternative 1 (status quo) for these SPAs. However, FWC supports adding no anchor within the Alternative 1 boundary but not idle speed.

<u>French Reef SPA (Alternatives 1, 2, and 4) (p. 97)</u>
FKNMS is proposing management changes (no anchor and idle speed) in Alternative 2 and a reconfiguration of the boundary in Alternative 4. FWC does not support the boundary reconfiguration. In fact, FWC suggests that FKNMS consider removing French Reef as an actively managed zone. However, we do recommend that the mooring buoys remain to allow and encourage use at French Reef. FWC has selected French Reef for this recommendation because the coral community at this reef is more degraded than many reefs and because of its proximity to Molasses Reef, a very high-use reef. FWC sees this recommendation and similar recommendations at Delta Shoal and Rock Key (both addressed later in this section) as an opportunity to gauge some of the relative merits of habitat protection closures. If this recommendation is followed, FWC recommends robust multi-year monitoring of many variables at these reefs and similar nearby reefs that are receiving additional habitat protection. Monitoring could include everything from user activity, benthic community structure, fish community structure, and debris accumulation. Finally, should any monitoring metrics indicate that removing active management causes marked change to reef conditions or reef protection, such as an increase in debris or an increase in damage to corals on these reefs, FWC would be willing to reconsider the nature of management at these areas. Conversely, should the monitoring reveal that the conditions at these reefs are similar to the nearby reefs

where protections are maintained, there would be opportunity to engage in a discussion regarding best management practices at reefs.

Molasses Reef SPA (Alternatives 2 and 4) (p. 99)
FKNMS is proposing management changes (no anchor and idle speed) in Alternative 2 and a reconfiguration of the boundary in Alternative 4. FWC supports Alternative 2 which retains the status quo boundary and management (no fishing), and supports the addition of no anchoring, but not idle speed.

Pickles Reef SPA and Snapper Ledge SPA (Alternative 2 and 4) (p. 101)
FKNMS proposes to establish two new SPAs. Pickles Reef SPA is Alternative 2 and Snapper Ledge SPA, which encompasses Pickles Reef SPA, is Alternative 4. FWC is not supportive of creating new SPAs at this location. There are, however, three coral nurseries in this area and FWC is supportive of establishing Coral Nursery Protection Zones around them. See the "Protect Coral Nurseries" topic area below for details.

Conch Reef SPA and Conch Reef Special Use/Conservation Area (Alternative 2) (p. 103)
FKNMS proposes to keep the existing boundary and associated management (no fishing and transit only over the Aquarius underwater research habitat). FKNMS proposes to add no anchoring and idle speed in the SPA portion of Conch Reef in Alternative 2. FWC supports the addition of no anchoring in Alternative 2 but not idle speed.

Davis Reef SPA (Alternative 2) (p. 104)
FKNMS proposes to keep the existing boundary and associated management (no fishing) at Davis Reef. FKNMS proposes to add no anchoring and idle speed in Alternative 2. FWC supports no anchoring in Alternative 2 but not idle speed.

Hens and Chickens SPA (Alternative 2) (p. 105)
FKNMS proposes to keep the existing boundary and associated management (no fishing) at Hens and Chickens SPA and proposes to add no anchoring and idle speed in Alternative 2. FWC supports the no anchoring action in Alternative 2 but not idle speed.

Cheeca Rocks SPA (Alternative 2) (p. 113)
FKNMS proposes to keep the existing boundary and associated management (no fishing) at Cheeca Rocks SPA and proposes to add no anchoring and idle speed in Alternative 2. FWC supports the no-anchoring action in Alternative 2. NOAA's National Marine Fisheries Service (NMFS) Habitat Conservation Division has recommended a larger area for this SPA. They note that the boulder corals in this area have shown resilience from climate change and stony coral tissue loss disease impacts and expanding the coral habitat protection afforded by applying these management actions to nearby patch reefs presently outside the Cheeca Rocks SPA containing these corals is prudent. Further, Cheeca Rocks is one of the seven locations for the Mission: Iconic Reefs initiative. Coral outplanting will occur at the patch reefs within and outside the existing SPA. Consequently, FWC supports the concept of an expanded area for Cheeca Rocks SPA as recommended by NMFS but notes that Cheeca Rocks SPA is entirely within State of Florida waters and will require FWC regulatory action to complete any expansion. Should the FKNMS decide to consider a Cheeca Rocks SPA expansion, the FWC will require consultation prior to the next iteration of the Restoration Blueprint and will consult with our stakeholders as part of that process. The FWC does not support the addition of idle speed at Cheeca Rocks SPA.

Alligator Reef SPA (Alternative 2) (p. 115)
FKNMS proposes to expand the boundary of the Alligator Reef SPA offshore to the edge of the deep reef in Alternative 2. FWC support is based on the same rationale regarding deep reef corals as discussed for the

proposed offshore extension at Carysfort Reef. Consequently, FWC is supportive of the Alternative 2 with the following management actions within the Alternative 2 boundaries:

- No anchoring – entire Alternative 2 zone
- No fishing – as proposed in Alternative 2, except as modified below
    - Angling (hook and line only, drift fishing or trolling) permitted at depths greater than 60 feet within Alternative 2 zone boundaries
- FWC does not support establishing idle speed within this SPA.

Tennessee Reef Special Use/Conservation Area (Alternative 2) (p. 117)
FWC has addressed Alternatives 3 and 4 in the large, contiguous area section of the comment letter. Only Alternative 2 will be addressed here. FKNMS proposes to expand the boundary of the existing special use area offshore to the edge of the deep reef in Alternative 2 and retain the transit only designation. Transit only will eliminate all anchoring, but idle speed will not be imposed. FWC has consulted with scientists that conduct research in this area and learned that a robust deep reef exists within this area. FWC support is based on the same rationale regarding deep reef corals as discussed for the proposed offshore extension at Carysfort Reef. However, here FWC is supportive of this expanded special use area to remain transit only as modified below to foster continued research. FWC supports Alternative 2 as follows:

- Transit only (No anchoring is implied)
- Angling (hook and line only, drift fishing or trolling) permitted at depths greater than 60 feet within Alternative 2 zone boundaries
- FWC does not support idle speed

Turtle Shoal SPA or Conservation Area (Alternatives 2 and 4) (p. 119)
FKNMS proposes to create a new SPA (Alternative 2) whose management actions would be no fishing, no anchoring, and idle speed. In Alternative 4, FKNMS proposes to make this area transit only. The area encompassed by this SPA is a mosaic of high relief patch reefs, in which the remaining corals have been resilient to bleaching and stony coral tissue loss disease. FWC is supportive of establishing a new SPA as described in Alternative 2 (no fishing, no anchoring, but not idle speed), but is not supportive of Alternative 4.

Coffins Patch SPA (Alternative 2) (p. 120)
FKNMS proposes to keep the existing boundary and associated management (no fishing) at Coffins Patch. FKNMS proposes to add no anchoring and idle speed in Alternative 2. FWC supports the addition of no anchoring in Alternative 2 but not idle speed.

Marathon Key SPA (Alternative 2) (p. 121)
FKNMS proposes to create a SPA around FWC's coral nursery located there. FWC supports the creation of this protected area as described in Alternative 2. Please see the "Protect Coral Nurseries" topic area below for more detail on nursery protection and the associated nomenclature recommendation.

Delta Shoal SPA (Alternative 2) (p. 124)
FKNMS proposes to create a new SPA at Delta Shoal. FWC does not support this recommendation and instead supports maintaining the status quo with no additional protections. First, local stakeholders have noted concerns to FWC that marking would simply increase use. Additionally, FWC sees a similar opportunity as the one expressed regarding French Reef. Delta Shoal is immediately adjacent to Sombrero Reef. As part of FWC's recommendation to maintain the status quo, we encourage the same monitoring regime as that proposed for French Reef.

Sombrero Key SPA (Alternatives 2 and 4) (p. 125)
FKNMS is proposing management changes (no anchor and idle speed) in Alternative 2 and a reconfiguration of the boundary with the same management changes in Alternative 4. Additionally, FKNMS has proposed managing diver access at Sombrero in Alternatives 3 and 4. FWC does not support the present Blue Star Operator approach to Sombrero Reef or any other location and provides further comment in the "Manage Diver Numbers" topic area below. At Sombrero Reef, FWC supports the boundary expansion as described in Alternative 4 along with the addition of no anchoring, but not idle speed, in addition to the existing regulatory approach within the present-day Sombrero Key SPA.

Newfound Harbor SPA (Alternative 2) (p. 136)
FKNMS proposes to keep the existing boundary and associated management (no fishing) at Newfound Harbor. FKNMS proposes to add no anchoring and idle speed in Alternative 2. FWC supports the actions in Alternative 2 with no anchoring only; not idle speed.

Looe Key Existing Management Area/Conservation Area, Special Use Area, and Sanctuary Preservation Area (Alternatives 2 and 4) (p. 137)
FKNMS proposes a varying suite of management options at the scale of the Looe Key Existing Management Area in Alternatives 2 and 4. FWC does not support either alternative. The level of coral habitat protection being proposed is not commensurate with the loss of user access, especially the loss of access to fishing opportunities. FWC offers two complementary management alternatives for the Looe Key Existing Management Area, with no-fishing and no-anchoring regulations only (no idle-speed regulations), and encourages FKNMS to adopt them in lieu of Alternatives 2 and 4 as follows:

- A permitted nursery site operated by Reef Renewal is located just west of the existing Looe Key SPA. FWC recommends that FKNMS extend the westward boundary to encompass this nursery and incorporate it into the Looe Key SPA.
- One of the Federal Lobster Trap Exclusion Zones (see p. 3 of the joint-council document entitled "A Guide to Closed Areas for Commercial Spiny Lobster Trap Fishing") is located due west of the Looe Key Special Use Area. Further, a Mote Marine Lab nursery is located at or near the western end of the Trap Exclusion Area. FWC recommends that FKNMS create a rectangular zone that encompasses the Special Use Zone, Trap Exclusion Zone, and the Mote nursery with the SPA management regulations within it.

Western Sambo Sanctuary Preservation Area and Eastern Sambo Special Use Area/Conservation Area (Alternatives 2 and 4) (p. 149)
FWC supports the continued existence of Western Sambo SPA and the present management actions (no fishing) and the expanded boundary depicted in Alternatives 2 and 4 that incorporates the deep reef. FWC does not support establishment of any additional management zones in the nearshore water of the SPA, specifically the idle-speed zone in Alternative 2 and no-entry zone in Alternative 4. Further, FWC does not support the SPA-wide no-anchoring or idle-speed provisions within the Western Sambo SPA. FWC supports the inclusion of the deep reef for the purpose of protecting coral habitat. See the Carysfort Reef SPA for the rationale. FWC recommends:

- No anchoring – From the Western Sambo back reef through the deep reef boundary
- No fishing – except as modified below
    - Angling (hook and line only, drift fishing or trolling) permitted at depths greater than 60 feet within the Alternative 2 and 4 boundaries

<u>Eastern Dry Rocks, Rock Key, Sand Key, and Key West Sanctuary Preservation Areas (Alternatives 2 and 4) (p. 159)</u>

For these comments, each reef site will be discussed separately.

Eastern Dry Rocks SPA
FWC supports adding the no anchoring provision as proposed in Alternative 2, but not idle speed.

Rock Key SPA
FKNMS is proposing management changes (no anchor and idle speed) in Alternative 2 at Rock Key SPA. Alternatively, FWC recommends that FKNMS consider removing Rock Key as an actively managed zone. However, we do recommend that the mooring buoys remain to allow and encourage use at Rock Key. Rock Key SPA is adjacent to two, in this case, high use reefs (Eastern Dry Rocks and Sand Key). This recommendation uses the same rationale and monitoring recommendations as French Reef SPA and the proposed Delta Shoal SPA.

Sand Key SPA
FWC supports Alternative 2 at Sand Key, including the no-anchoring provision but not idle speed. Additionally, FWC does not support the proposed Blue Star operator only proposal in Alternatives 3 and 4 and does not support the boundary expansion in Alternative 4.

Key West Sanctuary SPA
FKNMS proposes to create a SPA around the Mote Marine Laboratory coral nursery. FWC supports the creation of this protected area as described in Alternative 2. Please see the "Protect Coral Nurseries" topic area below for more detail on nursery protection and the associated nomenclature recommendation.

Protect Coral Nurseries
Robust *in situ* coral nurseries are an essential component of a large, coordinated coral reef restoration strategy. Today, there are nine permitted nurseries within FKNMS. At present, these nurseries are the source for nearly all the corals used for coral reef restoration within FKNMS. Enhancing the protection of coral nurseries through effective and standardized marking and establishing protective management actions will help ensure that coral restoration will be successful. FWC suggests that all the existing nurseries should be protected with adequate marking similar to the existing SPA and research only area markings. Additionally, fishing and anchoring would be prohibited within the nursery zone. In the DEIS, FKNMS proposes to incorporate some of the *in-situ* nurseries into zones, either by expanding existing SPAs or establishing new SPAs encompassing them but does not include all the existing permitted nursery sites. These sites are described in this section, however FWC recognizes that FKNMS has the actual coordinates of the permitted nursery sites. FWC suggests that FKNMS consider a different nomenclature for these areas, such as Coral Restoration Area, that is more aligned with their actual role as nurseries for coral restoration rather than using "SPA" to define these zones. Further, FWC recommends that FKNMS develop, in partnership with FWC and other stakeholders, a process to open and close areas for temporary *in situ* nurseries. For example, pop-up nurseries are planned where corals will be reared near restoration sites and then outplanted when ready. The nursery would then be inactivated. Managing such activities will require increased ability to be flexible regarding location-specific regulations. This process could be included in the management plan section of the next version of the Restoration Blueprint or as part of a restoration best management practices document. Our recommended suite of regulatory actions for these nursery areas is no fishing and no anchoring. The suite of nurseries in FKNMS follows along with our best observations of their status in the DEIS. The permitted coral nurseries within FKNMS are as follows:

- The Coral Restoration Foundation (CRF) operates a permitted nursery near Carysfort Reef and one near Elbow Reef.
    - The CRF Carysfort nursery is presently outside the Carysfort Reef SPA but will be incorporated into the proposed SPA expansion (Alt 2) (p. 90). FWC supports Alternative 2 with some modifications (See the "Protect Coral Habitat" topic area above). FWC supports the landward expansion that will incorporate the CRF Nursery.
    - The CRF Elbow Reef nursery is located just inshore of the Elbow SPA. FWC supports the necessary expansion of the SPA shoreward boundary to encompass this nursery.
- Three nurseries are located within the Pickles Reef and Snapper Ledge SPAs (Alt 2, Alt 4) (p. 101). FWC is not supportive of these SPAs as described in the DEIS, but the agency is supportive of protective actions for the nurseries within these areas.
    - CRF and adjacent Reef Renewal Nurseries – These nurseries are located at or near the NW corner of the Alternative 4 zone depicted on p. 101. FWC recommends that a single nursery zone be demarcated that encompasses both nurseries.
    - A second CRF nursery is in the southeastern quadrant of the Alternative 4 area on p. 101. FWC recommends that it be similarly protected.
- FWC operates two permitted nurseries in the middle Keys.
    - One of these nurseries is proposed for protection in the DEIS as the Marathon Key SPA. FWC supports the establishment of that zone.
    - The second FWC nursery located to the south of the proposed Marathon Key SPA protected nursery is not mentioned in the DEIS. FWC recommends its inclusion in the next version of the Restoration Blueprint.
- Two permitted nurseries are located near Looe Key Reef.
    - Mote Marine Laboratory has located their primary nursery along the northern boundary of the existing Looe Key Management area. FWC supports protecting this nursery and proposes doing so through a westward expansion of the existing Research Only area as described in the Looe Key section of the Protect Coral Habitat section.
    - Reef Renewal has a permitted nursery located just outside the western boundary of the existing Looe Key SPA. FWC recommends incorporating that nursery into the Looe Key SPA through a shift in the western boundary of the existing SPA. FWC describes this action in the Looe Key section of the "Protect Coral Habitat" topic area above.
- Two permitted nurseries are located along the reef south of Key West.
    - The Coral Restoration Foundation has a nursery located in the sliver of federal waters that stretches inshore to outer Hawk Channel south of Key West. A zone for this nursery is not incorporated into the DEIS. FWC recommends its inclusion in the next version of the Restoration Blueprint.
    - Mote Marine Laboratory has a nursery located to the west of the existing Sand Key SPA. It is incorporated into Alternative 2 (p. 159) of the Sand Key SPA changes. FWC supports the inclusion of the Mote Marine Laboratory nursery as depicted in Alternative 2 but given the separate boundaries of the nursery portion of the proposed changes, FWC suggests that the coral nursery nomenclature be adopted for this area.

Best Site Management Practices

FWC recommends FKNMS develop a suite of best management practices for coral restoration site management, especially as coral reef restoration activity expands in scope and scale. In this context, FWC is defining site management practices as the suite of management actions that can guide how a restoration site could be accessed by the stakeholder community, not the actions of the restoration practitioners. Practices should be developed and be applied in an open process with the stakeholder community. The goal of this process should be a suite of site management practices that increase the likelihood of enhancing

restoration outcomes while minimizing the impact to the stakeholder community. These practices would then be applied at restoration sites on a case-by-case basis. During stakeholder engagement, FWC received many recommendations about site management from our stakeholder community. For example, during active restoration and while newly outplanted corals are still acclimating, additional management measures including temporary-use restrictions may enhance restoration efforts. Other ideas brought forth by stakeholders for consideration are to relocate nearby mooring buoys to direct public access away from restoration locations, but not otherwise actively manage a site. Another idea proffered is to have portions of a reef restored in a systematic approach, where access is restricted only at specific locations of a reef where restoration is actively occurring. Finally, FWC would also encourage that some sites be open to certain stakeholder uses during and after restoration activities. Such an approach may help managers understand whether typical reef use activities affect restoration outcomes and could engender greater stakeholder support for coral reef restoration. FWC would welcome working with FKNMS and others to develop these management practices and determine consistent and fair means to apply them.

Federal Lobster Trap Exclusion Zones

As part of the focus on coral reef restoration and recovery, FWC intends to work with the South Atlantic Fishery Management Council (SAFMC) and Gulf of Mexico Fishery Management Council (GMFMC) to reexamine the 60 areas in federal waters of FKNMS that were closed by the Councils to the use of lobster traps through Amendment 11 to the Joint Spiny Lobster Fishery Management Plan under the Magnuson-Stevens Act. Research evaluating the management effectiveness of these areas has demonstrated they are ineffective in providing additional protections for Endangered Species Act (ESA) listed *Acropora* species. Traps being actively fished were found within these areas at levels similar to open fishing areas, especially within the smaller ones. The small size of most trap exclusion areas, combined with the absence of marking buoys, and the inability to have these areas demarcated on nautical charts contribute to their ineffectiveness. Because of these limitations, plus the listing of additional corals under the ESA, damage from Hurricane Irma, and stony coral tissue loss disease impacts, FWC recommends taking a fresh look at these areas to determine if they are still priority areas for providing protection to ESA-listed corals, or whether different areas or protections are needed to adequately protect ESA-listed corals in FKNMS, in addition to the proposed actions in the DEIS. Consequently, FWC proposes to work with NOAA Fisheries, the SAFMC, the GMFMC, and FKNMS to develop a process to further evaluate the efficacy of these areas including developing and funding teams to survey them for ESA species. Once complete, FWC would work with the commercial fishing industry to determine whether any existing areas should be removed, and new ones added. An amendment to the Joint Spiny Lobster Fishery Management Plan could then be considered by the Councils to adjust these areas in federal waters of FKNMS. Further, state waters areas could be considered by FWC and FKNMS.

One proposed management action in the DEIS adds no anchoring to an existing Federal Lobster Trap Exclusion Area. That location is the FMP Alligator Reef Management Area (Chapter 3, p. 116). FWC supports the addition of no anchoring (Alternative 2) in this area.
Additionally, FWC has identified a trap exclusion area (Area 11, p. 3 of the Guide to Closed Areas published by the Councils) in the lower Keys that we have recommended be incorporated into the Restoration Blueprint. That area is incorporated into the “Protect Coral Reef Habitat” topic area above.

Manage Diver Numbers

FKNMS has proposed to establish some limited user access restrictions at three Sanctuary Preservation Areas (pp. 59 – 60). FWC recognizes that finding ways to manage snorkeler/diver access at existing high-use natural reefs is desirable, given the potential impact that snorkelers/divers can have on natural reefs (see Attachment 1A). However, the DEIS states that user access will be restricted to Blue Star snorkel/dive operators at Carysfort Reef, Sombrero Key, and Sand Key SPAs. This recommendation has caused confusion

as to whether the general public will be allowed to utilize these popular reefs for snorkeling/diving. More detail on these issues is needed from FKNMS and until such detail is provided, FWC recommends Alternative 1 No action (status quo).

In the next version of the Restoration Blueprint, FWC recommends that FKNMS consider alternative management strategies for protecting high-use coral reefs from unintentional diver interactions. FKNMS should undertake a transparent process to develop initial management actions that can work for the stakeholder community, monitor change in the use of each location, and develop an adaptive management process that can respond to the information developed. We reiterate that the intent is to manage snorkel/diver access at high-use reefs and note that Carysfort Reef is a low-use reef relative to most offshore reefs. FWC would welcome working with FKNMS to determine an appropriate management strategy at high-use reefs.

Artificial reefs (p. 247)

A robust artificial reef implementation strategy could play an important role in Coral Reef Restoration and Recovery. As demonstrated in this comment letter, FWC supports a wide range of management approaches to address coral reefs. A well-designed suite of artificial reefs placed within FKNMS and nearby areas, ranging from large ships where appropriate to more directed fish habitat development, will help natural resource management in FKNMS. These reefs will offer new diving and fishing opportunities and will likely draw a portion of that activity now centered at natural reef habitat off those reefs. Further, artificial reefs could help offset fishing and diving opportunities lost due to the area closures proposed in the DEIS. The FWC has previously offered guidance on artificial reefs (FWC's June 29, 2012 letter to Sean Morton – Attachment 1B) and recommended actions for FKNMS to consider. More recently, FWC staff have met with groups who would like to see one or more large ships deployed in the waters of FKNMS. We are supportive of exploring this idea and think it can offer many benefits to the coral reefs as well as to the economy of the Florida Keys. We look forward to working with you to discuss these ideas and to develop and implement a robust strategy for artificial reef deployments and management within FKNMS to support Coral Reef Restoration and Recovery.

Summary Comments for Coral Reef Restoration and Recovery

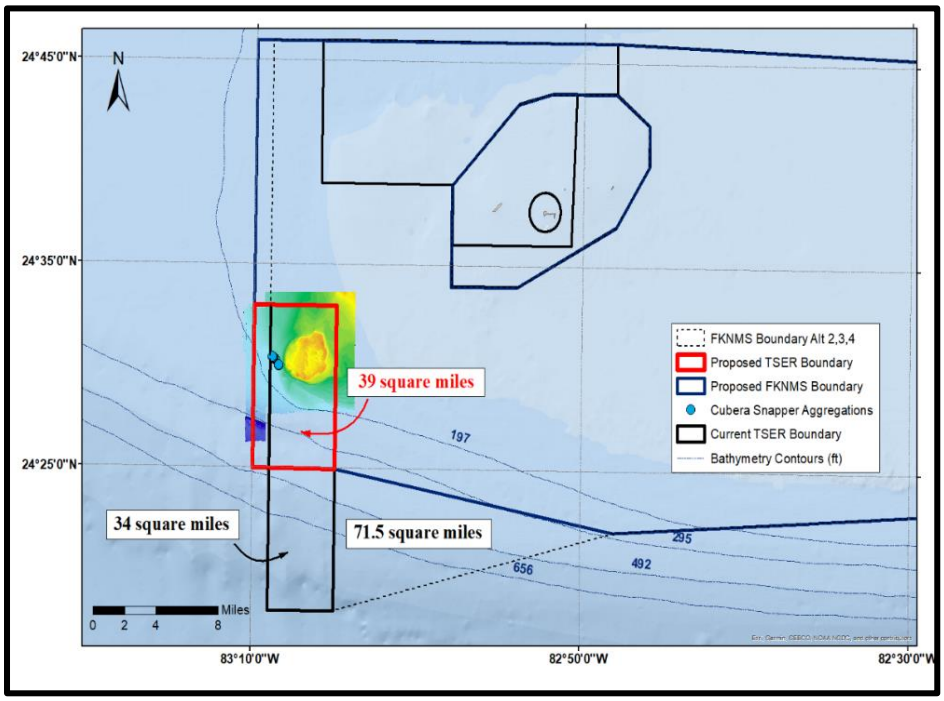
FWC has provided many comments and supported many new or expanded zones as proposed in the DEIS. FWC has also offered a framework, Coral Restoration and Recovery, for our recommendations for additional management area such as nursery zones and recommendations that will enhance restoration and recovery such as site management at restoration sites and developing a robust artificial reef implementation strategy. These recommendations have been made while constantly keeping our guiding principles at the forefront, including consideration of each management action on a case by case basis and to consider a balance between natural resource protection and reasonable user access. FWC understands and appreciates the challenges FKNMS faces to determine and map georeferenced coordinates for the zone alternatives in this initial DEIS. However, we anticipate that the next version of the Restoration Blueprint will contain the boundary coordinates for all proposed zones. FWC recommends that FKNMS adhere to the principal of balancing resource protection with user access when selecting these coordinates. FWC reserves the right to re-evaluate the coral reef zone boundaries and change our position once the boundary coordinates are identified. FWC staff look forward to working closely with FKNMS staff as the next version of the Restoration Blueprint is developed.

Sanctuary Boundary Expansion (pp. 28-30)

FWC is supportive of the proposed sanctuary boundary expansion as delineated in Alternative 4, including incorporating Pulley Ridge, but we recommend some boundary modifications in the Tortugas South Ecological Reserve (TSER) region. Regarding Pulley Ridge, regulations set by the GMFMC and implemented

by NOAA Fisheries prohibit the use of bottom gear (i.e., traps, trawls, and bottom longlines) and anchoring by fishing vessels in a large area of Pulley Ridge. The U.S. Secretary of Commerce recently approved measures that prohibit use of bottom gears (except bottom longlines, which have historically been used in this area by commercial grouper fishermen) and anchoring by fishing vessels in part of Pulley Ridge. When these changes are implemented, the area of Pulley Ridge with GMFMC-set regulations would match the area proposed to be added to FKNMS. FKNMS proposes to prohibit anchoring by all vessels within Pulley Ridge, as the GMFMC does not have authority to do so. The incorporation of Pulley Ridge into FKNMS and the no anchoring regulation is a common-sense approach to protect the deepest known photosynthetic reef off the continental United States from anchor damage by vessels that are not already managed by the GMFMC.

The modification that FWC recommends pertains to the proposed western and southern boundaries near Tortugas South Ecological Reserve. FWC supports the westward sanctuary boundary expansion in the Tortugas region and incorporating the TSER into that expansion. This expansion will provide better protection for recently discovered black grouper and cubera snapper spawning aggregations. After consultation with stakeholders, and federal fishery management councils, FWC recommends reducing the size of TSER by approximately 34 square miles by moving the southern boundary of the TSER and the concomitant proposed sanctuary boundary northward to Latitude 24°25’0” N (see reference map below). By modifying the boundaries of TSER and the proposed southern boundary expansion, a vast majority of known coral reefs in the Tortugas region and fish spawning aggregations would still be protected, while also allowing for fishing opportunities in an area that has been closed to fishing since 2001.



Modifications to Sanctuary-wide Regulations

Live Rock Prohibition (pp. 31-32, 64)

FWC supports preferred Alternative 3, which proposes development of a Memorandum of Agreement with the State of Florida and NMFS regarding management and permitting of live rock aquaculture activities in

FKNMS, as this action should improve communication among these permitting agencies and FKNMS. FWC, however, does not support requiring additional authorization by FKNMS for existing or future live rock aquaculture activities in FKNMS as proposed in Alternative 4. Although the Florida Department of Agriculture and Consumer Services is the lead regulatory state agency for aquaculture in Florida, FWC also has regulations that pertain to the live rock aquaculture industry. Thus, if regulatory changes are considered for the live rock aquaculture industry in FKNMS in the future, FWC should be included in such discussions and in developing any Memorandum of Agreement relating to such activities.

Discharge regulation exception (pp. 32-33)
FWC supports the protection of water quality within FKNMS, and the prohibition of discharges from cruise ships as proposed in Alternatives 2, 3, and 4. The definition proposed by the plan to include all passenger for hire vessels with 250 passengers or more could increase the applicability of this section to vessels not traditionally considered as "cruise ships" so we would recommend a robust educational effort to this industry to ensure compliance with the proposed changes in this section.

Shoreline Slow Speed (pp. 33-34)
FWC supports Alternatives 1, 2 and 3: No Action (status quo), but does not support the Alternative 4 proposal to extend current slow speed restrictions to all shorelines in FKNMS. Increases in slow speed zones would place additional strain on already limited LE resources for enforcement. Navigation corridors that are currently used safely by the public and law enforcement would be dramatically affected by unnecessary slow speed restrictions. Navigational corridors that require the public and law enforcement to maintain a vessel on plane due to shallow waters could become unsafe to navigate and inaccessible at slow speeds. Some of these navigational corridors are critical access points for law enforcement responding to incidents. Although law enforcement may deviate from navigational rules in the performance of their duties, the presence of slower traffic in the area due to such vast slow speed restrictions could create unnecessary risk.

FWC's authority to establish boating restricted areas is granted through section 327.46 of the Florida Statutes. Boating restricted areas include restrictions of vessel speeds and vessel traffic to protect the safety of the public. The creation of such restrictions must be based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, other navigational hazards, or to protect seagrasses on privately owned submerged lands. The DEIS does not provide similar justification or need for the proposed shoreline slow speed restrictions on a sanctuary-wide basis.

Emergency Regulations (pp. 34-35)
FWC supports Alternatives 2, 3, and 4, which would allow temporary regulations, where necessary to minimize the destruction of, loss of, or injury to a FKNMS resource, to be in effect for up to 180 days, with the possibility of a 186-day extension. This timeframe is consistent with regulations that provide for emergency actions in Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act. Recognizing that emergency regulations would not take effect in state waters until also approved by the Governor of Florida (15 CFR §922.165; Co-Trustees Agreement for Cooperative Management), this action would provide FKNMS additional flexibility to respond to threats impacting FKNMS resources.

It should be noted that pursuant to changes made to the Florida Constitution, effective in 1999, portions of regulations taking effect in state waters will need be to be approved by FWC and portions will need to be approved by the Governor. A process should be developed and codified in management agreements by which FWC and the Governor can quickly weigh in on emergency measures prior to approval.

Fish Feeding (p. 37)
FWC supports Alternative 2, 3, and 4 that would prohibit the feeding of fish, sharks, or other marine species from any vessel and/or while diving. FWC currently has rules in state waters regarding this issue; however, our rules prohibiting fish feeding are only applicable to divers in the water (see rule 68B-5.005, FAC). FKNMS rule language, however, denotes the practice of feeding fish while diving and/or from a vessel. In the past, FWC has supported and advocated for federal legislation that would prohibit fish feeding in federal waters. FWC is supportive of the proposed FKNMS regulations and will consider updating state regulations to be more similar to this proposal.

Definition of Traditional Fishing (p. 38)
On p. 38 of the DEIS, a new definition of traditional fishing is proposed for FKNMS (updated language highlighted):

> *"Traditional fishing" means those commercial or recreational fishing activities that were customarily conducted within the sanctuary prior to its designation as identified in the environmental impact statement and management plan (EIS/MP) for this sanctuary, as managed by the appropriate federal (National Marine Fisheries Service in coordination with South Atlantic Fishery Management Council, Gulf of Mexico Fishery Management Council) and state (Florida Fish and Wildlife Conservation Commission) agencies. "Traditional fishing" does not include use of novel or new gear types to catch species that were fished by other means as identified in the EIS/MP; does not include use of gear types (modified or not) identified in the EIS/MP to catch species those gear types were not originally intended to catch; or does not include use of gear or harvest of species outside of the seasons/time of year identified in the EIS/MP.*

FWC does not support the proposed modification to, or the current application of the definition of "traditional fishing," which seems to have the effect of freezing fishing regulations in FKNMS for purposes of this definition based on state, federal, and FKNMS regulations at the time the original FKNMS EIS was finalized in 1997. As stated above, FWC is responsible for fisheries management in Florida state waters, including those of FKNMS. The Commission strongly feels that fisheries management actions within FKNMS, should continue to be led and promulgated by FWC. For the reasons outlined below, FWC does not plan to implement this definition of traditional fishing for state waters of FKNMS because it has wide implications for fishing activity in FKNMS.

Currently, FKNMS regulations [15 C.F.R. §922.163(a)(3)(ii)] prohibit "alteration of, or construction on, the seabed," which includes "…dredging or otherwise altering the seabed of the Sanctuary…or placing or abandoning any structure, material, or other matter on the seabed of the Sanctuary…except as an incidental result of traditional fishing."

Over the past 23 years, there have been a multitude of changes to fishing regulations by FWC and the federal fishery management councils/NMFS, including changes to allowable gears, seasons, bag limits, and size limits to ensure sustainable management of our shared fishery resources, taking into account both science and stakeholder needs. These will change in the future as FWC and the federal councils/NMFS modify fisheries regulations based on fishery stock assessments, and as necessary work to avoid overfishing, rebuild stocks, and adapt to changing conditions (climate change, trends in effort, habitat changes, etc.). Also, this definition of traditional fishing makes it difficult for both the public and law enforcement to determine allowable fishing gears in FKNMS since they have to know which gears were approved for use in 1997, not just current regulations.

Modifications of allowable gears have been made several times since 1997 to reduce bycatch of sea turtles and other incidentally caught species. Several new and modified turtle excluder devices (TEDs) and bycatch reduction devices (BRDs) have been approved for use by the National Marine Fisheries Service in the shrimp fishery since 1997[1]. The above definition of traditional fishing appears to exclude use of those newer and modified TEDs and BRDs as they are a modification of gear (trawls) that interacts with the seafloor.

Per the direction from the 1998 Legislature, FWC embarked on a process to establish a limited-entry endorsement system for the marine life fishery (tropical aquarium trade) as well as review all the species listed in this rule, including those with species-specific size and bag limits. In order to accomplish this task, FWC formed the Marine Life Workgroup that was made up of 13 participants that represented the industry as well as a member of FKNMS staff (Brian Keller then transitioned to Scott Donahue). This workgroup met numerous times between 2005 – 2008. A rule package for FWC's marine life rule (Chapter 68B-42, F.A.C.) was adopted by the Commission and became effective July 1, 2009. FWC's marine life rule is effective in state and federal waters off Florida. One of the items that the Workgroup suggested that was adopted by the Commission was the use of a flexible blade no wider than 2 inches, such as a paint scraper, putty knife, or a razor blade for collecting both zoanthids and all corallimorph polyps. This flexible blade language, the size of the polyps allowed, and how much substrate was allowable was discussed and approved by FKNMS leadership on July 1, 2008 in a meeting between FKNMS and FWC. All notes and materials of this meeting can be provided. The proposed definition of traditional fishing does not reflect these positions adopted by FKNMS leadership on July 1, 2008, that were ultimately part of FWC's approved rule package for state and federal waters. Written email documentation can be provided that confirms FKNMS leadership at the time understood that what they were approving was a modification to the traditional fishing definition and modification for substrate allowance that would be reflected hereto for, however that appears to not be the case in the DEIS. As previously agreed, FKNMS should continue to allow for use of flexible blades for collection of zoanthids and corallimorphs as well as removal of substrate for certain organisms.

In addition, this traditional fishery definition change would prevent use of novel, innovative gears that could reduce impacts to habitat, reduce bycatch, or make other fishery improvements based on best available science. For example, in recent years, Florida Keys fishermen have targeted invasive lionfish. FWC has partnered with fishermen to test how various modifications to spiny lobster traps can help increase harvest of lionfish while minimizing bycatch of other species. The flexibility to test and incorporate the use of innovative gears to address invasive species control efforts is critical.

FWC also recognizes that alternative gears could be used as part of a strategy to markedly reduce habitat damage and bycatch in FKNMS. FWC intends to consider novel gears for the spiny lobster fishery, such as casitas, as a strategy to reduce damage to coral, hardbottom, and seagrass habitat caused by spiny lobster traps. Reducing the number of traps and replacing them with casitas that are fixed in place could help avoid damage to reefs and other sensitive habitats in the waters of FKNMS while allowing the spiny lobster fishery to continue to thrive.

Rather than rely on using a definition of traditional fishing to freeze gear use and fisheries regulations, the FKNMS, in partnership with FWC and the federal fisheries management councils, FKNMS should develop a process to accommodate gear innovations and changes to fisheries management for FKNMS waters. This could be considered as part of the update to the Protocol for Cooperative Fisheries Management.

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[1] See https://www.fisheries.noaa.gov/southeast/bycatch/history-turtle-excluder-devices for a history of TED regulations in the southeastern United States.

Vessel groundings and derelict and deserted vessels (pp. 38-40)
FWC supports Alternative 2 because the authority to remove vessels that are derelict and/or grounded within the FKNMS is consistent with authority provided to state and local law enforcement agencies. FWC recommends the next version of the Restoration Blueprint include the ability for a vessel owner to exercise their right to due process as provided by the 14th amendment of the U.S. Constitution, when developing towing and salvage guidelines for derelict vessel removal.

Large vessel mooring buoy regulation (pp. 40-41)
FWC supports the Alternative 2 proposal to delineate between large and small vessel mooring buoys as well as a prohibition to prevent large vessels from using small vessel moorings and vice versa. Providing an adequate number of moorings to accommodate public access to these areas will be critical to ensuring this regulation will achieve it's intended purpose and providing continued public access to resident and visiting boaters. Due to the high cost of installation and maintenance of moorings and mooring buoys, a plan should be developed to pay for additional moorings before no-anchoring zones are implemented. This would provide a clear path to a sustainable use of the area by boaters without creating an additional issue from boaters illegally anchoring due to a lack of available moorings. Insufficient numbers of mooring buoys could cause unnecessary damage

Overnight use of mooring buoys regulation (pp. 41-42)
FWC does not support prohibiting overnight use of FKNMS mooring buoys as proposed in Alternatives 2, 3 and 4. Under this proposed prohibition, a vessel could still be on a mooring or mooring buoy during nighttime hours without being in violation, because it is unclear what "overnight" means, and determining if a vessel has been moored overnight would be difficult for law enforcement to prove. Restricting nighttime use of moorings may also result in the unintended consequence of an increase in anchored vessels impacting sensitive water bottoms.

Additionally, the current language in the DEIS pertains to the overnight use of mooring buoys without mentioning the mooring itself. Unless addressed, a person could attach their vessel to the mooring chain (which is attached to the seafloor) by use of a diver and circumvent the mooring buoy on the surface thus, creating a loophole for enforcement of this prohibition.

Motorized personal watercraft (pp. 55-57)
FWC supports establishment of an area to allow transit of personal watercraft through the Key West National Wildlife Refuge as proposed in Alternative 2. This option is expected to alleviate user conflicts while maintaining appropriate protections for wildlife in Key West National Wildlife Refuge.

Tortugas North Ecological Reserve access permits (pp. 57-58)
FWC supports the update proposed in Alternative 2 that would remove both the timing limitations for permit requests and requirement that permit holders notify FKNMS before entering and upon leaving the Tortugas North Ecological Reserve.

Catch and release fishing by trolling in four SPAs (p. 58)
The DEIS proposes to eliminate the ability to conduct catch and release fishing by trolling in Conch Reef, Alligator Reef, Sombrero Key, and Sand Key SPAs. The DEIS states that current management, which allows for these activities, is no longer consistent with FKNMS' management goals and is resulting in user group conflicts but fails to cite examples of such conflicts. The DEIS also states that allowing catch and release fishing by trolling in these four SPAs affects human safety, but it is unclear from the DEIS what negative impacts are occurring. FWC Rule 68B-6, F.A.C. designates catch and release by trolling as an allowable practice in Sand Key SPA, which is in state waters. Modification to fishing activities in this area would

constitute a fisheries management action under FWC authority, and the FWC is not supportive of access limitations without information to support such an action. FWC recommends FKNMS provide more detail on these issues and until such detail is provided, revise the preferred alternative to Alternative 1 No action (status quo).

Definition of Trolling

FKNMS staff have requested input on the definition of "trolling" on numerous occasions during public information sessions and throughout the public comment period. FWC recommends forming an advisory subgroup to work on this definition with the FKNMS so that the definition accommodates trolling activity in marine zones where the practice is currently allowed and/or proposed to be allowed (but other fishing activities are prohibited), while being enforceable. Members of this subgroup should include fishermen who troll, law enforcement, and fisheries managers. Representatives from FWC's Division of Law Enforcement and Division of Marine Fisheries Management would gladly serve on this subgroup.

Baitfish permits (p. 58)

The DEIS proposes to eliminate, over a three-year period, the practice of issuing permits that allow the capture of baitfish from within the SPAs. The DEIS states that the harvest of baitfish in SPAs is no longer consistent with the goals and objectives of sanctuary management. The rationale for this proposal is to have consistency in regulations at all SPAs and to reduce user conflict between the commercial and recreational fishing and diving communities. FWC disagrees with the current proposal as stated in Alternatives 2, 3, and 4. Alternatively, FWC requests that FKNMS continue to allow the use of modified lampara nets to harvest baitfish in the SPAs but continue to phase out the use of cast nets.

Even though this proposal does not impact the ability of fishers to fish for bait outside of SPAs, SPA areas have been identified as important areas for bait fishing in the Keys. It should be noted that FWC issues a limited entry lampara net endorsement for use of this gear in state waters. FWC recommends that fishers who are part of this limited-entry fishery should be allowed to continue to fish within designated SPAs due to the fact that gear contact with the reef is unlikely and conflict with other user groups is unlikely based on the time of day they fish. However, the use of cast nets, may cause impacts to coral reef and hardbottom habitat, which is why FWC supports phasing out the use of this gear as proposed by the FKNMS.

Proposed Modifications to Marine Zone Boundaries

Wildlife Management Areas

The shallow waters within FKNMS are composed of different habitats that are important to diverse and abundant populations of fishes and invertebrates, many of which are commercially and recreationally valuable. Shallow water benthic habitat, such as seagrass flats and nearshore hardbottom, represent productive nursery areas for many species, including a variety of snappers, red grouper, spiny lobster, stone crab, and many others. Additionally, these habitats are also important for adult grazers and predators that they utilize them for foraging, such as fishes, birds, sea turtles, and manatees. The seagrass habitat in south Florida and the Florida Keys represents the largest documented seagrass bed in the world. Disturbance and direct impacts (including prop scarring, groundings, turbidity, water quality degradation, disturbance, etc.) to these shallow areas by vessels are believed to be contributing factors to a decline in the Keys of fishes, birds, and other animals dependent on these habitats. Numerous oceanside and bayside Wildlife Management Areas (WMAs) have been proposed with varying regulations that are dependent on the resource needs of each specific location. Most of the proposed WMAs are located within one of the National Wildlife Refuges and are designed to assist the U.S. Fish and Wildlife Service with their management responsibilities. Many of these WMAs are similar to the goals and management of FWC's

Critical Wildlife Areas. However, FWC recommends that regulations at specific locations balance resource needs with user access as many of these areas are popular recreational and fishing locations. Furthermore, additional research is needed to evaluate the effects of the proposed regulations (e.g., idle-speed vs. no-motor zones) in promoting habitat and wildlife conservation. In the sections below, every proposed new or updated WMA will be identified and FWC recommendations provided.

Wildlife Management Areas with idle-speed/no-motor zone regulations

1. Barnes Card Sound WMA (p. 91) – FWC recommends FKNMS consider Alternative 2 to create a no-motor zone within the proposed WMA. Added protection would minimize disturbance of West Indian manatees that are known to inhabit the area.
2. Whitmore Bight WMA (p. 94) – FWC recommends FKNMS consider Alternative 2 to create a no-motor zone within the proposed WMA to better protect the benthic habitat in an undeveloped and shallow area.
3. Rodriguez Key WMA (p. 99) – FWC recommends FKNMS consider Alternative 2/3 for this WMA but does not support the proposed no-anchor regulation in the area. Expanding the no-motor zone would provide added protection for shallow water benthic habitat and squaring off the WMA boundaries eases issues associated with enforcing regulations in the area.
4. Dove Key WMA (p. 99) – FWC recommends FKNMS consider Alternative 2/3 for this WMA but does not support the proposed no-anchor regulation in the area. Expanding the no-motor zone from Rodriguez Key WMA and encapsulating Dove Key WMA would provide added protection for shallow water benthic habitat and allow user access to an area that is currently a no-entry zone.
5. Snake Creek WMA (p. 111) – FWC recommends FKNMS consider Alternative 2 to create an idle-speed zone along the shoreline and expand the current no-motor zone. This expanded protection is warranted to reduce the evidence of major prop scarring in certain locations.
6. Cotton Key WMA (p. 112) – FWC recommends FKNMS consider Alternative 1 as the WMA is already protected under current marine zoning. The proposed added idle-speed regulations and expanded no-motor zones would be burdensome to stakeholders, particularly those using Whale Harbor Channel, and the benefits of such regulations are unknown.
7. Channel Key Bank and Gulfside Banks WMA complex (p. 118) – FWC recommends a modification to the proposed alternatives for these areas. FWC recommends removing Gulfside Banks Old Sweat Bank WMA and Gulfside Banks Jewfish Bush Banks WMA from this complex. FWC further recommends creating one, large WMA that encapsulates both Channel Bank and Gulfside Channel Bank with idle-speed regulations. This will allow for protection of the sensitive, hardbottom habitat that characterizes this area and simplifies the marine zoning scheme. FWC welcomes the opportunity to collaborate with FKNMS on developing specific boundaries to be considered for this area.
8. Marathon Oceanside WMA (p. 122) – FWC recommends a modification to Alternative 2 such that an idle-speed zone would be considered by FKNMS instead of a no-motor zone in the proposed WMA. This area is a primary location for fishers to capture bait in the Middle Keys and a no-motor zone would essentially prohibit this activity from occurring. An idle-speed zone would allow for baitfishing to continue while also protecting the seagrass habitat that characterizes the area.
9. Moser Channel Bank and Red Bay Bank WMA complex (p. 123) – FWC recommends a modification to the proposed alternatives for these areas. FWC recommends removing Moser Channel Banks Rachel Bank WMA, Moser Channel Banks Bethel Bank WMA, and Moser Channel Banks Knight Key Bank WMA from this complex. FWC also recommends creating one, larger WMA that encapsulates both Moser Channel Banks Bethel Bank, Moser Channel Banks Red Bay Bank, Moser Channel Banks Red Bay Bank North, and Red Bay Bank with idle-speed regulations. This will allow for protection of the sensitive, hardbottom habitat that characterizes this area and simplifies the marine zoning

scheme. FWC welcomes the opportunity to collaborate with FKNMS on developing specific boundaries to be considered for this area.

10. East Bahia Honda WMA (p. 131) – FWC recommends FKNMS consider Alternative 2 to create a no-motor zone within the proposed WMA. Added protections would minimize disturbance to white-crowned pigeons and reddish egrets that nest and/or forage in the area.
11. West Bahia Honda WMA (p. 132) – FWC recommends FKNMS consider Alternative 2 to create a no-motor zone within the proposed WMA. Added protections would minimize disturbance to white-crowned pigeons and reddish egrets that nest and/or forage in the area.
12. East Content Keys WMA (p. 138) – FWC recommends FKNMS consider Alternative 1 for this WMA because the idle-speed regulation that is already in place is sufficient to minimize disturbance to wildlife that are known to inhabit and forage in and around the area.
13. Content and Upper Harbor Key Flats WMA (p. 138) – FWC recommends that FKNMS consider Alternative 4 to create Content and Upper Harbor Key Flats WMA with an idle-speed regulation. Additionally, FWC recommends that vessels operating on a plane be allowed to navigate in designated channels within the proposed WMA. The added regulation in this proposed WMA would better protect sensitive benthic habitat and reduce user conflict between flats fishers and recreational boaters.
14. Key Lois Loggerhead Basin WMA (p. 140) – FWC recommends that FKNMS consider Alternative 1 for the proposed WMA. A large, idle-speed zone would be particularly burdensome for stakeholders that use this high-traffic transit area, especially in areas where the idle-speed zone overlaps Bow Channel. Although we recognize this is a popular fishing area in the spring, creating a 1.9-square-mile idle-speed zone here is unreasonable given the high amount of boat traffic in this area.
15. Northeast Tarpon Belly Key WMA (p. 142) – FWC recommends a modification to Alternative 3 such that an idle-speed zone should be considered by FKNMS instead of a no-entry zone in the proposed WMA. This is a popular fishing location and minimizing wildlife disturbance could be accomplished with a less restrictive idle-speed zone.
16. Marvin Barracuda Keys WMA (p. 145) – FWC recommends a modification to Alternative 2 such that an idle-speed zone, with exceptions at the cuts, should be considered by FKNMS instead of a no-motor zone at the proposed WMA. The added regulation in this area would better protect sensitive benthic habitat and reduce user conflict between flats fishers and recreational boaters.
17. Lower Harbor Keys WMA (p. 150) – FWC recommends FKNMS consider Alternative 1 for this WMA because it is believed the current idle-speed regulations at this WMA are sufficient for the resource needs.
18. Cayo Agua Keys WMA (p. 151) – FWC recommends FKNMS consider Alternative 1 for this WMA because the current idle-speed regulations at this WMA are sufficient for the resource needs.
19. Bay Keys WMA (p. 152) – FWC recommends FKNMS consider Alternative 1 for this WMA because the current no-motor and idle-speed regulations at this WMA are sufficient for the resource needs.
20. Archer Key WMA (p. 160) – FWC recommends a modification to Alternative 2 such that an idle-speed zone should be considered by FKNMS instead of a no-anchor zone for the proposed WMA. This is a popular recreation area and the resource needs could be met with a less restrictive idle-speed zone rather than a no-anchor zone.
21. Big Mullet Key WMA (p. 161) – FWC recommends FKNMS consider Alternative 1 for this WMA because the current no-motor regulation is sufficient for the resource needs.
22. Cottrell Key WMA (p. 161) – FWC recommends FKNMS consider Alternative 1 for this WMA because the current no-motor regulation is sufficient for the resource needs.
23. Marquesas Keys Turtle WMA (p. 166) – FWC recommends FKNMS consider Alternative 1 for this proposed WMA. The proposed idle-speed zone is too large an area to restrict vessel speed and might introduce a safety-at-sea issue.

Wildlife Management Areas with no-access, no-entry, or no-anchor regulations

1. Crocodile Lake WMA (p. 89) – FWC recommends FKNMS consider Alternative 2 to create a no-entry zone within the WMA. Added protection would minimize disturbance to ESA-listed American crocodiles and West Indian manatees that inhabit this area.
2. Eastern Lake Surprise WMA (p. 92) – FWC recommends FKNMS consider Alternative 2 to create a no-entry zone in addition to the current idle-speed regulations at the WMA. Added protection would minimize disturbance to ESA-listed American crocodiles and West Indian manatees that inhabit this area.
3. Pelican Key WMA (p. 96) – FWC recommends FKNMS consider Alternative 4 to create a no-entry zone within the proposed WMA. FWC research highlights the importance of this area to white-crowned pigeon breeding, reddish egret foraging, and West Indian manatees. Added protection would minimize disturbance to these species.
4. Pigeon Key WMA (p. 100) – FWC recommends FKNMS consider Alternative 2 to create a no-entry zone in the proposed WMA. This area is an important nesting and/or foraging area for roseate spoonbills, tricolored herons, great white herons, and reddish egrets and added protection would minimize disturbance to these species.
5. Tavernier Key WMA (p. 102) – FWC recommends FKNMS consider Alternative 2 to create a no-anchor zone in addition to the current no-entry zone in the WMA. This area contains productive benthic habitat, including hardbottom and seagrass flats, and a no-anchor regulation would help reduce damage in the area.
6. Ashbey-Horseshoe Key WMA (p. 114) – FWC recommends FKNMS consider Alternative 2 to create a no-entry zone in the proposed WMA. There is evidence of major prop scarring at this location. Additionally, roosting for magnificent frigate birds and brown pelicans occurs here. Added protections in at the proposed WMA should minimize damage to benthic habitat and disturbance to avian taxa.
7. FMP Alligator Reef WMA (p. 116) – FWC recommends FKNMS consider Alternative 2 to create a no-anchor regulation within the WMA. The federal fishery management councils have already designated this area as one of the commercial spiny lobster no-trap zones to protect ESA-listed *Acropora* spp. However, industry has highlighted that many of the acroporids were destroyed during Hurricane Irma. Furthermore, additional coral species have subsequently been ESA-listed and as a result, FWC also recommends as noted above, that FKNMS, FWC, and federal fishery management councils coordinate efforts to re-evaluate all 60 commercial spiny lobster no-trap zones and determine if these are the appropriate locations to protect coral reef habitats from commercial trapping and anchoring.
8. Horseshoe Key WMA (p. 133) – FWC recommends FKNMS consider Alternative 1 for this WMA because the no-access regulation that is already in place is sufficient to minimize disturbance to avian taxa that are known to nest, roost, and forage here.
9. Little Pine Mangrove Key WMA (p. 134) – FWC recommends FKNMS consider Alternative 3 to create a no-entry regulation around the proposed WMA. This area is utilized by numerous bird species, including state-listed reddish egrets and tricolored herons, and added protections would minimize disturbance to them.
10. Water Key Mangrove WMA (p. 135) – FWC recommends FKNMS consider Alternative 3 to create a no-entry regulation around the proposed WMA. This area is an important nesting location for state-listed reddish egrets and added protections would minimize disturbance.
11. West Content Keys WMA (p. 138) – FWC recommends FKNMS consider Alternative 1 for this WMA because the no-access regulation that is already in place is sufficient to minimize disturbance to wildlife that are known to inhabit and forage in and around the area.

12. Upper Harbor Key WMA (p. 138) – FWC recommends FKNMS consider Alternative 1 for this WMA because the added benefits of increasing regulations from the current no-access regulation are unknown.
13. Howe Key Mangrove WMA (p. 138) – FWC recommends FKNMS consider Alternative 1 for this proposed WMA. It is unknown the degree of disturbance around this mangrove island and therefore FWC is unsure of the benefits added protection would provide to the avian taxa.
14. Torch Key Mangroves WMA (p. 139) – FWC recommends FKNMS consider Alternative 3 to create a no-entry zone for this proposed WMA. This area is important for white-crowned pigeon nesting and is part of the core foraging area for reddish egrets. These species would benefit from added regulations.
15. Little Crane Key WMA (p. 141) – FWC recommends FKNMS consider Alternative 3 which would eliminate the existing Little Crane Key WMA. This area no longer supports nesting/roosting sites following the impacts from Hurricane Irma.
16. Crane Key WMA (p. 141) – FWC recommends FKNMS consider Alternative 3 to create a no-entry zone around the proposed WMA. Nesting and roosting locations of a variety of bird species, including state-listed tricolored herons, have switched from Little Crane Key WMA to Crane Key following Hurricane Irma. These species would benefit from the proposed regulations at this location.
17. Sawyer Keys WMA (p. 143) – FWC recommends FKNMS consider Alternative 1 for this WMA. The WMA already is protected with a 0.13 sq. miles no-entry zone and the added benefits of a 0.01 sq. miles no-entry expansion are unknown.
18. Happy Jack Key WMA (p. 144) – FWC recommends FKNMS consider Alternative 1 for this proposed WMA. Although FWC surveys have indicated reddish egret activity in this region, primarily for foraging in the seagrass flats around the island, additional information is needed before increasing regulations.
19. Marvin Key WMA (p. 145) – FWC recommends FKNMS consider Alternative 1 for this proposed WMA. This is an extremely popular recreation area and the rationale for decreasing bird disturbance would be more effective at the nearby proposed Marvin Barracuda Keys WMA.
20. Pelican Shoal WMA (p. 146) – FWC recommends the FKNMS consider Alternative 1 for the proposed elimination of this WMA (status quo, do not eliminate). The stated rationale for elimination is that Pelican Shoal was submerged and no longer supports nesting and roosting birds. However, the shoal re-emerged in 2018, supported nesting roseate terns in 2019 and is thought to be the last active ground-breeding location for ESA-listed roseate terns in Florida. Additionally, this is an FWC Critical Wildlife Area that was established in 1990.
21. Snipe Keys WMA (p. 147) – FWC recommends FKNMS consider Alternative 1 for this WMA because the current no-motor and idle-speed regulations at this WMA are sufficient for the resource needs. Furthermore, this is a popular recreation area and added no-entry zones are not necessary considering they are not part of the core foraging area for species like reddish egrets.
22. Mud Keys WMA (p. 148) – FWC recommends FKNMS consider Alternative 1 for this WMA because the current no-entry and idle-speed regulations at this WMA are sufficient for the resource needs.
23. East Harbor Keys WMA (p. 150) – FWC recommends FKNMS consider Alternative 1 for this WMA because the current no-access regulation at this WMA is sufficient for the resource needs.
24. Demolition Key WMA (p. 153) – FWC recommends FKNMS consider Alternative 1 for this proposed WMA because the benefits of new regulations are uncertain at this time.
25. Little Mullet Key WMA (p. 161) – FWC recommends FKNMS consider Alternative 1 for this WMA because the current no-access regulation at this WMA is sufficient for the resource needs.
26. East Barracouta Key Flats WMA (p. 162) – FWC recommends the FKNMS consider Alternative 1 for this proposed WMA because the environmental benefits of a no-anchor zone in this area are unknown.

27. West Barracouta Key Flats WMA (p. 162) – FWC recommends FKNMS consider alternative 1 for this proposed WMA. Although this flat is part of the core foraging area for reddish egrets, it is uncertain what the environmental benefits are for a no-anchor zone in this area.
28. Western Dry Rocks WMA (p. 163) – FWC does not support FKNMS regulations for the proposed Western Dry Rocks WMA. Western Dry Rocks is in state waters and the proposed actions are fishery management actions that are under FWC purview. FWC will consider fisheries management actions at Western Dry Rocks through our own rulemaking process.
29. Woman Key WMA (p. 164) – FWC recommends FKNMS consider Alternative 1 for this area because the current no-entry regulations at this WMA are sufficient for the resource needs.
30. Boca Grande Key WMA (p. 164) – FWC recommends FKNMS consider Alternative 1 for this WMA because the current no-entry regulations at this WMA are sufficient for the resource needs.
31. Boca Grande Woman Key WMA (p. 164) – FWC recommends FKNMS consider Alternative 1 for this proposed WMA because the environmental benefits are of no-anchor zone in this area are unknown.
32. Wilma Key WMA (p. 164) – FWC recommends FKNMS consider Alternative 3 to create a no-entry zone within the proposed WMA. Wilma Key is a nesting and foraging area for birds and seagrass habitat around the island has severe prop scarring. Added protections to Wilma Key are warranted.
33. Marquesas Keys WMA (p. 165) – FWC recommends FKNMS consider Alternative 1 for this WMA because the current no-access and no-motor regulations at this WMA are sufficient for resource needs.
34. Marquesas Keys Turtle WMA/Conservation Area (p. 166) – FWC recommends FKNMS consider Alternative 1 for this zone because the large area of this zone will unnecessarily impede navigation and negatively impact fishing opportunities within the area.
35. Tortugas Bank WMA (p. 172) – FWC recommends FKNMS consider Alternative 1 for this WMA because the current size of the no-anchor zone is sufficient for the resource needs.

Large, contiguous areas

The DEIS proposes 3 new areas that fall into the category of large, contiguous area management. In general, the management actions proposed within them are comprised of a combination of no fishing and then depending upon the alternative, no anchoring, idle speed, and in some cases transit only. These areas are (east to west):

- Carysfort Reef Sanctuary Preservation Area (SPA) (Alternative 4 – Chapter 3, map pg. 90)
- Long Key Tennessee Reef SPA or Conservation Area (Alternatives 3 & 4 – Chapter 3, map pg. 117)
- Tortugas Corridor SPA (Alternatives 2, 3, 4 – Chapter 3, map pg. 170)

FWC is not supportive of incorporating any of these large, contiguous areas into the next version of the Restoration Blueprint. Specific comments are below.

Carysfort Reef (Alternative 4) and Long Key Tennessee Reef SPAs (Alternatives 3 and 4)

These proposed areas are similar in size, configuration, and regulations as the existing Western Sambo Ecological Reserve (WSER). Although there are various configurations of no-anchor, idle-speed, and transit-only regulations, the overarching proposed management action is no fishing. State waters comprise most of the areal extent of both these large, contiguous areas which would require FWC to promulgate rules to prohibit fishing in these areas. FWC is highly cognizant of the observed changes to the fish and spiny lobster communities within and near the WSER. These observations, mostly made by FWC, include increased abundance and size of spiny lobsters, and increased abundance and size for those fish species whose life history is amenable to the size and configuration of this reserve. We correlate the fish and lobster population changes to be directly related to the no-take management within that reserve. Nevertheless, providing a balance between resource protection and access is a central guiding principle for FWC. In the

case of the Long Key Tennessee Reef SPA, we have learned that it is a very important spiny lobster fishing area. The Carysfort Reef SPA adds a considerable amount of area that will exclude fishing to the considerable no fishing and no trapping areas already present in the Upper Keys. FWC is not supportive of incorporating either of these areas into the next version of the Restoration Blueprint. Given the proposed management approach, our guiding principles, and the present level of knowledge regarding the degree of the resource benefits they may provide, FWC would not promulgate rules in state waters to implement the proposed management actions for these areas at this time. Further, FWC is not supportive of incorporating no anchor or idle-speed zones at the geographic scale of these proposed management areas.

For additional proposed management actions that variously adjust the existing Carysfort Reef SPA, the existing Tennessee Reef Special Use Area, and the existing WSER, please refer to the Coral Reef Restoration and Recovery section of this attachment (Attachment 1).

Tortugas Corridor SPA

FKNMS proposes to establish a spawning migration corridor between Dry Tortugas National Park and the Tortugas South Reserve (Riley's Hump) where fishing would be prohibited. It is well-known that, at a minimum, mutton snappers use the proposed corridor from April through August. FWC acknowledges that the existing network of reserves in the Dry Tortugas region has aided in the recovery of spawning aggregations at Riley's Hump and that the density and size structure of many exploited fish species in that region has markedly increased. It is this definitive information that has led to FWC's long-term support for maintaining the existing network of reserves in the Tortugas region. However, the added benefit of closing this migration corridor is unknown. Consequently, it is very difficult to gauge the resource benefit relative to the loss of access. Finally, a substantial portion of the proposed corridor is within state waters and would require FWC to promulgate rules to prohibit fishing in this area. At this time, FWC would not promulgate rules in state waters to implement the proposed management actions for the Tortugas Corridor. FWC does not support the addition of the Tortugas Corridor and recommends FKNMS move this action to considered by rejected.

Recommendation for Future Actions

The knowledge gained from research and monitoring related to the existing spatial management in FKNMS provides a body of knowledge indicating that a properly designed network of reserves containing an appropriate array of management approaches could have substantial positive impacts to the Florida Keys ecosystem and fisheries. FWC encourages FKNMS to take the lead in developing a team whose mission will be to conduct a comprehensive scientific endeavor designed to critically evaluate the merits of a carefully designed network of reserves. This endeavor would be multi-year in scope and could include, at a minimum, additional surveys, evaluating multiple zoning configurations, and predictive modelling. Should the outcome be that such a network has substantive ecosystem and/or fishery benefits, then FWC would encourage a social science and stakeholder engagement strategy to discuss the benefits and drawbacks of the network as part of future management considerations.

Future versions of Restoration Blueprint

Per FWC's letter to Sean Morton dated June 29, 2012 (Attachment 1B), FWC continues to recommend another version of the EIS be released before the final EIS. This should allow for greater flexibility in incorporating ideas as they are developed and refined. We look forward to seeing the next version of the Restoration Blueprint with FWC's requested changes and additions incorporated, and a proposed rule for FKNMS.

Diver / Snorkeler Impacts on Coral Reefs

The following are examples of scientific literature available that address diver/snorkeler impacts on coral reefs world-wide.

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ATTACHMENT 1B

Florida Fish and Wildlife Conservation Commission

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June 29, 2012

Mr. Sean Morton
Sanctuary Superintendent
Florida Keys National Marine Sanctuary
33 East Quay Road
Key West, FL 33040

Ms. Anne Morkill
Refuge Manager
U.S. Fish and Wildlife Service
28950 Watson Blvd.
Big Pine Key, FL 33043

RE: Florida Fish and Wildlife Conservation Commission (FWC) Comments – Florida Keys National Marine Sanctuary Scoping Notice

Dear Mr. Morton and Ms. Morkill:

The Division of Marine Fisheries Management of the Florida Fish and Wildlife Conservation Commission (FWC) has coordinated agency consideration of the Scoping Notice issued by the Florida Keys National Marine Sanctuary (FKNMS or Sanctuary), and provides the following comments and recommendations.

Background

The FKNMS, the Florida Keys National Marine Sanctuary Advisory Council (SAC), and the U. S. Fish and Wildlife Service (FWS) are seeking public comments on issues related to sanctuary boundaries, marine zones including Key West and Great White Heron National Wildlife Refuges' Backcountry Management Plan, and associated regulations. The comments received will guide revision of the FKNMS Management Plan, and the FWS Key West and Great White Heron National Wildlife Refuges' Backcountry Management Plan.

Process-Specific Comments and Recommendations

The FKNMS is a unique area not only because of its natural resources, but also because of the number of agencies that cooperatively share management authority for this area and its resources. The FWC is proud to be a partner of this cooperative management team, and is prepared to assist the Sanctuary and the FWS as you move forward with the Management Plan revision process.

The FWC understands that the FKNMS intends to revise the Management Plan in a fully transparent manner, and we strongly support this approach. This will ensure that management alternatives are fully explored and evaluated in a cooperative manner with State of Florida agencies, the FWS, the Sanctuary Advisory Council, Gulf and South Atlantic Fishery Management Councils, and other interested stakeholders before releasing a draft plan for agency and public review. Accordingly, the FWC recommends that the Sanctuary produce three versions of the management plan revision document for agency and public review – a preliminary draft, a draft, and a final. This will allow for greater flexibility to incorporate ideas as they are developed and refined, and make corrections and clarifications as deemed necessary. This will also facilitate FKNMS and FWS evaluation of coastal zone consistency and State of Florida review for concurrence.

We would like to remind the FKNMS that FWC staff participation in the process does not ensure that FWC Commissioners will ultimately choose to adopt management alternatives recommended by FWC staff for the Sanctuary. For this reason, the FWC also recommends that Sanctuary and FWS staff provide periodic updates directly to FWC Commissioners (during scheduled FWC meetings) to allow for their concerns or recommendations to be considered as early in the process as possible.

Protocol Revision

An important provision of State of Florida approval for the FKNMS was that the National Oceanic and Atmospheric Administration (NOAA) and the State would act as co-trustees to cooperatively manage the Sanctuary and Sanctuary resources in a manner consistent with the management plan, and five Memoranda of Agreement and Protocols. One such protocol was the Protocol for Cooperative Fisheries Management.

The Protocol for Cooperative Fisheries Management identified the following three objectives:

1. Develop consistent (or one set of) regulations within the Keys Sanctuary.
2. Provide for a flexible management system that minimizes regulatory delays while retaining substantial State, Federal and public involvement in management decisions, and rapidly adapts to changes in resource abundance, new scientific information and changes in fishing patterns among user groups.
3. Promote public comprehension of, voluntary compliance with and effective enforcement of the fisheries regulations within the Keys Sanctuary.

The FWC recommends updating this Protocol as part of the Management Plan revision process. This update should incorporate ways to improve how the FWC and the Sanctuary coordinate on fishery management issues and utilize the Protocol to guide the regulatory process.

Enforcement Services

Despite numerous commitments from NOAA for the staffing of sufficient law enforcement services, enforcement levels have fallen well below what can be considered "minimally acceptable." Currently, law enforcement resources have fallen to levels which precede the creation of the FKNMS, when only the Key Largo and Looe Key national marine sanctuaries existed. The FWC remains concerned that we are so far below critical staffing levels that our current resources are incapable of providing a sufficient enforcement presence. The lack of a sufficient law enforcement presence is not capable of creating a halo effect to help maintain compliance in the absence of enforcement in the area. While FWC continues to stand beside NOAA in its efforts to protect important resources in the Sanctuary, we also urge increased collaboration to re-develop the critical law enforcement resources needed to ensure long-term success of the FKNMS program and its priorities. Ultimately, the adequacy of law enforcement resources in the area must be given serious consideration throughout this Management Plan review process. More specific information on FWC law enforcement concerns are identified in the enclosed FWC letter to Eric Schwaab (Enclosure 1).

Waterway Markers

Although the FKNMS is not obligated by law to obtain waterway marker permits from the FWC for signs or buoys placed in the water, we request consideration of doing so for a variety of reasons. By permitting markers in the FKNMS through the State's simple process, the FWC will be better able to inform the Sanctuary when damaged or missing markers are reported through FWC's statewide reporting program. This process will also help to ensure consistency with State and Federal standards for waterway markers, thus making recognition of waterway markers and their meanings easier for boaters using the waters within the FKNMS. Ultimately, this process will allow us to collaboratively manage the area waterways in the most effective and efficient manner possible. This approach will improve compliance and minimize impact on benthic resources due to groundings and prop scarring.

FWC staff has specifically identified issues with waterway markers in the Key West National Wildlife Refuge (NWR). During a site visit earlier this year, FWC staff noted that only one of the islands in Key West NWR was posted; it had a

single, dilapidated sign on it. Several of these islands contain nesting colonies of white-crowned pigeons (listed as a State-designated Threatened species) or nesting wading birds. FWC staff has heard that some of these colonies are being disturbed by ecotour operations. The FWC recommends these important colonies be better posted, especially where there is evidence of human disturbance. The FWC also recommends that zoning information be easier to find on NWR web pages and maps.

Consistency with Existing Regulations

A stated goal of the FKNMS is to remain consistent with existing government regulations when possible (FKNMS 2007 Management Plan, Section 3.3.1 "Regulatory Action Plan," "Background"). In recognition of this goal, the FWC has identified two areas where FKNMS regulations in the area are inconsistent with existing State regulations. First, the definitions of some boating-restricted areas are different from those found in State law. In order to reduce boat operator confusion and complement existing state zone types, we suggest that the Sanctuary adopt the boating-restricted area definitions found in Rule 68D-23.103(3)(b), (d)-(f), Florida Administrative Code. Second, we discovered that the restriction for vessel operation in the vicinity of a diver down flag is inconsistent with State law. Chapter 327.331, Florida Statutes, prohibits vessels from operating above idle speed within either 100 feet or 300 feet of a "diver down" flag, depending on the width of the water body. For consistency, it is suggested that the FKNMS either adopt the State law or remain silent on this topic and allow the State law to set the regulatory standard on waters within the Sanctuary.

Appropriate Use of Waters within the Sanctuary

The FWC supports responsible efforts to protect Florida's fish, wildlife, and their habitats, while also ensuring that boaters have broad access to waters within the state. FWC staff observed that watersports (skiing, etc.), personal watercraft (PWC), and airboats are prohibited on some waters within the Sanctuary (specifically, the Great White Heron and Key West national wildlife refuges). Due to changes to personal watercraft technology (most now use four-stroke engines and have greatly reduced noise levels and emissions) and State laws (such as required use of a safety flag and exhaust mufflers) pertaining to airboats, the FKNMS should re-consider these prohibitions and possibly allow expanded use of these public resources. Keeping recreational boating as safe and enjoyable as possible is important, as is protecting our environment, but we encourage the exploration of amending FKNMS regulations to allow for more reasonable use and access to waters within the Sanctuary for watersports and all vessel types.

Workgroup Development

The FWC understands that the FKNMS will be forming workgroups to address specific issues as part of the Management Plan revision process, and that these workgroups will be established by a Core Group in or around September of this year. The FWC requests that Jessica McCawley, Director of the FWC Division of Marine Fisheries Management, be included as a member of the Core Group to assist with workgroup development and identification of appropriate FWC staff to serve on these workgroups.

Zoning and Regulatory Considerations for Listed Coral Species

The FWC has received a request from the South Atlantic Fishery Management Council (Enclosure 2) to initiate efforts to identify and evaluate conservation measures that provide protection for the federally and state-listed corals, Acropora palmata (elkhorn coral), Acropora cervicornis (staghorn coral), and Dendrogyra cylindrus (pillar coral) in State waters. In addition, they have also requested that the State work closely with lobster fisherman, the scientific community, and other stakeholders to restrict lobster trap fishing in areas with high Acropora spp. and D. cylindrus abundance or in locations where large "super" colonies occur (i.e., they have substantial contribution to the populations' gene pools) to reduce fishery interactions with these listed corals.

There will likely be zoning and regulatory implications for the FKNMS associated with consideration of this request, therefore the FWC recommends that this request be addressed through the FKNMS Management Plan revision process. The FWC feels the open stakeholder process being conducted by the FKNMS for the Management Plan revision would provide an opportunity for resolution that would meet a broader suite of needs. In addition, a workgroup could be created to consider this request comprehensively with other coral-specific issues identified during the comment period.

Zoning and Regulatory Considerations for Restoration Activities

Restoration and restoration research efforts in the FKNMS have traditionally been focused on coral species and coral reefs. The FWC would like to see expansion of such activities to include additional species and habitats that will encompass a more ecosystem-based approach for management in the Sanctuary. The FWC recommends restoration-related issues be addressed in the FKNMS Management Plan revision process through the creation of a Restoration Workgroup. The Restoration Workgroup would be responsible for developing a guidance document to be used during the Management Plan revision process.

The document should address, but not be limited to, the following restoration-related issues:

1. Identification and prioritization of areas that would benefit from restoration (e.g., Pelican Shoal for roseate terns) and restoration research activities. This will better focus and support funding and permitting needs for these activities.
2. Identification of areas that are appropriate and would facilitate restoration research activities. This would require consideration of amending the current zoning strategy and regulatory constraints to allow for placement of artificial structure (conducting manipulative research) in areas where it is not currently allowed (e.g., Eastern Sambo Research Only area), and also in areas that are open and not specifically designated. Consideration of this issue should be coordinated with the Artificial Reef Workgroup (identified below).
3. Evaluation of permitting requirements for conducting restoration and restoration research activities as well as providing recommendations for streamlining the permitting process to better facilitate such activities.

Zoning and Regulatory Considerations for Artificial Reefs

Artificial reef deployment and use in national marine sanctuary areas has been debated for many years. There are many well-supported beneficial uses for artificial reefs (e.g., restoration, fisheries enhancement), and they do have an important role in management of the FKNMS. The FWC recommends that issues relating to artificial reefs be addressed in the FKNMS Management Plan revision process through the creation of an Artificial Reef Workgroup. The Artificial Reef Workgroup would be responsible for developing a guidance document to be used during the Management Plan revision process. The document should address, but not be limited to, the following artificial reef-related issues:

1. Identification and prioritization of artificial reef research, including but not limited to:
   a. Artificial reef design and siting for purposes of fisheries enhancement specific to the FKNMS (e.g., enhancement and/or expansion of reef fish spawning aggregations).
   b. An assessment on the long-term performance of past historic concrete artificial reef habitats in the Florida Keys.
   c. Whether invasive species (e.g., lionfish, orange cup coral) selectively prefer artificial reef structures over natural reefs or other habitat in the FKNMS, and if so, why.

2. Identification of areas that would facilitate research on artificial reefs, inclusive of areas that are closed to fishing activities so that variables of directed fishing pressure and reef size and shape are removed. This would require consideration of amending the current zoning strategy and regulatory constraints to allow for placement of artificial structure in areas where it is not currently allowed. Consideration of this issue should be coordinated with the Restoration Workgroup (as identified above).

3. Discussion and recommendations regarding the use of artificial reef structures for:
   a. Restoration: Identify the types and designs of artificial reef structures that have historically been and are currently being used in the FKNMS for restoration activities, including but not limited to structures used for coral, coral reef, and reef-related species restoration (e.g., coral relocation and transplantation, reef framework repair, long-spine urchin and queen conch restoration efforts). Identify what has been learned from these activities, and provide recommendations as to what actions could be taken to maintain beneficial use or improve future use of artificial reef structures for such activities.
   b. Fisheries Enhancement: Identify opportunities to use strategically-placed artificial reefs to enhance marine fish habitat by overcoming bottlenecks in marine fish life history stages, reducing fishing pressure, etc. Specific examples might be to increase spawning habitat in areas closed to fishing, improve survivorship for juvenile fish by creating juvenile habitat with limited predation, strategically place artificial reef structures at shallower depths to reduce release mortality due to barotrauma, or to use artificial reef placement to minimize fishing pressure on adjacent natural reefs.
   c. Fisheries Management: Opportunities to use artificial reefs to support fisheries management objectives should be discussed and explored. For example, it should be acknowledged that FKNMS-specific criteria and standards would need to be developed for appropriate materials, design, and siting of lobster casita structures in the event that they are ever considered for purposes of fisheries management.
   d. Live Rock Aquaculture: Identify issues associated with material placement for live rock aquaculture activities, and develop recommendations for appropriate siting of such activities.

4. Develop guidance on how to consistently address requests for artificial reef deployments, including but not limited to:
   a. Secondary use of materials of opportunity (e.g., bridge spans, concrete culverts, limestone boulders).

b. Military or civilian ship sinking.
c. Placement of underwater art projects, other novelty items, memorial reefs, either temporarily or permanently. A recent example would be the temporary underwater photo art exhibit on the Vandenberg Reef. Older past examples would be the permanent statuary like the "Christ of the Abyss," or the temporary metal artist's project intended to be viewed from the air at night as it was illuminated with "cy-lume" night sticks.
d. Placement of materials intended to mimic marine archaeological sites for purposes of eco-tourism (e.g., placement of real cannons or replicas (Quaker guns), rock faux ballast piles, etc.).

Zoning and Regulatory Considerations for Manatees

The FWC requests the FKNMS consider the need for increased manatee protection, including the need to establish regulations on vessel operations in the Upper Keys to reduce the risks of manatee injuries and deaths, as well as damage caused by vessels to manatee foraging habitat.

Regulatory Considerations for Invasive Species

The FWC requests the FKNMS review regulations that act as barriers to conducting control and/or eradication activities for invasive species, and consider the need for certain exemptions to both Sanctuary and FWS regulations to facilitate invasive species removal efforts.

The FWC appreciates the opportunity to provide input on issues to be considered for revisions to the FKNMS Management Plan and the FWS Key West and Great White Heron National Wildlife Refuges' Backcountry Management Plan. We look forward to working with the FKNMS and the FWS as they embark on this process to update their respective management plans. Should you require additional assistance regarding our comments, please contact Jessica McCawley at (850) 487-0554 or jessica.mccawley@myfwc.com.

Sincerely,

Nick Wiley
Executive Director

nw/lg
Enclosures

ATTACHMENT 1B

Florida Fish and Wildlife Conservation Commission

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June 29, 2012

Mr. Eric C. Schwaab, Assistant Secretary for Conservation and Management/ Deputy Administrator
National Oceanic and Atmospheric Administration
US Department of Commerce
1305 East-West Highway
Silver Spring, Maryland 20910

Dear Mr. Schwaab:

I would like to bring to your attention some issues regarding adequate law enforcement services in the Florida Keys National Marine Sanctuary (FKNMS). Our concern is that the future success of and continued state support for the program may be affected.

Throughout the creation and subsequent expansion of the FKNMS, it was clearly expressed by state agencies and numerous stakeholders that providing for adequate site-specific law enforcement was the key issue when establishing management zones for the FKNMS program. This strong sentiment was reflected during the development of the 1996 Management Plan, in the "Enforcement Philosophy" section (Attachment A), and further reinforced by the Florida Fish and Wildlife Conservation Commission (FWC) during the creation of the Tortugas North Ecological Reserve (TNER) (Attachment B). In January of 2000, the National Ocean Service (NOS) corresponded with the FWC regarding enforcement issues, and committed that "we [NOS] fully intend to provide adequate resources that would be necessary for the proposed TER [Tortugas Ecological Reserve]." This commitment was later affirmed during public meetings by then FKNMS Superintendent Mr. Billy Causey, as concerns were raised by FWC Commissioners that they did not want their passage of a new ecological reserve to dilute the existing enforcement efforts of FWC officers in the Florida Keys. Our concerns for adequate enforcement were also echoed by the NOAA Office of Law Enforcement.

The commitments by NOAA to maintain a sufficient level of law enforcement services for the FKNMS zones in both the 1996 Management Plan, and shortly thereafter during rulemaking for TNER, was undoubtedly the most significant contribution that led to FWC approval of the TNER. While the number of enforcement officers in the FKNMS never reached 43 as recommended in the 1996 FKNMS Management Plan, and later reaffirmed in the 2004 Action Plan, levels of enforcement officers did reach a very minimally acceptable number by 2003 with 19 full-time staff. Since that time, the level of enforcement officers has fallen to a number equal to that prior to the creation of the FKNMS, when only the Key Largo National Marine Sanctuary and Looe Key National Marine Sanctuary existed. Furthermore, patrols aboard the P/V Gladding to the Tortugas are now likely to be reduced to one trip per month, hardly enough to provide any significant enforcement presence or a perceived halo effect that helps maintain compliance in the absence of enforcement.

The FWC has just published our joint five-year report with the National Park Service that evaluates the effectiveness of the Research Natural Area (RNA) within Dry Tortugas National Park (DRTO). Although the central focus of the report is the RNA in DRTO, it repeatedly emphasizes the complementary nature of all the reserves in the DRTO. The results of the research efforts found within the report provide compelling evidence that

the reserves have provided substantial benefits to the reef fish communities of the south Florida region. However, maintenance and further enhancement of these communities is dependent on our ability to effectively enforce the regulations central to the success of these areas. Ultimately, our paramount concern is that the continuing reductions in the capacity to complete the enforcement mission in the DRTO threatens to reverse the gains in natural resources that have been documented by researchers over the past few years.

The enforcement concerns expressed in this letter are centered on the FWC's core values; to ensure that our collective conservation efforts benefit all people. As the FKNMS seeks information on its management plan, we reiterate our previous stance that it is imperative that the benefits of the FKNMS zoning strategy not be monopolized by those who would take the opportunity to poach valuable resources, due to lack of enforcement. We continue to stand beside NOAA in its efforts to protect the valuable resources in the FKNMS, and urge you to work with us to re-develop these enforcement resources and assure the success of the FKNMS program.

Sincerely,

Nick Wiley
Executive Director

nw/jb/cb
cc: Colonel Jim Brown, FWC
Dan Kimball, Everglades National Park
Sean Morton, FKNMS

FDEP's Division of Law Enforcement, Florida Marine Patrol (FMP) with their supervision coordinated among NOAA, Florida Division of Marine Resources (FDMR), and the FMP. In addition to State laws and local ordinances, Sanctuary officers have statutory or delegated authority to enforce the NMSA and other statutes administered by NOAA.

Enforcement Philosophy. The Law Enforcement Program of the FKNMS is an essential component of resource protection within the Sanctuary. A goal of Sanctuary enforcement is to prevent resource impacts. This preventive enforcement is best achieved by maintaining sufficient patrol presence within the Sanctuary to deter violations and by preventing, through education, inadvertent violations of the law. Successful enforcement relies on frequent water patrols and routine vessel boardings and inspections. Water patrols will ensure that users of Sanctuary resources are familiar with the regulations, deter willful or inadvertent violations of the law, and provide quick response to violations and/or emergencies. Sanctuary officers have the capability to investigate, document, and assess Sanctuary violations.

Sanctuary officers practice a form of law enforcement known as "interpretive enforcement." This style of enforcement seeks voluntary compliance primarily through education of users. Interpretive law enforcement emphasizes informing the public through educational messages and literature about responsible behavior, before they adversely impact Sanctuary resources. On-site techniques are currently used to reach the public with educational messages at the

Enforcement Assets

Current enforcement within the FKNMS relies on a State-Federal partnership, utilizing all available enforcement assets of several agencies. The State of Florida, Florida Marine Patrol (FMP), Florida Park Service (FPS), NOAA, U.S. Coast Guard (USCG), and the U.S. Fish and Wildlife Service (FWS) have personnel operating in the FKNMS with statutory or delegated authority to enforce State laws, the National Marine Sanctuaries Act (NMSA), other NOAA statutes, and other acts. The National Park Service (NPS) has enforcement personnel in areas bordering the FKNMS. Land-based enforcement officials work for the Monroe County Sheriff's Office, the U.S. Army Corps of Engineers (ACOE), U.S. Customs, and Florida Game and Fresh Water Fish Commission (FGFWFC). Other Federal and State law enforcement agencies have officers based in the Keys, but do not regularly interact with Sanctuary officers. Some of these include: the State of Florida Department of Transportation; Drug Enforcement Agency; and Bureau of Alcohol, Tobacco, and Firearms.

A summary of the general enforcement assets for agencies conducting enforcement activity within the FKNMS is as follows:

Sanctuary Enforcement Officers. Currently seven Sanctuary Officers, funded by NOAA through an existing cooperative agreement, enforce regulations in the FKNMS. These are sworn, arms-bearing State of Florida Law Enforcement Officers who are deputized to enforce the NMSA, the Magnuson Fishery Conservation and Management Act (MFCMA), the Marine Mammal and Protection Act (MMPA), and the Endangered Species Act (ESA), as well as all State laws.

Sanctuary Officers report directly to an FMP Sanctuary Lieutenant, who in turn coordinates enforcement activities with the Sanctuary Agent and FMP. Sanctuary Officers are equipped with high performance vessels obtained from U.S. Customs seizures and provided by NOAA. Each vessel is equipped with electronic equipment (e.g. Loran, VHF radio, low band State and Federal radio) and emergency response equipment.

NOAA (Office of Enforcement). NOAA currently has one Special Agent assigned to the Florida Keys and another assigned to Miami. Both Agents are assigned to the National Marine Fisheries Service (NMFS), but provide assistance to the Sanctuary enforcement effort on an as-needed basis. Special Agents provide training to Coast Guard personnel and FMP officers in the enforcement of some NOAA statutes, primarily the MFCMA, the MMPA, and the ESA. NOAA has assigned a Sanctuary Special Agent with specific responsibilities for Sanctuary enforcement to the FKNMS. The Sanctuary Agent will be responsible for ensuring that NOAA's enforcement needs are met by the agencies funded through cooperative agreements for enforcement activity within the Sanctuary. The Office of Enforcement has Agents assigned throughout Florida, and in southern Georgia, who are available for special operations within the FKNMS on an as-needed, as-available basis.

Florida Marine Patrol. The FMP has an authorized force of 45 sworn enforcement officers and support personnel assigned to the district that includes the FKNMS. The FMP has available for Sanctuary enforcement small vessels for inshore patrols, a 50-foot patrol boat for offshore patrols, and a single engine sea plane. The FMP also maintains a response team that includes divers who can assist in damage assessment efforts. FMP uses an 800 MHz communications system to enhance enforcement effectiveness.

Under an interagency agreement with NOAA, all sworn FMP officers will be deputized to enforce the NMSA inside the FKNMS, as well as other NOAA statutes

existing sanctuaries. For example, Sanctuary officers talk with users and distribute brochures in the field. These encounters allow officers to make direct, informative contact with visitors, while conducting routine enforcement activity. In addition, Sanctuary officers are called upon to deliver interpretive programs both on-site and throughout the community. Sanctuary officers will continue to perform interpretive law enforcement within the FKNMS.

Integrating Enforcement Efforts. Across the nation, Federal, State, and local agencies are increasingly joining forces and targeting whole coastal ecosystems including rivers, bays, estuaries, and coastlines for comprehensive management and enforcement actions. Federal, State, and local laws provide government agencies with a variety of tools to protect coastal resources. In so doing, these laws strengthen law enforcement capabilities by allowing agencies to build on each other's expertise and share physical resources. Federal, State, and local agencies in the Keys are implementing this process of integrating efforts. In addition, local residents and frequent Sanctuary users are helping by detecting and reporting various violations and groundings, monitoring water quality, and submitting witness statement forms that document Sanctuary violations.

The success of Sanctuary enforcement depends largely on how well the enforcement entities in the Keys are coordinated. Because of limited resources at the Federal, State, and local levels, current enforcement assets must be targeted and used in an efficient and directed effort to achieve compliance

within and outside the Sanctuary boundaries. FMP officers also enforce a variety of State statutes related to resource protection and public safety.

National Park Service. The NPS has enforcement personnel stationed at Key Biscayne National Park, Everglades National Park and Dry Tortugas National Park. All three areas share boundaries with the FKNMS. NPS enforcement personnel will be deputized to enforce NOAA statutes.

U.S. Fish and Wildlife Service. Along with NOAA Special Agents, FWS Special Agents and officers have statutory authority to enforce the MMPA, ESA, the Bald and Golden Eagle Protection Act, and the Lacey Act. FWS also enforces the MBTA and other resource conservation laws within the boundaries of the FKNMS. FWS has five officers stationed in the area of the FKNMS who will be deputized to enforce the NMSA.

United States Coast Guard. The USCG Seventh District has responsibility for the area which includes the FKNMS. The Coast Guard has general law enforcement authority within the maritime jurisdiction of the United States. Coast Guard law enforcement patrols are usually multi-mission in nature, although patrols often emphasize enforcement of particular statutes. Typically, the Coast Guard depends on those agencies with specialized expertise to provide their patrol units with training and support in the conduct of law enforcement activities.

Within the FKNMS, the Coast Guard conducts between 2,400 to 2,500 hours of surface patrols and 200 to 300 hours of aerial patrols per year dedicated to enforcement.

The Coast Guard also has a primary role in protecting natural resources under the Oil Pollution Act of 1990, the Rivers and Harbors Act of 1899, the Deepwater Port Act, the Clean Water Act of 1977, and the Marine Plastic Pollution Research and Control Act.

Department of Environmental Protection, Florida Park Service. State parks in the Keys are unique in that their boundaries, including any waters they protect, are incorporated into the FKNMS boundaries. Florida Park Service officers are under the DEP Division of Law Enforcement and have the same jurisdiction as the Florida Marine Patrol. The officers conduct regular water patrols within park or aquatic preserve boundaries and may be available for assistance when necessary.

John Pennekamp Coral Reef State Park (JPCRSP) has a small land base with water boundaries extending from mean high tide out to the three-mile limit. The park borders Biscayne National Park to the north and extends approximately 22 miles south. JPCRSP's three-mile limit boundary is immediately adjacent to the boundaries of the Key Largo National Marine Sanctuary. The boat fleet for JPCRSP consists of research vessels and patrol boats. The officers patrol the park waters on a regular basis.

Monroe County Sheriff's Office (SO). Although the SO is primarily land based, they regularly use three boats for water patrol in excess of 16 patrol hours per month. The SO willingly assists the FMP in special events (e.g., boat races or movies) and the opening day of lobster season, and has jurisdiction within State waters. The officers have crossover training with U.S. Customs. There are currently three environmental officers, three to five person dive teams available for emergency response, and two planes for aerial patrol.

with existing (Federal, State, and local) and proposed regulations. Consequently, the coordination of enforcement assets will be an integral component of the continuous management process described in this Plan. Interagency agreements among NOAA and the other enforcement entities in the Keys (National Park Service (NPS), U.S. Coast Guard (USCG), U.S. Fish and Wildlife Service (FWS), Florida Department of Environmental Protection (FDEP), including Florida Park Service (FPS) and Florida Game and Fresh Water Fish Commission (FGFWFC)), are being established to ensure a cooperative and integrated enforcement operation.

A clear vision of the interagency mission and an understanding of the assets and resources currently available for an interagency effort to manage Sanctuary resources is essential to successfully managing the FKNMS. An assessment of existing Federal, State, and local enforcement assets in the Keys will be conducted. This assessment will develop detailed information about the number of officers, vessels, and equipment available by agency to protect resources within the Keys. This is essential information to determine the capabilities of enforcement operations within the Keys.

Conduct of the Enforcement Program. Sanctuary enforcement operations are a major component of Sanctuary management. A NOAA/National Marine Fisheries Service (NMFS) Special Agent (Sanctuary Agent) will serve as coordinator of the operational Enforcement Program on behalf of, and working in close consultation with, the Sanctuary Superintendent. The Sanctuary Agent is provided through an existing memorandum of understanding between the Assistant Administrator for Fisheries and the Assistant Administrator for Ocean Services and Coastal Zone Management. The Sanctuary Agent will coordinate operational enforcement with all participating agencies through their respective chains of command. Enforcement will be conducted in accordance with enforcement operations plans, to be developed by NOAA's Office of Enforcement and approved by Sanctuary management. Enforcement operations plans, subject to revision as necessary, will include enforcement priorities, patrol schedules, procedures for documenting violations, boarding procedures, information needs, and other instructions specific to the conduct of day-to-day enforcement.

The Sanctuary Agent will coordinate patrol schedules, enforcement priorities, and other related enforcement matters with the Sanctuary Lieutenant. The Agent will in turn coordinate with the Sanctuary officers through their FMP chain of command. The success of the Sanctuary enforcement effort depends on the level of cooperation among Sanctuary management and the enforcement staff. This kind of cooperative enforcement is not a new concept in the FKNMS. From the outset, all enforcement in the Looe Key and Key Largo National Marine Sanctuaries has been conducted by State law enforcement officers, under the direction of NOAA and State managers.

Operational Considerations. The Sanctuary Agent is stationed at the Marathon office. The seven current Sanctuary officers will be assigned to patrol the Upper, Middle, and Lower Keys, with emphasis placed on patrols in the Sanctuary Preservation Areas and Ecological Reserves. Patrol priorities will be based primarily on the protection of resources as opposed to user conflicts.

The Sanctuary officers will be stationed in the Upper, Middle and Lower Keys. Each officer (current and future) will be outfitted with a vehicle, a patrol boat, and all required law enforcement equipment (weapons, etc.).

Currently, the annual cost to NOAA for the Enforcement Programs at the Key Largo and Looe Key National Marine Sanctuaries is $610,000. This figure does not include the purchase cost of patrol vessels, but does include operations and maintenance costs.

Enforcement Program Review. As part of the continuous management process, an enforcement review program will be established for the Sanctuary. This program will ensure that management issues are being addressed by all agencies involved in Sanctuary enforcement, and that the proper training and marine resource identification and protection information is reaching the enforcement staff.

Background

Management Strategies. The strategies for the Management Plan, which includes the Enforcement Action Plan and all other action plans combined, have been grouped into three priority levels, based on their relative importance or feasibility. A strategy's priority level is based on factors such as available funding, costs, personnel requirements, timing, levels of existing implementation, and existing legislative/regulatory authority. The high priority level includes the 16 most important strategies. The medium priority level contains 36 strategies that represent the next level of importance to the sanctuary and will have some level of activity in year one. Low priority items contain the remaining strategies in the Management Plan. Those strategies planned for completion in or before year one do not have a priority level.

ATTACHMENT 1B

Florida Fish and Wildlife Conservation Commission

James L. "Jamie" Adams, Jr. Bushnell
Barbara C. Barsh Jacksonville
Patrick E. Geraghty Ft. Myers
Quinton L. Hedgepeth, DDS Miami
H.A. "Herky" Huffman Deltona
Thomas B. Kibler Lakeland
David K. Meehan St. Petersburg
Julie K. Morris Sarasota
Tony Moss Miami
Edwin P. Roberts, DC Pensacola
John D. Rood Jacksonville

ALLAN L. EGBERT, Ph.D., Executive Director
VICTOR J. HELLER, Assistant Executive Director

DIVISION OF LAW ENFORCEMEN
COLONEL ROBERT L. EDWARDS, Directo
Lt. COLONEL RANDY HOPKINS, Assistant Directo
620 South Meridian Stre
Tallahassee, FL 32399-160
www.state.fl.us/gf
(850) 488-625
TDD (850) 488-954

October 12, 1999

Ms. Penelope D. Dalton
Assistant Administrator for Fisheries
National Oceanic and Atmospheric Administration
United States Department of Commerce
1315 East-West Highway
14th Floor
Silver Spring, MD 20901

Dear Ms. Dalton:

The Florida Fish and Wildlife Conservation Commission (FWC) was created on July 1, 1999, and we are pleased to inform you that we have signed a cooperative enforcement agreement with the National Oceanic and Atmospheric Administration (NOAA), Office for Enforcement on July 8, 1999. This agreement also confers authority to our officers under the Marine Sanctuaries Act. During the past year, members of our executive staff have participated in meetings associated with the impending creation of the Tortugas 2000 Marine Reserve. We would like to bring to your attention the critical need for adequate enforcement resources to patrol this landmark reserve.

Throughout the meeting process enforcement surfaced as a key issue in the creation of this reserve. Physically this reserve is located 90 miles west of all established enforcement infrastructure. The ability to detect and interdict threats to the reserve from directed poaching activities does not currently exist within our agency. It is not a question of redirecting resources to cover this remote area. This program will require a commitment from NOAA to fund the acquisition of an offshore patrol unit dedicated to the routine all weather, day and night patrol of this area. The unit must include a minimum of six officers and two supervisors in order to support two crews for the patrol vessel for the Tortugas 2000 Marine Reserve alone. To date there have been no satisfactory detailed discussions of enforcement funding.

We would enjoy the opportunity to meet with you at your earliest convenience to discuss this potential enforcement shortfall. Our support of the concept of marine reserves must be in direct proportion to our ability to guarantee a reasonable level of enforcement presence.

ATTACHMENT 1B

This is consistent with worldwide thinking concerning the creation and success of marine reserves. We look forward to working with you toward the success of this vital project.

Sincerely,

For Allan L. Egbert, Ph.D.
Executive Director

ALE/FF
LAW 1-2
cc: Colonel Robert L. Edwards

ATTACHMENT 1B

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Silver Spring, Maryland 20910

File T2000

JAN 21 2000

#1, #2 copied #4

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FEB 02 2000

MARINE FISHERIES COMMISSION

Allan L. Egbert, Ph.D.
Executive Director, Florida Fish
and Wildlife Conservation Commission
620 South Meridian Street
Tallahassee, Florida 32399-1608

Dear Dr. Egbert:

Thank you for your letter regarding the need for adequate enforcement for the proposed Tortugas Ecological Reserve (TER) within the Florida Keys National Marine Sanctuary. Your letter was sent to the National Oceanic and Atmospheric Administration, National Ocean Service for a response. While we were still in the development phase of the proposed reserve, we agree that enforcement is a critical management tool for the protection of Sanctuary resources and recognize the need for adequate resources to support effective law enforcement throughout the Sanctuary.

In addition to the traditional law enforcement tools, the Sanctuary also relies on other tools, such as education and outreach, to successfully manage these resources. We fully intend to provide adequate resources that would be necessary for the proposed TER. We anticipate that our initial emphasis would be on public education and outreach, and that more stringent enforcement activity would be phased in gradually. We found that this approach worked well when the final regulations developed for the Sanctuary became effective in July 1997. During the first year, we applied our "interpretive enforcement", by providing information to the public about the new regulations, and using our education and outreach staff as well as our enforcement officers. In the second year after the regulations were effective, our enforcement officers, including our Florida Marine Patrol partners, began issuing warnings and, when necessary, citations. An increased level of enforcement effort continues to be phased in, applying both interpretive enforcement and more traditional enforcement.

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ATTACHMENT 1B

We welcome the opportunity to meet with you to discuss this important issue. Please contact Brenda Jans in my office at (301) 713-3074, to schedule a meeting.

Sincerely,

Nancy Foster, Ph.D.
Assistant Administrator

ATTACHMENT 1B

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

JAMES L. "JAMIE" ADAMS, JR. Bushnell
BARBARA C. BARSH Jacksonville
QUINTON L. HEDGEPETH, DDS Miami
H.A. "HERKY" HUFFMAN Deltona
DAVID K. MEEHAN St. Petersburg
JULIE K. MORRIS Sarasota
TONY MOSS Miami
EDWIN P. ROBERTS, DC Pensacola
JOHN D. ROOD Jacksonville

ALLAN L. EGBERT, Ph.D., Executive Director
VICTOR J. HELLER, Assistant Executive Director

OFFICE OF THE EXECUTIVE DIRECTOR
(850)487-3796 TDD (850)488-9542

File

March 21, 2000

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MAR 22 2000
DIVISION OF MARINE FISHERIES

Mr. Jeffrey R. Benoit, Director
NOAA - National Ocean Service
Office of Ocean and Coastal Resource Management
Building SSMC4, Room 1041
1305 East-West Highway
Silver Spring, MD 20910

Dear Mr. Benoit:

We have received your letter regarding a boundary extension for the proposed Tortugas 2000 project. We have no objection to including the Riley's Hump area within the boundaries of the Florida Keys National Marine Sanctuary. However, this support continues to be conditional upon the provision of adequate law enforcement presence in this area, as we have discussed.

We continue to look forward to working with NOAA in this process.

Sincerely,

Allan L. Egbert, Ph.D.
Executive Director

ALE/RN/jb
cc: Governor Jeb Bush
Commission Members
Russell S. Nelson, Ph.D. ✓

ATTACHMENT 1B

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

JAN 24 2000

Dr. Allan L. Egbert
Florida Fish and Wildlife
Conservation Commission
620 South Meridian Drive
Tallahassee, Florida 32399

Dear Dr. Egbert:

I am writing to consult with the Commission regarding a proposed boundary expansion for the Florida Keys National Marine Sanctuary (FKNMS or Sanctuary) as part of the proposed creation of an ecological reserve in the Tortugas region (the *Tortugas 2000* project). The FKNMS is a 2,800 square nautical mile marine protected area which was designated by statute in November 1990. The National Oceanic and Atmospheric Administration (NOAA), working closely with the State, developed a comprehensive management plan to implement the Sanctuary designation. An ecological reserve was proposed for the Tortugas area during subsequent development of the Sanctuary's management plan but was deferred pending additional analysis and review.

Tortugas 2000 is a collaborative effort to create an ecological reserve in the westernmost portion of the Sanctuary to protect nationally significant coral reef resources (see attached map and consult the website at http://fpac.fsu.edu/tortugas for background information). NOAA's Marine Sanctuaries Division (MSD) and the Florida Department of Environmental Protection have accepted the Sanctuary Advisory Council's recommendation for the proposed reserve which will protect approximately 151 square nautical miles of diverse habitats and species in the Tortugas area, such as sensitive coral reefs. The majority of the proposed Tortugas North area is in State waters. The Fish and Wildlife Conservation Commission decided at its December 9, 1999, meeting to begin the rulemaking process to promulgate regulations prohibiting fishing for those portions of the reserve in State waters.

Creating the reserve as proposed would require an expansion of the existing Sanctuary boundary and would need to comply with the applicable requirements of Sections 303 and 304 of the National Marine Sanctuaries Act (NMSA), 16 U.S.C. §§ 1433, 1434, as well as with the final management plan for the Sanctuary, and the agreements and protocols developed with the State in the final management plan. As part of this process, NOAA must consult with the State of Florida regarding the determinations and findings that are required to determine whether the area of the marine

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environment under consideration meets the standards for designation as a national marine sanctuary. Factors that must be considered include the area's natural resource and ecological qualities, its historical, cultural, archaeological, or paleontological significance, the present and potential uses and activities in the area, existing regulatory and management authorities, the manageability of the area, public benefits to be derived from sanctuary status, the negative impacts from management restrictions on income-generating activities, and socioeconomic effects of sanctuary designation.

This letter is to inform you that MSD is considering the course of action described above and requests that your office provide any information, recommendations or comments on this matter. MSD has also notified, by letter, Governor Jeb Bush, requesting that his office provide information, recommendations, or comments. All information, recommendations and comments will be considered in preparation of a Draft Supplemental Environmental Impact Statement (DSEIS). To ensure that your comments regarding the proposed reserve are considered in preparing the DSEIS, I would appreciate receiving your response by February 18, 2000.

We appreciate your assistance with this action. If you have any questions, please contact Ben Haskell at (305) 743-2437, Extension 25.

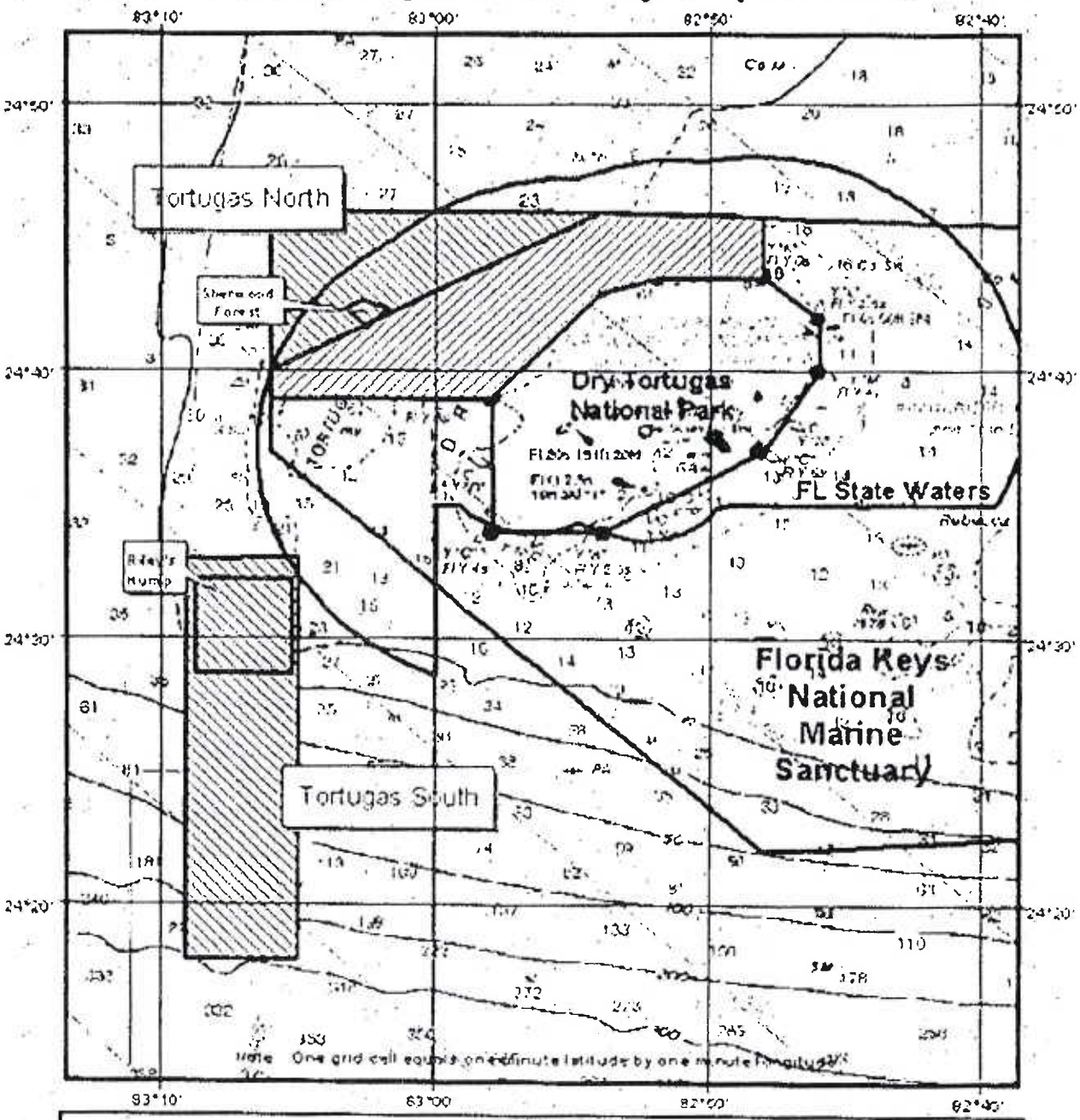
Sincerely,

Jeffrey R. Benoit
Director

Enclosure

ATTACHMENT 1B

Proposed Tortugas Ecological Reserve and Sanctuary Boundary Expansion



Boundary Coordinates

Tortugas North

NW 24°46'00"N, 83°06'00"W
SW 24°39'00"N, 83°06'00"W
NE 24°46'00"N, 82°43'00"W
"E" 24°39'00"N, 82°58'00"W
"F" 24°40'22"N, 82°56'39"W
"G" 24°41'42"N, 82°55'19"W
"H" 24°43'02"N, 82°53'59"W
"I" 24°43'34"N, 82°51'59"W
"J" 24°43'34"N, 82°49'59"W
"K" 24°43'34"N, 82°47'59"W

Tortugas South

NW 24°33'00"N, 83°09'00"W
NE 24°33'00"N, 83°05'00"W
SW 24°18'00"N, 83°09'00"W
SE 24°18'00"N, 83°05'00"W

National Marine Sanctuary Program

ATTACHMENT 1B

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

JAMES L. "JAMIE" ADAMS, JR. Bushnell
BARBARA C. BARSH Jacksonville
QUINTON L. HEDGEPETH, DDS Miami
H.A. "HERKY" HUFFMAN Deltona
DAVID K. MEEHAN St. Petersburg
JULIE K. MORRIS Sarasota
TONY MOSS Miami
EDWIN P. ROBERTS, DC Pensacola
JOHN D. ROOD Jacksonville

ALLAN L. EGBERT, Ph.D., Executive Director
VICTOR J. HELLER, Assistant Executive Director

OFFICE OF THE EXECUTIVE DIRECTOR
(850)487-3796 TDD (850)488-9542

July 24, 2000

RECEIVED
JUL 26 2000
DIVISION OF
MARINE FISHERIES

Mr. Billy Causey, Sanctuary Supervisor
Florida Keys National Marine Sanctuary
P.O. Box 500368
Marathon, FL 33050

Dear Mr. Causey:

We are taking this opportunity to offer comments on the Draft Supplemental EIS for the proposed Tortugas Ecological Reserve. We have been participating in the process of developing this proposal as members of the Working Group since 1998. You have received input from our Marine Fisheries and Enforcement Divisions and we believe that our input has been important to the process.

We believe the science and information-based process used to achieve a consensus recommendation from the working group was accurate, objective, equitable to affected users, and care has been taken to assure minimal negative economic impacts. We do, however, have two concerns with the proposal as it stands.

We believe that it is important to retain some public access to these Reserve sites, and agree that limited non-consumptive diving should be allowed. We do, however, also believe that even non-consumptive diving results in some morbidity and mortality to coral reef habitat, and would ask--as did the Marine Fisheries Commission in 1997--that controls be placed on the number of divers and dive trips to assure minimal acceptable damage to this habitat. If the Reserve is put into place, it will certainly become a world famous attraction for divers, and this popularity would likely lead to increased demand for access. Access should be limited and be based on estimating a carrying capacity for such use.

Our second concern has been raised throughout the course of the working group's efforts, and it has to do with adequacy of enforcement resources. The creation of this reserve will require some sacrifice on the part of the public who will be foregoing access

and use. As managers, we ask the public to make such a sacrifice because we are convinced that benefits, both fisheries and ecological, will accrue from the Reserve. It is imperative that these benefits not be monopolized by the few who would take the opportunity to poach within the Reserve.

Our concern with this issue is reinforced by our experience enforcing the current Special Protected Areas and Ecological Reserve already established in close proximity to land within the Sanctuary. In Fiscal Year 1997/98, we issued 273 citations and warnings for taking of resources within closed areas, and 422 were issued during Fiscal Year 1998/99. In Fiscal Year 1999/2000, we issued 366 citations and warnings for violations occurring in these nearshore areas. We have not seen an increase in compliance over time. The 151 square miles of the proposed Tortugas Ecological Reserve lies over 70 miles from Key West. During the development of this proposal, we have, and continue to maintain that the minimal resources necessary to assure adequate enforcement for the area consists of two vessels 50 feet or greater in length, and a Lieutenant and two officers for each vessel. Smaller vessels will not be capable of complete and timely coverage of the area during sub-optimal weather conditions. At least two crews are necessary to assure the potential for around-the-clock coverage. We have discussed this issue with NOAA's Office of Enforcement and they concur with our needs assessment. We urge you to work with us to develop these enforcement resources and assure the success of this Reserve.

Sincerely,

Allan L. Egbert, Ph.D.
Executive Director

ALE/RN/re

cc: Commission Members
Colonel Robert Edwards
Mr. Roy Williams
Mr. Ken Haddad

File / Tortugas 2000

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Silver Spring, Maryland 20910

MAR 15 2001

Mr. Mark Robson
Regional Director
Florida Fish and Wildlife Conservation Commission
8535 Northlake Blvd.
West Palm Beach, Florida 33412

Dear Mr. Robson:

Thank you for your letter regarding the Florida Fish and Wildlife Conservation Commission's review and comments on the Draft and Final Supplemental Environmental Impact Statement and Supplemental Management Plan for the establishment of the Tortugas Ecological Reserve. My staff has kept me apprised of their interaction with you and other Commission staff and I want to express my sincere appreciation for the excellent cooperation and detailed attention we have received from you and your agency on this very important project.

Additionally, I want to reaffirm our commitment to funding the six Commission law enforcement officers for the Tortugas Ecological Reserve. The funding for these positions is included in the FY 2001 agreement between the National Oceanic and Atmospheric Administration's (NOAA's) Office of National Marine Sanctuaries and the Florida Fish and Wildlife Conservation Commission. I am also aware of the agreement to provide two mechanic positions to maintain the two 82-foot patrol vessels that NOAA is obtaining from the U.S. Coast Guard.

Sincerely,

Daniel J. Basta
Director
Office of National Marine Sanctuaries

Cc: Allan L. Egbert, Ph.D.
Victor Heller
James Antista
Ken Haddad
Col. Robert Edwards

ATTACHMENT 1B

ENCLOSURE 2

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

4055 Faber Place Drive, Suite 201
North Charleston, SC 29405
TEL 843/571-4366 FAX 843/769-4520
Toll Free: 1-866-SAFMC-10
Email: safmc@safmc.net Web site: www.safmc.net

David Cupka, Chairman
Ben Hartig, Vice Chairman

Robert K. Mahood, Executive Director
Gregg Waugh, Deputy Executive Director

June 27, 2012

Kathy Barco, Chairman
Florida Fish and Wildlife Conservation Commission
620 South Meridian St.
Tallahassee, FL 32399-1600

Dear Ms. Barco,

The South Atlantic Fishery Management Council (Council) has approved Amendment 11 to the Fishery Management Plan for Spiny Lobster in the South Atlantic and Gulf of Mexico. The joint Amendment has also been approved by the Gulf of Mexico Fisheries Management Council and is currently under review by the Secretary of Commerce. The measures included within this Amendment will restrict lobster trap fishing in specifically designated areas in federal waters known to contain high densities of the coral species *Acropora cervicornis* and *A. palmate*, listed as threatened under the Endangered Species Act. These pre-determined areas were selected with the help of stakeholders (with substantial input from local fishermen) and researchers in the Florida Keys National Marine Sanctuary, and will serve as added protection for the threatened coral species. The conservation measures in Spiny Lobster Amendment 11 were developed to comply with federal measures established in the 2009 Biological Opinion on the spiny lobster fishery.

The Council, and its Coral Advisory Panel, recognizes that a substantial proportion of Florida's *Acropora cervicornis* and *A. palmata* colonies currently reside in state waters. Additionally, the state of Florida lists *Dendrogyra cylindrus* as a threatened species and Florida Fish and Wildlife Conservation Commission is currently developing a management plan for the species in state waters.

As such, we are requesting that the state of Florida initiate efforts to identify and evaluate conservation measures for implementation in state waters that offer similar protection for the federally and state-listed corals, *Acropora palmata, A. cervicornis,* and *Dendrogyra cylindrus*, as those identified in Spiny Lobster Amendment 11. We also request that the state work closely

with lobster fisherman, the scientific community, and other stakeholders to restrict lobster trap fishing in areas with high *Acropora* spp. and *D. cylindrus* abundance or locations where large "super" colonies occur (i.e., have substantial contribution to the populations' gene pools). This added protection of the remaining colonies is important for future efforts to restore the populations of these threatened coral species in Florida.

Thank you for your consideration of our request.

Sincerely,

David Cupka

David Cupka
Chairman

cc: (via electronic mail)
Nick Wiley, Executive Director FL FWCC
Council members and staff
Coral AP members