

**REPORT OF BROWARD COUNTY LOCAL RULE REVIEW COMMITTEE
TO THE FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
REGARDING PROPOSED MANATEE SPEED ZONE RULE CHANGES.**

**Final Report
August 2010**

Daniel H. Yaffe, Chair

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I. Acknowledgements:

This report was prepared by the Broward County LRRC, whose members include:

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This report was written by Edward O. Keith, Recording Secretary, and Broward County Environmental Protection and Growth Management (EPGMD) staff, and endorsed by the entire Local Rule Review Committee for submittal to the Florida Fish and Wildlife Conservation Commission. EPGMD staff provided assistance in the preparation of the report. The report is submitted on behalf of the LRRC that was constituted by state law under the Florida Manatee Sanctuary Act to review and provide recommendations on proposed manatee protection zones in Broward County.

The LRRC would like to acknowledge the following individuals who were present at one or more of the meetings, and offered themselves and resources to the LRRC. They provided significant assistance and valuable information that was critical to the successful completion of the task set before the LRRC. Thank you all.

Those individuals are:

Pat Quinn, Ph.D., Broward County EPGMD
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David Roach, Executive Director, Florida Inland Navigation District
Winifred Perkins, Manager, Environmental Services, Florida Power and Light
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II. Introduction and Background

According to the Florida Manatee Sanctuary Act (§ 379.2431 (2008) Florida Statute) all proposed rules of the Florida Fish and Wildlife Conservation Commission (FWC) governing the speed and operation of motorboats for purposes of manatee protection shall be submitted to the counties in which the proposed rules will take effect for review by local rule review committees (LRRC). The FWC approved a Manatee Management Plan (MMP) in December 2007 to provide a state framework for conserving and managing manatees in Florida. The MMP is complementary to the federal Florida Manatee Recovery Plan, with both plans describing actions that will ensure the manatee's long-term survival. One of the many tasks required by the MMP is a review of existing manatee protection zones based on the most current data to determine if modifications are justified.

The manatee protection rule for Broward County (68C-22.010, Fla. Admin. Code) was adopted in 1993 and since that time no comprehensive review has been conducted. New data are now available, due in large part to County efforts to fund and collect manatee distribution data. Recent boating data are also now available. FWC staff reviewed the new data and other available information and conducted a preliminary review of the existing zones. Based on this initial review the FWC staff believes some changes to the Broward County rule may be warranted.

Florida Statute § 379.2431(2)(f) prescribes the steps required for the FWC to adopt or amend manatee protection boat speed rules. FWC staff analyzed manatee sighting data, watercraft-related manatee mortality, boating data, coincidence of manatees and motorboats, and seagrass coverage throughout the waters of Broward County. Based on an initial review of these data, FWC staff identified ten (10) areas of the County where a manatee protection speed zone rule change may be warranted. A formal letter notifying Broward County that the FWC is considering modifications to the manatee protection rule for Broward County was received on 15 March 2010. Pursuant to the statute, Broward County had 60 days after receipt of the letter to form a LRRC to review the FWC staff proposal and provide comments and recommendations. Once the LRRC was formed, it received a preliminary rule proposal to the LRRC and the LRRC had 60 days to review the proposal and submit its report (this document).

On April 27, 2010, the Broward County Commission created an LRRC composed of ten (10) members. Originally the proposed LRRC had eight (8) members, but a County Commissioner recommended that Karl Roeder, another environmental advocate, be added; and to maintain balance, Commissioner Allan Burrows, another waterway user, was subsequently added. The membership consisted of a balanced composition of environmental advocates and waterway users pursuant to Florida Statute §379.2431(2). The LRRC members felt that this was a false distinction because the two categories are not mutually exclusive. The purpose of the LRRC is to advise the FWC and to represent the public in the process of reviewing proposed changes to the existing rule for Broward County relating to manatee protection speed zones.

The LRRC was asked to review the existing Broward County manatee protection speed zone rule, and consider those 10 potential rule changes, as well as any other areas where a rule change

may be warranted (zones to be either added, modified, or removed) based on their local knowledge and experience.

For ease of review, Broward County waterways were divided into 4 regions. Each manatee speed zone identified by the FWC staff preliminary review received an alphanumeric designation (e.g. C1). The regions reviewed are as follows:

- C – North County
- D – Port Everglades
- E – South County
- F – Inland Areas

The LRRC also reviewed three “Other Rule Issues” (Section G). LRRC received other recommendations (Section H).

FWC staff provided preliminary data and analyses for the LRRC to use in their review of each of the potential rule changes. These data are available at the Broward County LRRC web page (<http://www.broward.org/MANATEES/Pages/LocalRuleReviewCommittee.aspx>) or from Dr. Patrick Quinn at pquinn@broward.org. These data and analyses included:

1. Manatee aerial survey data for Broward County from two time periods: 1988-92 (which was used when the manatee protection rule was first developed circa 1990-92) and 2004-09 (which represents current manatee use).
2. Manatee mortality data, 1974–2009. Each data point in the mortality database represents the location where a carcass was recovered and not necessarily the location where a manatee died.
3. Boating data collected during 2004-2009 aerial surveys.
4. Seagrass data from EPGMD collected 2006-2007. (The LRRC also considered 2008 seagrass data).
5. “COIN” Analysis (Manatee – Boat Coincidence data), for both coincidence of manatees with all boats (“COIN”), as well as manatees with fast boats (“Fast-COIN”).
6. Some of these data were summarized by year, season, and/or region.

The LRRC met 13 times, at locations in central and southern Broward County as follows:

1. June 03 – Secret Woods Nature Center, 2701 W. State Rd. 84, Dania Beach, FL
2. June 17 – Secret Woods Nature Center, 2701 W. State Rd. 84, Dania Beach, FL
3. July 01 – Secret Woods Nature Center, 2701 W. State Rd. 84, Dania Beach, FL
4. July 08 – Hearing Room, GCW, 1 N. University Drive, Plantation FL
5. July 15 – Hearing Room, GCW, 1 N. University Drive, Plantation FL
6. July 22 – Secret Woods Nature Center, 2701 W. State Rd. 84, Dania Beach, FL
7. July 29 – Secret Woods Nature Center, 2701 W. State Rd. 84, Dania Beach, FL
8. August 03 – Anne Kolb Nature Center, 751 Sheridan Street, Hollywood FL
9. August 05 – Secret Woods Nature Center, 2701 W. State Rd. 84, Dania Beach, FL
10. August 13 – Secret Woods Nature Center, 2701 W. State Rd. 84, Dania Beach, FL
11. August 20 – Secret Woods Nature Center, 2701 W. State Rd. 84, Dania Beach, FL
12. August 23 – Secret Woods Nature Center, 2701 W. State Rd. 84, Dania Beach, FL
13. August 27 – Secret Woods Nature Center, 2701 W. State Rd. 84, Dania Beach, FL

All meetings were publicly noticed, and all LRRC business was conducted in the “Sunshine”, as mandated by Florida Law. A website was created (<http://www.broward.org/MANATEES/Pages/LocalRuleReviewCommittee.aspx>) to facilitate communication between the committee and Broward EPGMD staff, and the committee and the public. A public meeting was held on August 3, 2010, to allow the LRRC to receive public input into the process.

The LRRC participated in a boat tour of the Intracoastal Waterway in Broward County to review existing manatee zones, review current signage and inspect areas of proposed manatee zone changes. The Broward Sheriff’s Office Marine Unit conducted the tour, which occurred on July 31, 2010. There were four members of the LRRC, as well as County staff onboard the boat. The eight hour tour provided the members with a review of county waterways and gave them a law enforcement perspective concerning manatee protection.

The public was invited to participate in all meetings, and public comment was accepted both at meetings and via written comment. Spoken comments provided at the meetings are summarized in Appendix E. Written comments including letters and emails are also included in Appendix E, as they were reviewed by the Committee at their meetings.

The recommendations of the Broward County LRRC are reported in this document.

III Summary of Expert Information Sessions

Dr. Edmund Gerstein

Dr. Gerstein reviewed his research on the hearing ability of the manatee (audiogram) and the ability of manatees to detect the noises produced by boats. He also described a new system he has developed to alert manatees to approaching boats that is currently undergoing field testing.

David Roach

Mr. Roach described the purpose, operation, and activities of the Florida Inland Navigation District. He also discussed the reasons for the format, content, and size of manatee zone signage.

Dr. Edward O. Keith

Dr. Keith reviewed his research on the seasonality of manatee presence in Port Everglades, which is primarily driven by ambient water temperature. He also presented some comparative analyses of manatee mortality data and described his efforts to develop a technological solution to the problem of manatee-boat interactions.

IV. Summary of LRRC Recommendations

For split votes, a summary of the majority and minority opinions is included after the LRRC decision. A graphic summary of LRRC recommendations showing area and extent of all zones considered appears in Appendix C.

C1 – Hillsboro Canal

This area had moderate to high manatee density during both the cold season and the warm season. Boat data was not collected for most of the canal so manatee-boat coincidence could not be calculated. Most of the canal is a year-round 50-foot Slow Speed shoreline buffer with the area beyond the buffer unregulated. The middle of the canal is the boundary between Broward County and Palm Beach County. The northern portion of the canal is regulated by the Palm Beach County rule as a year-round 50-foot Slow Speed shoreline buffer. FWC STAFF has received requests from law enforcement to make the entire canal a shore-to-shore Slow Speed zone.

Potential Rule Change (year-round):

Change the 50-foot Slow Speed shoreline buffer to a shore-to-shore Slow Speed zone. This change could not be fully implemented unless the Palm Beach County rule was also changed.

LRRC Recommendation:

The Broward County LRRC voted 8 to 1 to **accept** the FWC staff recommendation.

C2 – Hillsboro Inlet Area

This area (from marker “68A” to just south of NE 14th Street) had high manatee density and Fast-COIN during both the cold season and the warm season but is only regulated at Slow Speed during the cold season. This area is regulated year-round for boating safety.

Potential Rule Change (warm season):

Change the existing cold season Slow Speed zone to a year-round zone. This change would not have any effect on-water because of the existing boating safety zones. This change would be consistent with the resolution passed by the city of Lighthouse Point (see Area C3, below) except that the City requested Idle Speed.

LRRC Recommendation:

The Broward County LRRC unanimously voted to **accept** the FWC staff recommendation.

C3 – Intracoastal Waterway (ICW) from Palm Beach County to Marker 68A

This area had high manatee density and Fast-COIN during the cold season. Most of this area is regulated at Slow Speed on weekends only during the cold season (25 MPH with a 50-foot Slow Speed buffer during other times). The area between markers “68” and “68A” (approximately 4600 feet) is also regulated as a year-round Idle Speed boating safety zone. The city of Lighthouse Point passed a resolution in June 2010 requesting that the entire ICW within its jurisdiction be changed to a year-round Idle Speed zone; the northern city limit is approximately 3100 feet north of marker “68”.

Potential Rule Change (cold season):

Change the existing cold season weekend only Slow Speed zone to all days during the cold season. For the cold season (but not the warm season), this change would be consistent with the resolution passed by the city of Lighthouse Point except that the City requested Idle Speed.

LRRC Recommendation:

The Broward County LRRC voted 7 to 3 to **accept** the FWC staff recommendation.

Majority opinion:

There was a high degree of manatee density and fast-COIN during both the warm and cold seasons. Manatee mortality is not the entire story, many times manatees are struck by boats and do not die, but suffer other long-term effects. There are times during the warm season when there are many manatees in the area and law enforcement officers have to force boats to reduce their speed even though speed zones allow them to go fast, and law enforcement officers are in favor of the change. The ICW was created for boaters, but the reason the manatees are there is because their other habitats have been greatly reduced by human impacts. The goal of the rule changes is not necessarily to reduce mortality; it is more to reduce the risk of boat-manatee interactions of all kinds, especially sub-lethal impacts. The Endangered Species Act doesn't require demonstration of a reduction in mortality to justify protection of endangered species such as the manatee. The residents themselves have requested a reduction in their liberty through their duly elected representatives on the City Council. The claim of a reduction in liberty is not accurate, the rule would not reduce access, just reduce the speed of access, and only on weekdays.

Minority opinion:

The data suggest that we have been good caretakers of the manatee population, and the proposed rule would reduce the liberty of those using the ICW, which was created for boaters. Because Broward County appears to have an increasing manatee population and a low manatee mortality rate compared to the rest of the state, there is no compelling reason to increase this area of regulation.

It is difficult to define how much more manatee mortality would be reduced by the proposed change. No evidence has been presented that COIN data necessarily correlate with actual boater-manatee interactions. There appears to be no scientific basis for the assumption that reducing weekday boat speeds in areas with high COIN or Fast-COIN would further reduce manatee mortality below the already declining rate.

The proposed rule change appears to be micromanagement with the potential for a very small benefit based on mathematical, statistical and theoretical arguments. We should place our trust in the law enforcement officers to do what is necessary. Because the maritime industry is the second largest employer in Broward County, further restrictions on its waterways might place at risk the economic health of this sector for a questionable possibility based as much on emotional considerations as on facts.

C4 – ICW from NE 14 St. to Atlantic (or Commercial)

This area had high manatee density and moderate Fast-COIN during the cold season. This area is regulated at Slow Speed on weekends only during the cold season (25 MPH with a 50-foot Slow Speed buffer during other times). FWC has received requests from the public to make the area between NE 14th Street and Atlantic Blvd a year-round Idle Speed or Slow Speed zone.

Potential Rule Change (cold season):

Change the existing cold season weekend only Slow Speed zone to all days during the cold season.

LRRC Recommendation:

The LRRC divided the issue into two parts:

1) Changing the existing cold-season weekend only Slow Speed zone to all days during the cold season on the ICW between 14th Street and Atlantic Blvd.

The Broward County LRRC voted 6 to 4 to **accept** this part of the FWC staff recommendation.

Majority Opinion: Same as for proposed change C3.

Minority Opinion: Same as for proposed change C3.

2) Extending the existing cold-season weekend only Slow Speed zone to all days during the cold season on the ICW between Atlantic Blvd. and Commercial Blvd.

The Broward County LRRC voted 7 to 3 to **reject** this part of the FWC staff recommendation.

Majority Opinion: Same as minority opinion for proposed change C3.

Minority Opinion: Same as majority opinion for proposed change C3.

C5 – ICW from Palm Beach County to Burnham Point

This area includes the area covered by C3 and C4 plus additional area to the south (but not the Hillsboro Inlet zone). This area, which had moderate manatee density and Fast-COIN during the warm season, is regulated at 25 MPH with a 50-foot Slow Speed buffer during the warm season. There are multiple boating safety zones in this area as well as an underlying 30 MPH zone with a 15-inch wake limitation that was established by a Special Act of the Florida Legislature. This latter zone is not currently posted because the existing boating safety and manatee protection zones completely overlap it with more restrictive zones.

Potential Rule Change (warm season):

Remove the entire warm season manatee protection zone or possibly change it to a shore-to-shore 25 MPH zone (i.e., remove only the 50-foot Slow Speed buffers). Removal of the zone completely would mean the areas outside of the other existing zones would be governed by the Special Act zones. Removal of the shoreline buffer is not expected to have any significant negative effects because boat lifts, docks, and other shore-based structures already limit high speed boat operation in many parts of this area. Removal of the buffer would make zone marking much easier because the regulatory markers would need to contain much less text.

LRRC Recommendation:

The Broward County LRRC voted 9 to 1 to **reject** the FWC staff recommendation.

Majority Opinion: Four of five public comments support an increase in protection, not a reduction in protection as would be caused by this change.

Minority Opinion: Boater speeds in area would still be limited by other rules already in place. Because the maritime industry is the second largest employer in Broward County, further restrictions on its waterways might place at risk the economic health of this sector for a questionable possibility based as much on emotional considerations as on facts.

C6 – Entrance to Pompano Canal/Cypress Creek

The area east of US 1 and west of the ICW is currently unregulated but sandwiched between the year-round Slow Speed zone on Pompano Canal/Cypress Creek and the seasonally-differentiated zone on the ICW. This area was likely excluded from the existing zones to allow higher speeds for water sports. The ICW area immediately to the east had moderate to high manatee density and moderate Fast-COIN during both seasons.

Potential Rule Change (cold season):

Include this area in the zone that covers the ICW immediately to the east. The ICW is currently regulated at Slow Speed on weekends only during the cold season (25 MPH with a 50- foot Slow Speed buffer during other times) but is identified in Areas C4 and C5 for a potential change.

LRRC Recommendation:

The Broward County LRRC voted unanimously to **accept** the FWC staff recommendation.

D1 – Port Everglades Power Plant Discharge Canal

This area had high manatee density during both the cold season and the warm season. Most of the canal is a year-round No Entry zone but the east-west portion of the canal that connects to the ICW is regulated at Idle Speed during the cold season and at Slow Speed during the warm season. FWC has received requests from law enforcement and others to expand the existing No Entry zone to include the east-west portion of the canal.

Potential Rule Change (warm season):

Expand the No Entry zone to include the east-west portion of the canal.

LRRC Recommendation:

The Broward County LRRC voted unanimously to **accept** the FWC staff recommendation.

E1 – West of ICW, South of Dania Beach Blvd.

This existing cold season Slow Speed zone had high manatee density and Fast-COIN during the warm season. The area is 25 MPH with a 50-foot Slow Speed shoreline buffer during the warm season. It is one of only a few locations that has substantial seagrass.

Potential Rule Change (warm season):

Change the existing cold season Slow Speed zone to a year-round zone.

LRRC Recommendation:

The Broward County LRRC voted 8 to 1 to **accept** the FWC staff recommendation.

Minority Opinion: Because the maritime industry is the second largest employer in Broward County, further restrictions on its waterways might place at risk the economic health of this sector for a questionable possibility based as much on emotional considerations as on facts.

E2 – ICW south of Dania Beach Blvd. to Miami-Dade County

This area had moderate to low manatee density but moderate to high Fast-COIN during the warm season. As with Area C5, this area is regulated at 25 MPH with a 50-foot Slow Speed buffer during the warm season. There are multiple boating safety zones in this area as well as an underlying 30 MPH zone with a 15-inch wake limitation that was established by a Special Act of the Florida Legislature. This latter zone is not currently posted because the existing boating safety and manatee protection zones completely overlap it with more restrictive zones. The city of Hollywood has requested the ICW between Hollywood Blvd and Hallandale Beach Blvd be regulated at Idle Speed and the city of Hallandale Beach has requested that the ICW within its jurisdictions be changed to a year-round Slow Speed zone.

Potential Rule Change (warm season or possibly year-round):

Remove the entire warm season manatee protection zone or possibly change it to a shore-to-shore 25 MPH zone (i.e., remove only the 50-foot Slow Speed buffers). Removal of the zone completely would mean the areas outside of the other existing zones would be governed by the Special Act zones. Removal of the shoreline buffer is not expected to have any significant negative effects because boat lifts, docks, and other shore-based structures already limit high speed boat operation in many parts of this area. Removal of the buffer would make zone marking much easier because the regulatory markers would need to contain much less text.

LRRC Recommendation:

The Broward County LRRC voted unanimously to **reject** the FWC staff recommendation.

Majority opinion: The committee felt that the current regulations provide valuable protection to manatees with no inconvenience to boaters.

F1 – Ft. Lauderdale Inland Power Plant cooling ponds

Although the cooling ponds are used by manatees year-round, the manatee density during the warm season is moderate to low (as compared to extremely high during the cold season). The area's importance to manatees is primarily as a warm water aggregation site but this is not an issue during the warm season. The cooling ponds are not accessible to the general public and given the low to moderate manatee use, retaining the No Entry zone during the warm season may not be necessary.

Potential Rule Change (warm season):

Change the existing year-round No Entry zone in the discharge ponds to be in effect only during the cold season.

LRRC Recommendation:

The Broward County LRRC voted 9 to 1 to **reject** the FWC staff recommendation.

Majority Opinion:

FPL is opposed to the change, and wants to maintain the area as a year-round no entry zone because technically it is a waste water treatment area. This area is currently posted as No Entry, and is also inaccessible to boaters. FPL, primarily responsible for these waters, prefers to keep the area inaccessible by watercraft. Because large numbers of manatees congregate in the warm waters of the discharge pipes, it should remain No Entry. This would ensure that, even if the area became accessible to boats through excavation or dredging, the protection for the manatees will remain in place. The process for getting an exemption to enter this area for special purposes is already in place, and FPL is familiar with, and complies with, the current regulations.

Minority Opinion:

Given that access is restricted by other laws and rules, this appears to be a case of placing a “legal” layer or protection over a “civil” layer of protection. It also appears to be a case of “regulation for the sake of regulation”.

Other Rule Issues Identified by FWC STAFF:

G1. Preamble language in § (1) of the rule:

Since the rule was adopted in 1993, there have been numerous amendments to the Florida Manatee Sanctuary Act [§ 379.2431(2), FS] and to Rule 68C-22.001, FAC. The Act provides the authority for the FWC STAFF to establish manatee protection rules and Rule 68C-22.001 provides additional guidelines and requirements related to the rule making process. Because of these changes, the existing Broward County rule does not track the language currently contained in the Act or Rule 68C-22.001.

Potential Rule Change (G1):

Amend the rule to make the language consistent with the current Act and rule language. The revised language would closely mirror the language used in the Sarasota County rule (68C-22.026), which was amended in June 2010 for the same reasons.

LRRC Recommendation:

The Broward County LRRC voted unanimously that **insufficient information** was provided to the LRRC to enable them to make a decision.

G2. Add holidays to the zones that are only in effect on weekends:

The existing weekend-only zones do not include holidays. In other rules that differentiate between weekends and holidays, including boating safety zones in Broward County, holidays are included in the weekend zones. The reason for this is boating traffic on holidays is typically the similar to or greater than weekend traffic.

Potential Rule Change (G2):

Revise the weekend-only zones to include holidays

LRRC Recommendation:

The Broward County LRRC voted unanimously to **accept** the FWC staff recommendation.

G3. Clean-up and confirmation of zone descriptions

All zone descriptions need to be reviewed to confirm or update the latitude and longitude coordinates and to otherwise check for accuracy (e.g., confirm or update references to channel markers, etc.). Descriptions should be reviewed to see if they can be written more clearly and succinctly – to make them more understandable to the public. References to plat books and/or Township and Range coordinates should be removed unless absolutely necessary because these are arcane to most people; references to landmarks and/or specific latitude and longitude

coordinates would be much better. Also, because a person's ability to accurately locate a specific coordinate requires the person to know what reference datum was used, it may be worthwhile for § (1) of the rule to state what datum was used (e.g., UTM, NAD27).

Potential Rule Change (G3):

Amend the rule to clean-up zone descriptions where needed.

LRRC Recommendation:

The Broward County LRRC voted unanimously to **accept** the FWC staff recommendation.

Other LRRC recommendations:

In addition to the zones and issues that the FWC STAFF requested the LRRC consider, described above, the LRRC also reviewed and discussed the following additional areas:

I. A proposal from Mr. John Fiore to change the speed zones in the ICW south of the Dania Cut-off canal to the Dania Beach Boulevard Bridge Idle Speed Zone (**H1**) from year-round Slow Speed to cold-season Slow Speed and warm-season 25 m.p.h. with a 50 foot buffer, and to change the speed zones in the Dania Cut-off canal from the ICW to the Harbor Towne Marina (**H2**) from year-round Slow Speed to cold-season Slow Speed and warm-season 25 m.p.h. with a 50 foot buffer.

The LRRC divided the vote into two parts:

H1) The Broward County LRRC voted 5 to 4 to **accept** the Mr. Fiore's recommendation to change the speed zones in the ICW starting south of the Dania Cut-off canal to the Dania Beach Boulevard Bridge Idle Speed Zone 100 yards north of the bridge (**H1** map in Appendix C) from year-round Slow Speed to cold-season Slow Speed and warm-season 25 m.p.h. with a 50 foot buffer.

Majority Opinion:

There are no marinas, boat ramps, fuel docks, homes, etc., along this stretch of the ICW. The data show that there are almost no manatees in this area during the warm season. This area should be zoned the same as the ICW south of the Dania Beach Boulevard Bridge (**E2**).

Minority Opinion:

The ICW from Dania Cut-off south to Dania Beach Boulevard Bridge (currently Slow Speed Zone, request 25 MPH): This area has significant seagrass beds, establishing a reason for manatees to congregate and linger in this area. The current manatee zoning should be maintained.

H2) The Broward County LRRC voted 5 to 4 to **accept** the Mr. Fiore's recommendation to change the speed zones in the Dania Cut-off canal from west of the ICW to the canal just east of the Harbor Towne Marina (**H2** map in Appendix C) from year-round Slow Speed to cold-season Slow Speed and warm-season 25 m.p.h. with a 50 foot buffer.

Majority Opinion:

There are no marinas, boat ramps, fuel docks, homes, etc., along this canal. The data show that there are almost no manatees in this area during the warm season. Manatees traveling to and from the C-10 canal might also use the south fork of the New River as their travel corridor.

Minority Opinion:

The rip-rap along the south side of the cut-off canal is not complete and boats may run onto the rocks there, especially at high tide.

There are areas where manatees congregate further to the west of the area of proposed change during the warm season (e.g. C-10 canal). Since the Dania Cut-off Canal is one of two possible routes to this area, it is logical to assume that manatees may transit this area in higher numbers than the aerial surveys suggest. Broward County manatee aerial survey data show a significant increase in manatee density year round. Considering the length of time until the Manatee Protection Plan is reviewed again, this warrants waiting until further data are gathered prior to any zone changes. The stretch of canal in question is approximately 1 mile in length. At slow speed (approx 7 mph), boaters can transit this area in less than 10 minutes.

II. A request from Mr. Paul Webb with the Harbor Village Civic Association to extend the year-round slow speed zone (**C2** as modified) south past Harbor's Edge Park (**H3** map in Appendix C). The park is surrounded by mangroves and has no fixed seawall. This mangrove habitat has been a safe haven for manatees for many years and is one of the few remaining areas of sea grass located in northern Broward County.

The Broward County LRRC voted 8 to 1 to **accept** Mr. Webb's request to extend the year-round slow speed zone (**C2** as modified) from just south of NE 14th Street bridge past Harbor's Edge Park to the south side of the canal south of the park (**H3** map in Appendix C).

Majority Opinion: This will afford Harbor's Edge Park the same level of manatee protection as is currently in place for nearby parks, e.g. Alsdorf's Park ("14th Street Boat Ramp"), Exchange Park, and DeGroff Park. There is also seagrass on both waterside boundaries of the park.

III. Current requirements by Florida Special Act (Chapter 86 – 364, amended by Chapter 89 – 428 Laws of Florida; §68D – 24.008 Florida Administrative Code) affecting Broward County waterways limits wake size to a maximum of 15 inches. Evidence suggests that larger vessels pose greater risk to manatees than smaller vessels when traveling at speed as a result of their deeper draft, greater displacement, and lack of forward visibility. The LRRC recommends that vessels that exceed that wake size at 25 mph be required to travel at slow speed in 25 mph speed zones. Criteria for determining allowable wake height should include boat length, beam, displacement, or other appropriate criteria as determined by FWC.

APPENDIX A: Initial Florida Fish and Wildlife Conservation Commission Letter.



Florida Fish and Wildlife Conservation Commission

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March 15, 2010

The Honorable Ken Keechl, Mayor
Broward County Commission
Broward County Governmental Center
115 S. Andrews Avenue
Fort Lauderdale, FL 33301

Dear Mayor Keechl:

As you may be aware, the Florida Fish and Wildlife Conservation Commission (FWC) approved a Manatee Management Plan (MMP) in December 2007 to provide a state framework for conserving and managing manatees in Florida. The MMP is complementary to the federal Florida Manatee Recovery Plan, with both plans describing actions that will ensure the manatee's long-term survival. One of the many tasks called for in the MMP is to review existing manatee protection zones based on the most current data to determine if modifications are warranted. The rule for Broward County is the next one identified for review in the MMP. The purpose of this letter is to let you know what has already been accomplished and what is planned for the future in regard to this rule review.

The manatee protection rule for Broward County (68C-22.010, Fla. Admin. Code) was adopted in 1993 and since that time no comprehensive review has been done. New data are now available, due in large part to County efforts to fund and collect manatee distribution data. Recent boating data are also now available. FWC staff has reviewed the new data and other available information and we have conducted a preliminary review of the existing zones. In addition, we have spoken with Broward County staff and also coordinated with FWC Law Enforcement personnel regarding our analysis of the data. Based on our initial review we believe some changes to the Broward County rule may be warranted.

Florida Statute § 379.2431(2)(f) prescribes the steps required for the FWC to adopt or amend manatee protection boat speed rules. While we have informally discussed this process with County staff, this letter serves as official notification that we are considering modifications to the manatee protection rule for Broward County. Pursuant to the statute, Broward County has 60 days after receipt of this letter to form a Local Rule Review Committee (LRRRC) to review the FWC proposal and provide comments and recommendations. Once the LRRRC has been formed, we will provide a preliminary rule proposal to the LRRRC and the LRRRC will then have an additional 60 days to review the proposal and submit its report (i.e., a response to our proposal). (I have enclosed a copy of the statute for your convenience.)

We are still developing the preliminary rule proposal but we expect it to be ready for submittal to the LRRRC by the time the committee has been designated. It is difficult to predict with certainty how much time may be needed to complete the process; however, based on our work with other counties, we are hopeful we could complete the LRRRC process by the end of this July. If after the LRRRC process it still appears rule changes are warranted, we would then present a draft rule to our Commissioners at either the September or November 2010 FWC Commission meeting. Final consideration of potential rule changes would occur at a subsequent FWC Commission meeting, likely in

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early 2011. Of course, this is a cooperative endeavor and we will work with your staff and the LRRC to provide assistance in understanding our data analysis and the basis of our proposal. We will also work with the County in regards to the scheduling and timing of rule considerations. It should also be noted that there is no predetermined outcome. Working with the LRRC may lead us to develop draft rule modifications for our Commissioners to consider, but alternatively upon further analysis and review of local input, we may conclude no rule changes are warranted.

Please let us know as soon as the LRRC has been selected and also if there is a specific person or persons with whom we should work at a staff-to-staff level as this process moves forward. Mr. Scott Calleson on my staff will be taking the lead for the FWC. If you have any questions about this letter, the rule making process, or if we can assist you in any way, please contact me or Mr. Calleson at 850-922-4330. We look forward to working with you and Broward County.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Kipp Frohlich". The signature is written in a cursive, flowing style.

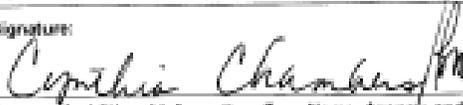
R. Kipp Frohlich, Section Leader
Imperiled Species Management Section

Enclosure

APPENDIX B: Broward County Resolution Creating the Local Rule Review Committee

PREVIOUS ITEM 	BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS <h2 style="margin: 0;">AGENDA ITEM</h2>	NEXT ITEM Meeting Date #43 04/27/2010 10:00 AM Page 1 of 2
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Requested Action	(Identify appropriate Action or Motion, Authority or Requirement for Item and identify the outcome and/or purpose of item.)
<p>MOTION TO APPOINT a Local Rule Review Committee (LRRC) to review the existing Broward County manatee protection rule (68C-22.010, FAC), which regulates the speed and operation of motorboats on the waterways of Broward County for the protection of manatees, and to consider changes to the rule that may be proposed by the State of Florida, as requested by the Florida Fish and Wildlife Conservation Commission (FWC).</p> <p>Why Action is Necessary: Action is necessary to implement a request by the FWC to appoint a LRRC pursuant to Section 379.2431 F.S, to review and consider any changes to the Broward County manatee protection rule that may be proposed by the FWC.</p> <p>What Action Accomplishes: The action appoints the LRRC as requested by the Florida Fish and Wildlife Conservation Commission.</p> <p>Is this Action Commission Goal Related? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Is this Action related to the American Recovery and Reinvestment Act of 2009? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
Summary Explanation/Background	(The first sentence includes the Agency recommendation. Provide an executive summary of the action that gives an overview of the relevant details for the item, identify how item meets Commission Challenge Goal.)
<p>The Environmental Protection and Growth Management Department and the Natural Resources Planning and Management Division recommend approval.</p> <p>The State's Manatee Management Plan, approved in 2007, calls for periodic review of each county's existing manatee rule (manatee protection zones) in order to determine if modifications to the rule are warranted. The Broward County manatee rule was adopted in 1993 and has not been reviewed since that time.</p> <p>Pursuant to a written request from the FWC (attached as Exhibit 1), the Broward County Commission is requested to appoint a LRRC to review the existing manatee protection rule for Broward County. The LRRC will consider any changes proposed by FWC to the rule, which</p>	

Authorized Signature	Scheduling
(Signature confirms that required approvals from other agencies have been received - e.g. Purchasing, Budget, Risk Mgmt, Attorney)	County Administration
Signature:  Date: _____ Type: Name, Title, Agency, and Phone	
Source of additional information: Type Name, Agency, and Phone Cynthia Chambers, Director, Environmental Protection and Growth Management Department, 954-357-6652	

Form 107-1-A Revised 02/15/2009

regulates the speed and operation of motorboats in the County's waterways. A 60-day time frame for the establishment of the LRRC is defined in Section 379.2431, F.S. (attached as Exhibit 2). To expedite the process, staff recommends a LRRC membership comprised of four waterway users and an equal number of manatee/environmental advocates. The existing memberships of the Broward Marine Advisory Committee and the Manatee Monitoring Advisory Group (established pursuant to the County Manatee Protection Plan) are recommended as the sources of prospective LRRC members. These groups have indicated a willingness to serve. Exhibit 3 lists potential LRRC members by affiliation. Staff recommends that the Board appoint a total of no more than eight voting members to facilitate the tight scheduling required by the statute.

Once established, the LRRC will have 60 days to review the FWC's proposed changes to the manatee rule (if any) and to prepare a report with comments and recommendations for the FWC.

Fiscal Impact/Cost Summary

(Include projected cost, approved budget amount and account number, source of funds, and any future funding requirements.)

No fiscal impact.

Exhibits Attached (copies of original agreements)

(Please number exhibits consecutively.)

- Exhibit 1. Letter from FWCC to Mayor Keechl, dated March 15, 2010.
- Exhibit 2. Copy of Section 379.2341 F.S.
- Exhibit 3. List of Potential LRRC Candidates by Affiliation (will be provided under separate cover.)

Document Control	Commission Action
<p>_____ Executed original(s) for permanent record <small>(Number)</small></p> <p>_____ Executed copies return to: <small>(Number)</small></p> <p>Other instructions (include name, agency, and phone)</p>	<p><input checked="" type="checkbox"/> APPROVED <input type="checkbox"/> DENIED</p> <p><input type="checkbox"/> DEFERRED</p> <p>From: _____</p> <p>To: _____</p>



Florida Fish and Wildlife Conservation Commission

Commissioners
Rodney Berruto
 Chairman
 Miami
Richard A. Corbett
 Vice Chairman
 Tampa
Kathy Burtz
 Jacksonville
Ronald M. Bergeron
 Fort Lauderdale
Dwight Stephenson
 Orway Beach
Kenneth W. Wright
 Winter Park
Brian S. Yablonski
 Tallahassee

Executive Staff
Nick Wilg
 Executive Director
Greg Holder
 Assistant Executive Director
Karen Ventimiglia
 Deputy Chief of Staff

Imperiled Species Management Section
Klao Fishlich
 Section Leader
 (850) 922-4330
 (850) 927-4338 fax

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

620 South Meridian Street
 Tallahassee, Florida
 32399-1600
 Voice: (850) 488-4676

Hearing/speech impaired:
 (800) 955-8771 (T)
 (800) 955-8110 (V)

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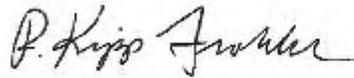
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Sincerely,



R. Kipp Frohlich, Section Leader
Imperiled Species Management Section

Enclosure

EXHIBIT 2

379.2431 (2008) Marine animals; regulation.--

(1) PROTECTION OF MARINE TURTLES.—(not shown)

(2) PROTECTION OF MANATEES OR SEA COWS.--

(a) This subsection shall be known and may be cited as the "Florida Manatee Sanctuary Act."

(b) The State of Florida is hereby declared to be a refuge and sanctuary for the manatee, the "Florida state marine mammal." The protections extended to and authorized on behalf of the manatee by this act are independent of, and therefore are not contingent upon, its status as a state or federal listed species.

(c) Whenever the Fish and Wildlife Conservation Commission is satisfied that the interest of science will be subserved, and that the application for a permit to possess a manatee or sea cow (*Trichechus manatus*) is for a scientific or propagational purpose and should be granted, and after concurrence by the United States Department of the Interior, the commission may grant to any person making such application a special permit to possess a manatee or sea cow, which permit shall specify the exact number which shall be maintained in captivity.

(d) Except as may be authorized by the terms of a valid state permit issued pursuant to paragraph (c) or by the terms of a valid federal permit, it is unlawful for any person at any time, by any means, or in any manner intentionally or negligently to annoy, molest, harass, or disturb or attempt to molest, harass, or disturb any manatee; injure or harm or attempt to injure or harm any manatee; capture or collect or attempt to capture or collect any manatee; pursue, hunt, wound, or kill or attempt to pursue, hunt, wound, or kill any manatee; or possess, literally or constructively, any manatee or any part of any manatee.

(e) Any gun, net, trap, spear, harpoon, boat of any kind, aircraft, automobile of any kind, other motorized vehicle, chemical, explosive, electrical equipment, scuba or other subaquatic gear, or other instrument, device, or apparatus of any kind or description used in violation of any provision of paragraph (d) may be forfeited upon conviction. The foregoing provisions relating to seizure and forfeiture of vehicles, vessels, equipment, or supplies do not apply when such vehicles, vessels, equipment, or supplies are owned by, or titled in the name of, innocent parties; and such provisions shall not vitiate any valid lien, retain title contract, or chattel mortgage on such vehicles, vessels, equipment, or supplies if such lien, retain title contract, or chattel mortgage is property of public record at the time of the seizure.

(f)1. Except for emergency rules adopted under s. 120.54, all proposed rules of the commission for which a notice of intended agency action is filed proposing to govern the speed and operation of motorboats for purposes of manatee protection shall be submitted to the counties in which the proposed rules will take effect for review by local rule review committees.

2. No less than 60 days prior to filing a notice of rule development in the Florida Administrative Weekly, as provided in s. 120.54(3)(a), the commission shall notify the counties for which a rule to regulate the speed and operation of motorboats for the protection of manatees is proposed. A county so notified shall establish a rule review committee or several counties may combine rule review committees.

3. The county commission of each county in which a rule to regulate the speed and operation of motorboats for the protection of manatees is proposed shall designate a rule review committee. The designated voting membership of the rule review committee must be comprised of waterway users, such as fishers, boaters, water skiers, other waterway users, as compared to the number of manatee and other environmental advocates. A county commission may designate an existing advisory group as the rule review committee. With regard to each committee, fifty percent of the voting members shall be manatee advocates and other environmental advocates, and fifty percent of the voting members shall be waterway users.

4. The county shall invite other state, federal, county, municipal, or local agency representatives to participate as nonvoting members of the local rule review committee.

5. The county shall provide logistical and administrative staff support to the local rule review committee and may request technical assistance from commission staff.

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List of Potential Candidates for the Manatee Local Rule Review Committee

Waterway/Boating Interests

Manatee/Environmental Interests

Dan Yaffe (Marine Advisory Committee)

George Cavros, Esq. (Sierra Club)

Barry Webber, Esq. (Marine Advisory Committee)

Gary Hecker (Ecology Party of Florida)

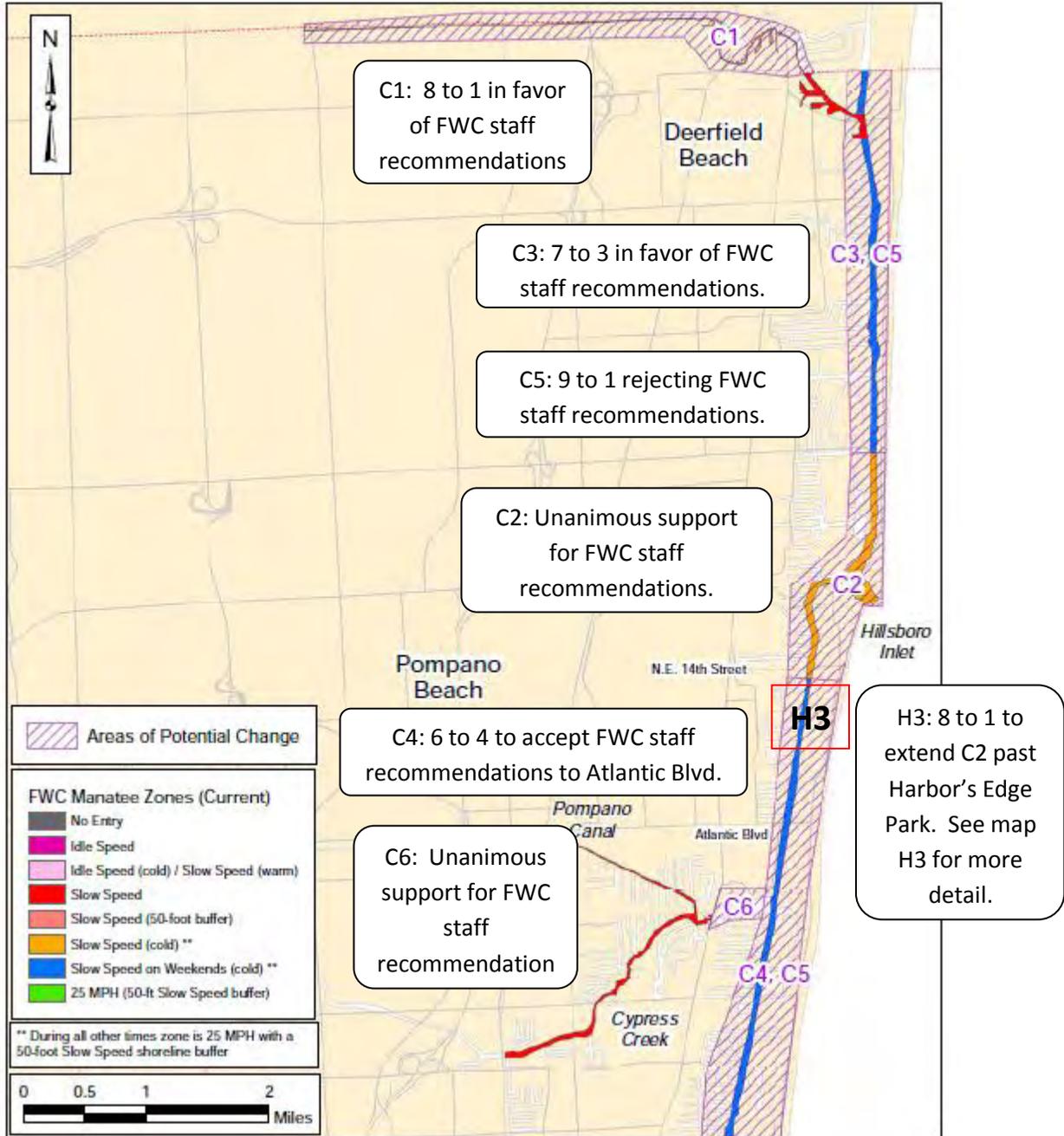
Mark Ercolin, Esq. (Marine Advisory Committee)

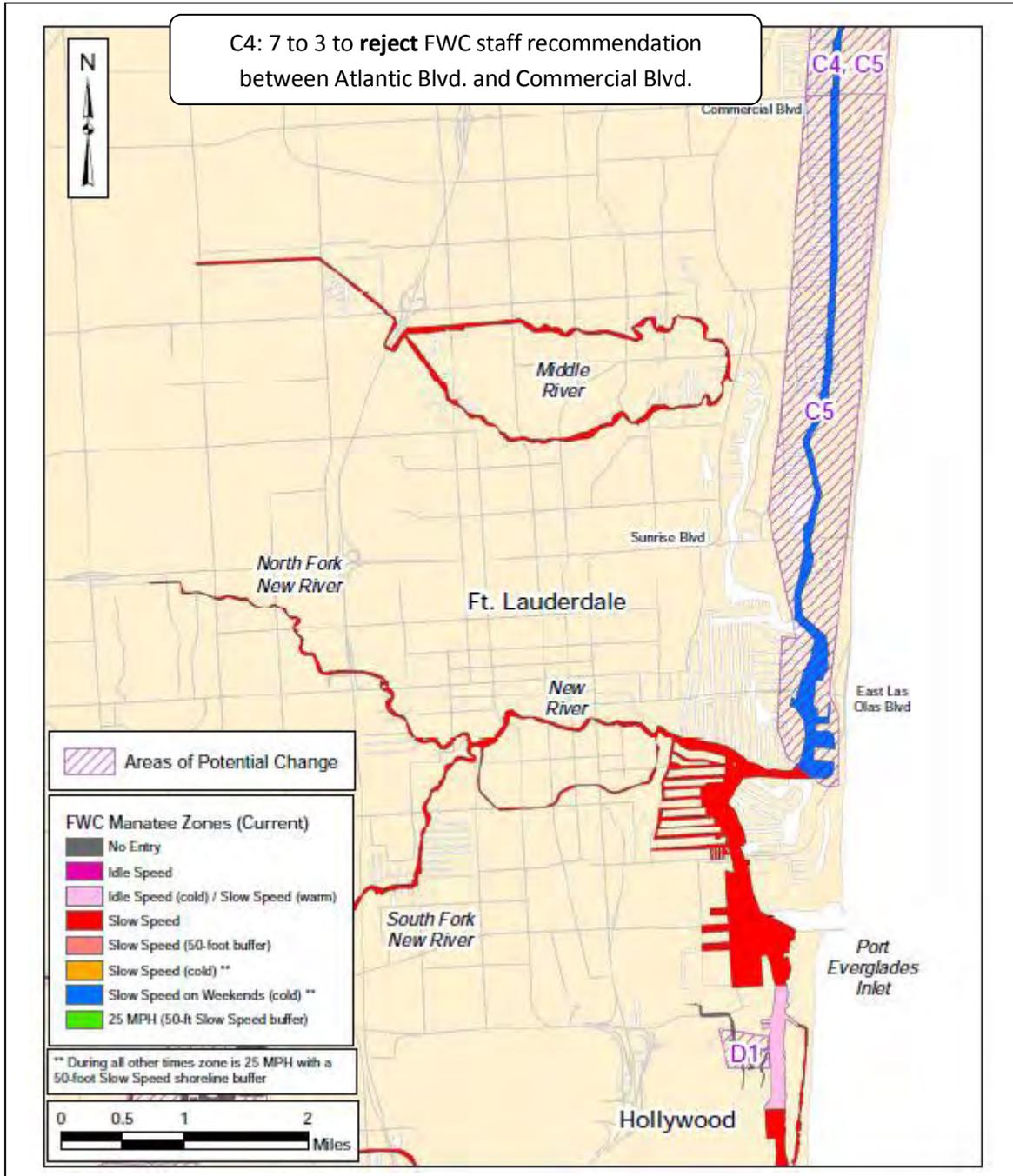
Dr. Ed Keith (Nova Southeastern
University Oceanographic Center)

Gordon Connell (Marine Industries Association
of South Florida)

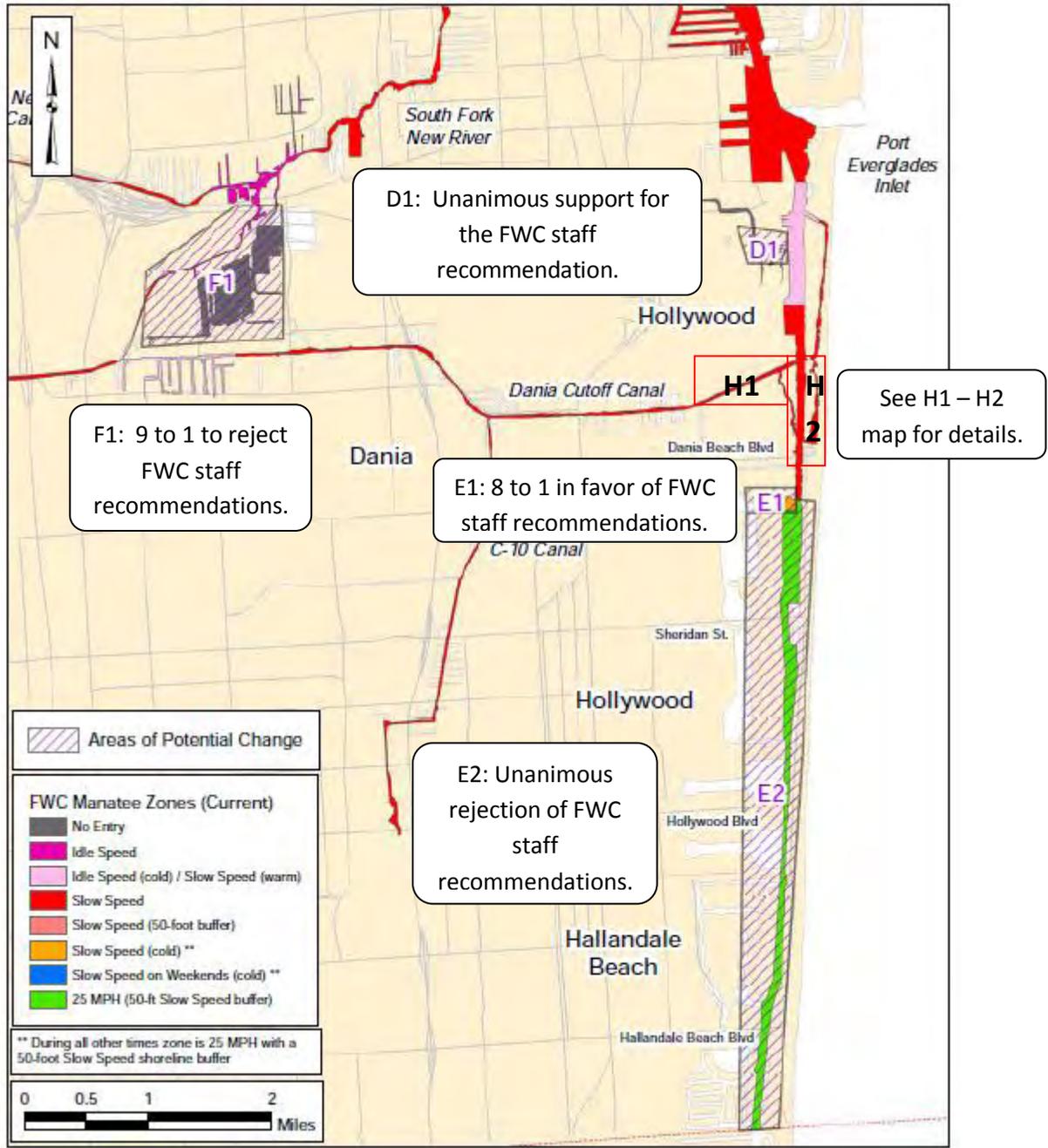
Dr. Lisa Baumbach (Audubon Society)

Appendix C. Graphic Summary of LRRC Recommendations





C5: 9 to 1 rejecting FWC staff recommendations.



Map for H1 and H2



Map H3

