



**Appendixes,
Selected References,
Preparers,
Consultants,
and Index
(SDEIS)**



Please refer to pages 295–323 in the 2011 Draft General Management Plan / Environmental Impact Statement for appendixes A and B, and pages 329–349 for list of preparer, and selected references. Appendix C: the Determination of Nonimpairment will be appended to the “Record of Decision”. Appendixes D and E contain new information. New appendixes F through H and additions to preparers and selected references are listed below.

Appendix A: Legislation

Appendix B: Servicewide Mandates and Policies

Appendix C: Determination of Impairment (see errata)

Appendix D: Consultation Letters

Appendix E: Purpose and Authority for Marine Reserve Zone and Special Recreation Zone

Appendix F: Adaptive Management Strategy for Special Recreation Zone

Appendix G: State Response to the 2011 General Management Plan and Environmental Impact Statement

Appendix H: Errata

Selected References

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APPENDIX D: CONSULTATION LETTERS



United States Department of the Interior



National Park Service
Biscayne National Park
9700 S. W. 328th Street
Homestead, Florida 33033-5634

L7615

18 AUG 2011

Mr. Scott M. Stroh III
State Historic Preservation Officer and Director
Division of Historic Resources
Florida Department of State
R.A. Gray Building, Fourth Floor
500 South Bronough Street
Tallahassee, Florida 32399-0250

Reference: Biscayne National Park, Miami-Dade County
General Management Plan/Draft Environmental Impact Statement

Dear Mr. Stroh:

The General Management Plan/Draft Environmental Impact Statement for Biscayne National Park is now available. This plan details the National Park Service proposals for the long-term management of the park.

Enclosed is a copy of the plan which includes analysis pursuant to the National Environmental Policy Act as well as Section 106 of the National Historic Preservation Act. The park's Preferred Alternative emphasizes strong natural and cultural resource protection while providing a diversity of visitor experiences. The Preferred Alternative proposes to manage large areas of the park as they are managed today, and adds several zones for new recreational opportunities, such as no-motor zones by the mainland coast and a marine protected area where visitors can snorkel and dive a reef that experiences no fishing pressure. For a detailed analysis of the Preferred Alternative's effect on cultural resources, please see "Cultural Resources" under the section titled "Impacts of Implementing Alternative 4, the NPS Preferred Alternative" in Chapter 4.

Biscayne National Park is predominantly a marine park with significant cultural resources that are associated with human activity from prehistoric times to the present. The park's cultural resources include archeological resources, historic buildings, structures and sites, and cultural landscapes. Human activities have occurred on and around the mainland, keys, and waters of Biscayne Bay for some 12,000 years. These activities are associated with American Indian habitation, land use, and subsistence, and with European-American exploration, settlement, and socioeconomic development. Many of the park's more sensitive cultural sites are either submerged or are in locations currently closed to public access. A detailed description of the park's cultural properties can be found in the "Cultural Resources" section of Chapter 3.



Over the past eleven years the park has solicited public involvement to develop this plan, with two public comment periods and two series of public meetings during which 6,000 comments were received and analyzed. Comments were also received from four government agencies and 11 nongovernmental organizations and educational institutions. The tribes were briefed on the scope of the General Management Plan by newsletter and follow-up phone calls asking for additional comments. A meeting was also held with the Miccosukee Tribe of Indians of Florida in 2002. Tribal concerns and recommendations focused on the preservation of sites, return of artifacts to their original locations, inadvertent discoveries relevant to NAGPRA, and inclusion of tribal viewpoints in park interpretive and educational materials. Public and tribal comments were taken into consideration in the formulation of the five draft alternatives and in the selection of the preferred alternative. No controversial issues were identified relevant to cultural resources during public meetings or in the comments received.

We are inviting you or representatives from your office to attend any of three identical public meetings as follows:

September 13
6 – 9 pm
Crowne Plaza Hotel
950 N.W. 42 Avenue
Miami, FL 33126

September 14
6 – 9 pm
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We would appreciate receiving any comments you may have by October 25, the end of the public comment period. If you should have any questions, please contact me at (305) 230-1144 x024 or Charles Lawson, Biscayne National Park Cultural Resource Manager, at (786) 335-3676 or by email at Charles_Lawson@nps.gov.

Sincerely,



Mark Lewis
Superintendent

Enclosures

General Management Plan/Draft Environmental Impact Statement
Newsletter

cc: Gretchen Ward
CR Specialist, National Park Service, Denver Service Center



IN REPLY REFER TO:

United States Department of the Interior

National Park Service
Biscayne National Park
9700 S. W. 328th Street
Homestead, Florida 33033-5634



L7615

19 AUG 2011

Reid Nelson, Director
Office of Federal Agency Programs
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue, NW, #803
Washington, D.C. 20004

Reference: Biscayne National Park, General Management Plan/Draft Environmental Impact Statement

Dear Mr. Nelson:

The General Management Plan/Draft Environmental Impact Statement for Biscayne National Park is now available. This plan details the National Park Service proposals for the long-term management of the park.

Enclosed is a copy of the plan which includes analysis pursuant to the National Environmental Policy Act as well as Section 106 of the National Historic Preservation Act. The park's Preferred Alternative emphasizes strong natural and cultural resource protection while providing a diversity of visitor experiences. The Preferred Alternative proposes to manage large areas of the park as they are managed today, and adds several zones for new recreational opportunities, such as no-motor zones by the mainland coast and a marine protected area where visitors can snorkel and dive a reef that experiences no fishing pressure. For a detailed analysis of the Preferred Alternative's effect on cultural resources, please see "Cultural Resources" under the section titled "Impacts of Implementing Alternative 4, the NPS Preferred Alternative" in Chapter 4.

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We would appreciate receiving any comments you may have by October 25, the end of the public comment period. If you should have any questions, please contact me at (305) 230-1144 x024 or Charles Lawson, Biscayne National Park Cultural Resource Manager, at (786) 335-3676 or by email at Charles_Lawson@nps.gov.

Sincerely,



Mark Lewis
Superintendent

Enclosures

General Management Plan/Draft Environmental Impact Statement
Newsletter

cc: Gretchen Ward
CR Specialist, National Park Service, Denver Service Center



IN REPLY REFER TO:

United States Department of the Interior

National Park Service
Biscayne National Park
9700 S. W. 328th Street
Homestead, Florida 33033-5634



L7615

19 AUG 2011

Kathleen Kauffman, Chief
Office of Historic and Archeological Resources
Miami-Dade County Planning and Zoning
111 NW 1st Street, Suite 695
Miami, Florida 33128

Subject: Biscayne National Park, General Management Plan/Draft Environmental Impact Statement

Dear Ms. Kauffman:

The General Management Plan/Draft Environmental Impact Statement for Biscayne National Park is now available. This plan details the National Park Service proposals for the long-term management of the park.

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Sincerely,



Mark Lewis
Superintendent

Enclosures

General Management Plan/Draft Environmental Impact Statement
Newsletter

cc: Gretchen Ward
CR Specialist, National Park Service, Denver Service Center



United States Department of the Interior



National Park Service
Biscayne National Park
9700 S. W. 328th Street
Homestead, Florida 33033-5634

L7615

19 AUG 2011

Mr. Leonard M. Harjo, Principal Chief
Seminole Nation of Oklahoma
Post Office Box 1498
Wewoka, Oklahoma 74884

Subject: Government to Government Consultations with American Indian Tribes
General Management Plan/Draft Environmental Impact Statement for Biscayne National Park

Dear Principal Chief Harjo:

The General Management Plan/Draft Environmental Impact Statement for Biscayne National Park is now available. This plan details the National Park Service proposals for the long-term management of the park.

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Sincerely,



Mark Lewis
Superintendent

Enclosures

General Management Plan/Draft Environmental Impact Statement
Newsletter

cc: Ms. Natalie Deere
Tribal Historic Preservation Officer
Seminole Nation of Oklahoma
Post Office Box 1498
Wewoka, Oklahoma 74884

Mr. Mickey Douglas, Director
Environmental Protection Office
Seminole Nation of Oklahoma
P.O. Box 1603
Seminole, Oklahoma 74818-1603

Gretchen Ward
CR Specialist, National Park Service, Denver Service Center



IN REPLY REFER TO:

United States Department of the Interior

National Park Service
Biscayne National Park
9700 S. W. 328th Street
Homestead, Florida 33033-5634



L7615

19 AUG 2001

James Billie, Chairman
Seminole Tribe of Florida
6300 Stirling Road
Hollywood, Florida 33024

Subject: Government to Government Consultations with American Indian Tribes
General Management Plan/Draft Environmental Impact Statement for Biscayne National Park

Dear Chairman Billie,

The General Management Plan/Draft Environmental Impact Statement for Biscayne National Park is now available. This plan details the National Park Service proposals for the long-term management of the park.

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Sincerely,



Mark Lewis
Superintendent

Enclosures

General Management Plan/Draft Environmental Impact Statement
Newsletter

cc: Mr. William S. Steele, Tribal Historic Preservation Officer, Seminole Tribe of Florida
Tribal Historic Preservation Office
30290 Josie Billie Highway
PMB 1004
Clewiston, FL 33440

Gretchen Ward, CR Specialist, National Park Service, Denver Service Center



United States Department of the Interior



National Park Service
Biscayne National Park
9700 S. W. 328th Street
Homestead, Florida 33033-5634

L7615

19 AUG 2017

Mr. Colley Billie, Chairman
Miccosukee Tribe of Indians of Florida
Post Office Box 440021, Tamiami Station
Miami, Florida 33144

Subject: Government to Government Consultations with American Indian Tribes
General Management Plan for Biscayne National Park

Dear Chairman Billie:

The General Management Plan/Draft Environmental Impact Statement for Biscayne National Park is now available. This plan details the National Park Service proposals for the long-term management of the park.

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Sincerely,



Mark Lewis
Superintendent

Enclosures

General Management Plan/Draft Environmental Impact Statement
Newsletter

cc: Mr. Fred Dayhoff, NAGPRA/Section 106 Representative, Miccosukee Tribe of Indians of Florida
HC61 S.R. 68
Ochopee, FL 34141

Gretchen Ward, CR Specialist, National Park Service, Denver Service Center



United States Department of the Interior
NATIONAL PARK SERVICE



Biscayne National Park
9700 S.W. 328th Street
Homestead, Florida 33133

In Reply Refer to:

L7615

19 AUG 2011

Mr. Bob Progulske
Acting Field Supervisor
South Florida Ecological Service Field Office
U.S. Fish and Wildlife Service
U.S. Department of the Interior
1339-20th Street
Vero Beach, Florida 32960

Re: Section 7 Consultation
General Management Plan/Draft Environmental Impact Statement
Biscayne National Park
Miami-Dade County

Dear Mr. Progulske:

We are writing to initiate Section 7 consultation as described in the Endangered Species Act, as amended. Enclosed for your review and comment is the General Management Plan/Draft Environmental Impact Assessment for Biscayne National Park.

We are inviting your office to attend any of three identical public meetings as follows:

September 13 6 – 9 pm Crowne Plaza Hotel 950 N.W. 42 Avenue Miami, FL 33126	September 14 6 – 9 pm Florida City's City Hall 404 W. Palm Drive Florida City, FL 33034	September 15 6 – 9 pm Holiday Inn Key Largo 99701 Overseas Hwy Key Largo, FL 33037
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Biscayne National Park is one of the largest marine parks in the National Park system and features a spectacular array of mangrove, coastal hammocks, seagrass, hardbottom, and coral reef habitats. The park is utilized for a variety of activities, including boating, recreational and commercial fishing, snorkeling and SCUBA diving, picnicking, wildlife viewing, and birding.

Much has changed since the last comprehensive management plan for the park was completed in 1983: the population near the park has greatly increased, visitor use patterns and types have changed, and people have brought new recreational activities into the park. Each of these changes has implications for how visitors access and use the national park and the facilities needed to support those uses, how resources are managed and protected, and how the National Park Service manages its operations. This new plan addresses the need for an updated plan and examines five alternatives for managing the park for the next 15 to 20 years. The alternatives are as follows:

Alternative 1, the no-action alternative, consists of a continuation of existing management and trends at Biscayne National Park and provides a baseline for comparison in evaluating the changes and impacts of the other alternatives. The National Park Service would continue to manage the national park as it is currently being managed. Existing operations and visitor facilities would continue, and no new construction would be authorized other than what has already been approved and funded. Current law, policy, and plans, would continue to provide the framework of guidance. The important impacts of continuing existing management conditions and trends would include no new impacts on natural resources, no adverse effect on cultural resources, a continuation of adverse effects on visitor experience, a continuation of adverse effects on park operations, and no new impact on the socioeconomic environment. Alternative 1 is described in detail beginning on page 63 of the enclosed plan.

Alternative 2 would emphasize the recreational use of the park while providing for resource protection as governed by law, policy, or resource sensitivity. This concept would be accomplished by providing a high level of services, facilities, and access to specific areas of the park. Alternative 2 is described in detail beginning on page 69 of the enclosed plan.

Alternative 3 would allow all visitors a full range of visitor experiences throughout most of the park and would use a permit system to authorize a limited number of visitors to access some areas of the park. Management actions would provide strong natural and cultural resource protection and diverse visitor experiences. This alternative designates a no-take Marine Reserve Zone to provide visitors the opportunity to experience a healthy, natural, and ecologically intact reef community. Alternative 3 is described in detail beginning on page 75 of the enclosed plan.

Alternative 4 is the National Park Service's **preferred alternative** and would emphasize strong natural and cultural resource protection while providing a diversity of visitor experiences. Some areas would be reserved for limited types of visitor use. The preferred alternative is described in detail beginning on page 81 of the enclosed plan. Some highlights of Alternative 4 include:

- Providing a moderate level of new or enhanced visitor services, facilities, and access
- Increasing opportunities to experience natural sounds
- Creating a combination of increased Non-combustion Engine Use and Slow Speed zones to provide higher levels of resource protection and diversity of visitor opportunities

- Designating a no-take Marine Reserve Zone to provide visitors the opportunity to experience a healthy, natural, and ecologically intact reef community.

Alternative 5 would promote the protection of natural resources, including taking actions to optimize conditions for protection and restoration. A permit system would be used in some parts of the park. Other areas would have limited numbers of visitors, manner of access, and recreational activities to provide certain experiences. This alternative proposes the largest no-take Marine Reserve Zone of all the alternatives. Alternative 5 is described in detail beginning on page 87 of the enclosed plan.

NATIONAL PARK SERVICE DETERMINATIONS ON THREATENED AND ENDANGERED SPECIES:

A detailed discussion of threatened and endangered species occurring in Biscayne National Park and the effect determinations of each alternative on these species can be found beginning on page 124 of Chapter 3 and page 250 of Chapter 4, respectively. Table 7 (page 115) of the plan also summarizes the Section 7 effect determinations for threatened and endangered species. NPS scientists have determined that implementation of Alternative 4, the Preferred Alternative, will have the following determinations on federally listed species. We request that U.S. Fish and Wildlife Service concur with our effect determinations for the species listed below. The determinations are summarized in the table below, followed by more detailed explanation. Our agency is also completing consultation with National Marine Fisheries Service regarding impacts to those species which they oversee.

Species	Scientific Name	Effect Determination	Relevant pages in the plan
Florida manatee	<i>Trichechus manatus latirostrus</i>	May affect, not likely to adversely affect	126, 250
Sea turtles (nesting)	<i>Caretta caretta</i> , <i>Chelonia mydas</i> , <i>Lepidochelys kempii</i> , <i>Eretmochelys imbricota</i> , and <i>Dermochelys coriacea</i>	May affect, not likely to adversely affect	126, 250
American crocodile	<i>Crocodylus acutus</i>	May affect, not likely to adversely affect	127, 251
Schaus Swallowtail Butterfly	<i>Heracles aristodemus ponceanus</i>	May affect, not likely to adversely affect	128, 251

Florida Manatees: Manatees are routinely observed within Biscayne National Park between October and May, and are occasionally observed in the park between June and September. The park, in cooperation with the state and Miami-Dade County, has implemented a Slow Speed Zone along the entire mainland coastline in the park. This zone extends out 1,000 feet from the mainland shoreline. The Slow Speed Zone in the park is consistent with areas so designated outside park boundaries. These zones are designed to provide boat operators time to react when they observe manatees, reducing the potential of striking the animals. Under the preferred alternative, the manatee protection area would be modified so that the 500 feet

nearest the shoreline would be designated a Non-combustion Engine Use Zone and the remaining 500 feet would be designated a Slow Speed Zone. Within the Non-combustion Engine Use Zone, management would focus on protecting water-based resources and minimizing visitor use impacts. This zone would provide additional protection to the manatee by reducing the potential for boat-related injuries and mortality in the areas where manatees are most likely to occur. The Slow Speed Zone would provide boat operators a greater opportunity to avoid collisions with manatees that are further from shore by increasing their response times. The Slow Speed and Non-combustion Engine Use zones under this alternative would also result in fewer boat groundings in seagrass beds, an important habitat/food source for manatees. The modifications to the manatee protection area and zoning would have a long-term beneficial impact on manatees in the park. The impacts on the manatee under the preferred alternative would be small, localized, and beneficial. Measurable beneficial outcomes on individual manatees and the manatee population because of the protective zones are likely. This would equate to a “may affect, not likely to adversely affect” determination.

Sea Turtles: Green and loggerhead turtles are routinely observed within Biscayne Bay and nesting has been documented primarily on Elliott Key. Most nesting activity is presumed to be from loggerhead turtles. The other species of sea turtles have only rarely been observed within the park, and are not known to nest within the park. Nesting behavior of sea turtles may be affected by noise from combustion-powered boats, and the preferred alternative could result in a reduced number of combustion-powered boats in the park. Although this alternative includes primitive campsites on Elliott Key, overall development on Elliott Key would be minimal because only the breezeway loop trail would be improved. There would not be a substantial amount of light from the campsites. Mitigation measures such as education efforts regarding the importance of reducing artificial light, additional monitoring and patrols as visitation increases, and possible limitations on the number of visitors would reduce the level of adverse impacts. No new development would occur. Overall, the effects of actions under Alternative 4 are likely to slightly benefit sea turtle nesting activity compared to current management actions, and thus may affect, but is not likely to adversely affect sea turtle nesting activity.

American Crocodile: Crocodile habitat is typically along the shoreline in the mangroves and in the canals. The USFWS has designated all land and waters encompassed by a line beginning at Turkey Point traveling southeast to the southernmost point of Elliott Key and southwest along the eastern shorelines of the keys to the park boundaries as critical habitat. Turkey Point Power Plant cooling canals, located just south of the park’s southern mainland boundary, are a major nesting area for American crocodiles. Juvenile crocodiles do inhabit the park and are infrequently observed by park staff and/or visitors. Under the preferred alternative, visitor services and infrastructure would remain near current levels with the designated paths, a possible viewing platform, boardwalk, and jetty in the vicinity of Convoy Point. This area is north of the designated critical habitat area for the crocodiles where few crocodiles are so this alternative would not be expected to impact their activities in the park. The mangroves south of the visitor center would continue to be managed primarily to protect the habitat characteristics of the area. No additional development within the designated critical habitat would be proposed under this alternative. The impacts of activities on crocodile habitat and activities along the mainland shore would be negligible for this

alternative. The impacts on the American crocodile under the preferred alternative would be negligible, localized, and beneficial. Mitigation measures would be put in place in the event of more visitor-crocodile interactions because of population pressures near the park. Overall, this would equate to a “may affect, not likely to adversely affect” determination for the American crocodile.

Schaus Swallowtail Butterfly: The largest numbers of Schaus swallowtail butterfly are observed within the boundaries of Biscayne National Park, particularly along trail edges within the hardwood hammocks of Elliott and Adams Keys. Schaus swallowtails are monitored annually during the May-June flight period. New development on Adams Key would include only the staging area for canoes and kayaks and possibly minimal facilities for the environmental education center. The level of development on the island would occur near the shore and would be unlikely to impact the butterfly population or habitat on the island. The long-term adverse impact on the butterfly population and habitat would be negligible. On Elliott Key the potential disturbance of the butterfly population or habitat would be slight because only the loop trail would be made universally accessible. The long-term impact of this alternative on the population of the butterfly would be adverse and negligible. Old Rhodes and the other southern keys would be zoned for nature observation, and Swan Key would be zoned as a sensitive resource area. Impacts on the hardwood hammocks on these keys would not change under this alternative. There would be no short-term or long-term impacts on butterfly populations and habitat caused by this alternative. Weather-related phenomena would remain the greatest risk to the butterfly under this alternative because there would be no development proposed that would impact butterfly habitat. Thus, the impacts on the Schaus swallowtail under the preferred alternative would be negligible and neutral to adverse in some locations, but mitigation measures to protect the species’ habitat and breeding season are likely to be successful. Overall, the preferred alternative “may affect, not likely to adversely affect” the Schaus swallowtail.

Thank you for your attention to this important project. If you have any questions or concerns, please contact Elsa Alvear, Chief of Resource Management, at (305) 230-1144 ext 002 or elsa_alvear@nps.gov.

Sincerely,



Mark Lewis
Superintendent

Enclosures

General Management Plan/Draft Environmental Impact Statement
Newsletter



United States Department of the Interior
NATIONAL PARK SERVICE



Biscayne National Park
9700 S.W. 328th Street
Homestead, Florida 33133

In Reply Refer to:

L7615

18 AUG 2011

David Bernhart
Protected Resources Division
NOAA National Marine Fisheries Service
263 13th Ave. South
St. Petersburg, FL 33701

Re: Section 7 Consultation
General Management Plan/Draft Environmental Impact Statement
Biscayne National Park
Miami-Dade County

Dear Mr. Bernhart:

We are writing to initiate section 7 consultation as described in the Endangered Species Act, as amended. Enclosed for your review and comment is the General Management Plan/Draft Environmental Impact Assessment at Biscayne National Park.

We are inviting your office to attend any of three identical public meetings as follows:

September 13 6 – 9 pm Crowne Plaza Hotel 950 N.W. 42 Avenue Miami, FL 33126	September 14 6 – 9 pm Florida City's City Hall 404 W. Palm Drive Florida City, FL 33034	September 15 6 – 9 pm Holiday Inn Key Largo 99701 Overseas Hwy Key Largo, FL 33037
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These public meetings will provide an opportunity for the public to learn about the draft plan and to submit verbal and/or written comments. Presentations, exhibits, and park staff will be available to facilitate understanding of the plan. We would appreciate receiving your comments by October 31, the end of the public comment period.

Biscayne National Park is one of the largest marine parks in the National Park system and features a spectacular array of mangrove, coastal hammocks, seagrass, hardbottom, and coral reef habitats. The park is utilized for a variety of activities, including boating, recreational and commercial fishing, snorkeling and SCUBA diving, picnicking, wildlife viewing, and birding. Much has changed since the last comprehensive management plan for the park was completed in 1983: the population near the park has greatly increased, visitor use patterns and types have changed, and people have brought new recreational activities into the park. Each of these

changes has implications for how visitors access and use the national park and the facilities needed to support those uses, how resources are managed and protected, and how the National Park Service manages its operations. This new plan addresses the need for an updated plan and examines five alternatives for managing Biscayne National Park for the next 15 to 20 years. The alternatives are as follows:

Alternative 1, the no-action alternative, consists of a continuation of existing management and trends at Biscayne National Park and provides a baseline for comparison in evaluating the changes and impacts of the other alternatives. The National Park Service would continue to manage the national park as it is currently being managed. Existing operations and visitor facilities would continue, and no new construction would be authorized other than what has already been approved and funded. Current law, policy, and plans, would continue to provide the framework of guidance. The important impacts of continuing existing management conditions and trends would include no new impacts on natural resources, no adverse effect on cultural resources, a continuation of adverse effects on visitor experience, a continuation of adverse effects on park operations, and no new impact on the socioeconomic environment. Alternative 1 is described in detail beginning on page 63 of the enclosed plan.

Alternative 2 would emphasize the recreational use of the park while providing for resource protection as governed by law, policy, or resource sensitivity. This concept would be accomplished by providing a high level of services, facilities, and access to specific areas of the park. Alternative 2 is described in detail beginning on page 69 of the enclosed plan.

Alternative 3 would allow all visitors a full range of visitor experiences throughout most of the park and would use a permit system to authorize a limited number of visitors to access some areas of the park. Management actions would provide strong natural and cultural resource protection and diverse visitor experiences. This alternative designates a no-take Marine Reserve Zone to provide visitors the opportunity to experience a healthy, natural, and ecologically intact reef community. Alternative 3 is described in detail beginning on page 75 of the enclosed plan.

Alternative 4 is the National Park Service's **preferred alternative** and would emphasize strong natural and cultural resource protection while providing a diversity of visitor experiences. Some areas would be reserved for limited types of visitor use. The preferred alternative is described in detail beginning on page 81 of the enclosed plan. Some highlights of Alternative 4 include:

- Providing a moderate level of new or enhanced visitor services, facilities, and access
- Increasing opportunities to experience natural sounds
- Creating a combination of increased Non-combustion Engine Use and Slow Speed zones to provide higher levels of resource protection and diversity of visitor opportunities
- Designating a Marine Reserve Zone to provide visitors the opportunity to experience a healthy, natural, and ecologically intact reef community.

Alternative 5 would promote the protection of natural resources, including taking actions to optimize conditions for protection and restoration. A permit system would be used in some

parts of the park. Other areas would have limited numbers of visitors, manner of access, and recreational activities to provide certain experiences. Alternative 5 is described in detail beginning on page 87 of the enclosed draft plan.

NATIONAL PARK SERVICE DETERMINATIONS ON THREATENED AND ENDANGERED SPECIES:

A detailed discussion of threatened and endangered species occurring in Biscayne National Park and the effect determinations of each alternative on these species can be found beginning on page 124 of Chapter 3 and page 250 of Chapter 4, respectively. Table 7 (page 115) of the plan also summarizes the Section 7 effect determinations for threatened and endangered species. The proposed NPS action is to implement Alternative 4, and NPS scientist determinations for federally listed species are shown below; however, please feel free to comment on any of the alternatives, including but not limited to the no-action alternative (Alternative 1) and the environmentally preferred alternative (Alternative 5). We request that NMFS concur with our effect determinations for the species listed below. The determinations are summarized in the table below, followed by more detailed explanation. Our agency is also completing consultation with U.S. Fish & Wildlife Service regarding impacts to those species which they oversee.

Species	Scientific Name	Effect Determination	Relevant pages in the plan
Sea turtles	<i>Caretta caretta</i> , <i>Chelonia mydas</i> , <i>Lepidochelys kempii</i> , <i>Eretmochelys imbricota</i> , and <i>Dermochelys coriacea</i>	May affect, not likely to adversely affect	126, 250
Acroporid corals	<i>Acropora cervicornis</i> , <i>Acropora palmata</i>	May affect, not likely to adversely affect	129, 252
Smalltooth Sawfish	<i>Pristis pectinata</i>	May affect, not likely to adversely affect	128, 251

Sea Turtles: Green, loggerhead and hawksbill turtles are routinely observed in the waters of Biscayne National Park. Leatherback and Kemp’s Ridley sea turtles are rarely, if ever, observed within the park. Collisions between boats and sea turtles would be expected to be minimized in the Slow Speed and the Non-combustion Engine Use zones. However, given the size of these zones compared to the size of the Multiuse Zone, the beneficial impacts of implementation of this alternative would be minor. The implementation of a Marine Reserve Zone would result in less derelict fishing gear (monofilament, traps) in this area. This would result in the reduction of threat of entanglement for sea turtles within this zone. This would be a minor, beneficial, long-term impact on sea turtles. This beneficial impact would be offset if fishing pressure increased outside the Marine Reserve Zone. The impacts on sea turtles under

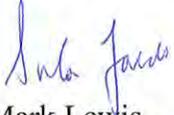
the preferred alternative would be adverse but negligible and would equate to a “may affect, not likely to adversely affect” determination.

Acroporid corals: In Biscayne National Park, Acroporid corals are observed primarily on the reef tract (oceanside of the keys), particularly on the southernmost reefs of the park. All waters east of the chain of islands running from north to south in the park are included in an area that has been designated as ‘critical habitat’ for elkhorn and staghorn corals. Acroporid corals can be adversely affected by a variety of factors including fishing, pollution, vessel groundings, sedimentation, macroalgal overgrowth, disease, and increasing sea temperatures. Indirect impacts result from the harvest of targeted species from park waters, which in turn may affect reef community structure due to ecological cascades caused by removal by fishing of predators, prey, or competitors in the food web. The creation of a 10,522-acre Marine Reserve Zone under the Preferred Alternative would prohibit fishing and anchoring on many of the southern reefs in the park, which include areas known to have healthy populations of Acroporid corals. Because visitors who would otherwise use the area in the Marine Reserve Zone to fish would have to fish elsewhere, boat traffic and anchoring throughout this zone could be expected to decrease. Although unlikely, these decreases could be offset if people use the Marine Reserve Zone for non-extractive activities such as snorkeling and diving. Because the Marine Reserve Zone is expected to reduce fishing and improve ecological balance, reduce fishing debris, reduce vessel groundings, and reduce damage from inappropriate anchoring in Acroporid coral habitat, actions under alternative 4 are expected to have a moderate and beneficial effect. The Marine Reserve Zone is expected to have a beneficial, long-term, effect on Acroporid corals by protecting them from activities that could lead to physical and ecological damage. Thus, this alternative “may affect, but is not likely to adversely affect” Acroporid corals.

Smalltooth Sawfish: This species is only rarely observed in the park. No incidences of unintentional catch of smalltooth sawfish have ever been reported to resource managers or law enforcement officers during routine recreational creel surveys which are conducted at least once per week. The Florida Museum of Natural History’s National Sawfish Encounter Database reports a total of nine encounters (sightings and/or captures) reported from within Biscayne’s boundaries from 1998 through 2009. These encounters have occurred in diverse habitats of the park, including marked channels, along coastlines, and in deeper reef habitats. Smalltooth sawfish could be affected by any increase in hook-and-line fishing efforts, although any effects are unlikely given the rarity of smalltooth sawfish in the park. While the establishment of the Marine Reserve Zone in deeper reef habitat is not likely to have a substantial effect on this species that tends to prefer shallow water, it is possible that the implementation of the no-take marine reserve zone could have a small yet positive benefit on smalltooth sawfish by reducing bycatch since reports of this species in reef and deeper water habitats, although uncommon, do exist. No other actions that would occur under this alternative would be expected to affect sawfish in the park. Thus, this alternative “may affect, but is not likely to adversely affect” smalltooth sawfish.

Thank you for your attention to this important project. If you have any questions or concerns, please contact Elsa Alvear, chief of Resource Management, at (305) 230-1144 ext 002 or elsa_alvear@nps.gov.

Sincerely,



for Mark Lewis
Superintendent

Enclosures

General Management Plan/Draft Environmental Impact Statement
Newsletter



ML 9/30/11

FLORIDA DEPARTMENT OF STATE
Kurt S. Browning
Secretary of State
DIVISION OF HISTORICAL RESOURCES

Mr. Mark Lewis
U.S. Department of the Interior - National Park Service
Biscayne National Park
9700 S.W. 328th Street
Homestead, Florida 33033-5634

September 14, 2011

RE: DHR Project File Number: 2011-3819
National Park Service- Biscayne National Park
L7615
General Management Plan and Draft Environmental Impact Statement for Biscayne National Park
Miami-Dade County

Dear Mr. Lewis:

This office reviewed the referenced project for possible impact to historic properties listed, or eligible for listing, on the *National Register of Historic Places*. The review was conducted in accordance with Section 106 of the *National Historic Preservation Act of 1966*, as amended, *36 CFR Part 800: Protection of Historic Properties* and the *National Environmental Policy Act of 1969*, as amended.

It is the opinion of this office that the *General Management Plan and Draft Environmental Impact Statement* adequately addresses cultural resources located within the Biscayne National Park

If you have any questions concerning our comments, please contact Scott Edwards, Historic Preservationist, by electronic mail scott.edwards@dos.myflorida.com, or at 850.245.6333 or 800.847.7278.

Sincerely,

Laura A. Kammerer
Deputy State Historic Preservation Officer
For Review and Compliance

500 S. Bronough Street • Tallahassee, FL 32399-0250 • <http://www.flheritage.com>

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Historic Preservation
(850) 245.6333 • FAX: 245.6437



United States Department of the Interior



FISH AND WILDLIFE SERVICE
South Florida Ecological Services Office
1339 20th Street
Vero Beach, Florida 32960

March 7, 2012

Memorandum

To: Mark Lewis, Superintendent, Biscayne National Park

From:  Larry Williams, Field Supervisor, South Florida Ecological Services Office

Subject: Biscayne National Park: Draft General Management Plan/Environmental Impact Statement; National Park Service No. L7615; Service Federal Activity No. 41420-2011-CPA-0291; Service Log Number: 41420-2011-I- 0318

The U.S. Fish and Wildlife Service (Service) has reviewed your letter dated August 19, 2011, requesting consultation on the Biscayne National Park (BNP) Draft General Management Plan/Environmental Impact Statement (DGMP/EIS) and its potential effects on threatened and or endangered species in BNP. This memorandum is submitted in accordance with section 7 of the Endangered Species Act of 1973, as amended (Act) (87 Stat. 884; 16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (MMPA) (16 U.S.C. 1361 *et seq.*).

PROJECT DESCRIPTION

BNP is utilized for a variety of activities, including boating, recreational and commercial fishing, snorkeling, SCUBA diving, picnicking, wildlife viewing, and birding. Since BNP's last comprehensive management plan was completed in 1983, the population near the park has increased, and visitor use has increased and changed. These changes have implications for how visitors access and use BNP. The DGMP/EIS outlines the facilities needed to support new uses, how resources are managed and protected and how the National Park Service (NPS) manages its operations. The new plan examines five alternatives for managing the park over the next 15 to 20 years.

The NPS proposes in its DGMP/EIS to implement the preferred alternative, Alternative 4, for areas within BNP. The highlights of Alternative 4 include:

- Providing a moderate level of new or enhanced visitor services, facilities and access;
- Increasing opportunities to experience natural sounds;
- Establishing a Marine Reserve Zone (a site-specific Non-combustion Engine Use zone within 500 feet of shorelines in conjunction with an existing 1,000-foot Slow Speed zone) to provide higher levels of resource protection;
- Establishing new partnerships with private entities, such as marinas and State and County parks, to expand the BNP's capacity; and
- Imposing restrictions on fishing, resource exploitation, mooring, anchoring and vessel usage to protect BNP resources.

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BNP proposes to provide existing, new or enhanced visitor services, facilities and access by:

- Maintenance, improvement and possible expansion of a variety of existing structures and facilities;
- Maintenance dredging of existing channels;
- Exotic plant management;
- Acquisition of sites with important cultural and natural resources;
- Construction of a visitor center in Miami;
- Use of mooring buoys to preclude use of anchors that damage the marine environment;
- Restoration of prop scars and vessel grounding sites; and
- Construction of a learning center at an existing site.

BNP has determined implementing Alternative 4 will result in the following:

- Beneficial impacts on fisheries, and submerged aquatic communities;
- Beneficial, insignificant and/or discountable effects on federally listed species;
- Negligible adverse impacts on state listed species and wetlands;
- No adverse effect on archeological resources, historic structures, or cultural landscapes;
- Both beneficial and adverse effects on visitor use and experience;
- Minor adverse impacts on park operations; and
- Beneficial and adverse impacts on the socioeconomic environment.

THREATENED AND ENDANGERED SPECIES

The NPS requests the Service concur with their determinations that implementation of Alternative 4 of the DGMP/EIS “may affect, but is not likely to adversely affect” (MANLTAA) the following federally listed species:

Common Name	Scientific Name	Status	Determination
INVERTEBRATES			
Schaus Swallowtail butterfly	<i>Orthalius reses reses</i>	Threatened	MANLTAA
MAMMALS			
West Indian manatee and its designated critical habitat	<i>Trichechus manatus</i>	Endangered	MANLTAA
REPTILES			
American crocodile and its designated critical habitat	<i>Crocodylus acutus</i>	Threatened	MANLTAA
Green sea turtle	<i>Chelonia mydas</i>	Threatened	MANLTAA
Hawksbill sea turtle	<i>Eretmochelys imbricata</i>	Endangered	MANLTAA
Kemp’s Ridley sea turtle	<i>Lepidochelys kempii</i>	Endangered	MANLTAA
Leatherback sea turtle	<i>Dermochelys coriacea</i>	Endangered	MANLTAA
Loggerhead sea turtle	<i>Caretta caretta</i>	Threatened	MANLTAA

The Service has reviewed the plans, maps, and other information provided by BNP for the proposed project, including the conservation measures proposed to reduce adverse effects to federally listed threatened and endangered species. These species occur within the BNP boundaries in distinct habitats and areas and, for some species, even during distinct time periods. Therefore, depending on the time and location, all or none of these species may be present; details are presented below.

The largest numbers of the Schaus swallowtail butterfly are observed in the hardwood hammocks of Adams and Elliot Keys, during the May to June flight period. In Schaus swallowtail butterfly habitat, new development on Adams Key would include only the staging area for canoes and kayaks and possibly minimal facilities for the environmental education center. The level of development on the island would occur near the shore and would be unlikely to impact the butterfly population or habitat on the island. On Elliott Key, the potential disturbance of the butterfly population or habitat would be slight because only an existing loop trail would be made universally accessible. No new development is proposed in Schaus swallowtail butterfly habitat; therefore, none would be affected. Some slight disturbance may occur due to increased visitor use; however, the long-term adverse impact on the butterfly population and habitat would likely be negligible.

Manatees are routinely observed within BNP between October and May, and are occasionally observed in the park between June and September. All of Biscayne Bay, and all adjoining and connected lakes, rivers, canals and waterways, from the southern tip of Key Biscayne northward to and including Maule Lake (Miami-Dade County), is designated as manatee critical habitat. Currently, BNP has designated 1,000 feet out from its mainland shoreline a Slow Speed Zone to protect manatees. Under the preferred alternative, the manatee protection area in the park would be modified so that 500 feet out from the shoreline would also be designated a Marine Reserve Zone, or Non-combustion Engine Use Zone, and 500 to 1,000 feet would remain designated a Slow Speed Zone. Within the Non-combustion Engine Use Zone, management would focus on protecting water-based resources and minimizing visitor use impacts. This zone would provide additional protection to the manatee by reducing the potential for boat-related injuries and mortality in the areas where manatees are most likely to occur. These zones are designed to provide boat operators time to react when they observe manatees, reducing the potential of striking the animals. The establishment of a Marine Reserve Zone, as well other restrictions, will likely benefit the West Indian manatee by reducing the number of motorized boats. Little to no manatee critical habitat will be altered.

The American crocodile is a frequent inhabitant of BNP. Crocodile habitat is typically along the shoreline in the mangroves and in canals. The Service has designated crocodile critical habitat as all land and waters encompassed by a line beginning at Turkey Point, traveling southeast to the southernmost point of Elliott Key and southwest along the eastern shorelines of the Florida Keys to the park. Turkey Point Power Plant cooling canals, located just south of the park's southern mainland boundary, are a major nesting area for American crocodiles. Juvenile crocodiles do inhabit the park and are infrequently observed by park staff and visitors. Visitor services and infrastructure would remain near current levels with the designated paths, a possible viewing platform, boardwalk, and jetty in the vicinity of Convoy Point. This area is north of the

designated critical habitat area for the crocodiles where there are few crocodiles, so the preferred alternative is not expected to impact their activities in the park. The mangroves south of the visitor center would continue to be managed for conservation. The establishment of a Marine Reserve Zone, as well other restrictions, will also likely benefit the American crocodile. Little, if any, development within designated critical habitat is proposed.

Green and loggerhead sea turtles are routinely observed within Biscayne Bay and nesting has been documented from May through August, primarily on Elliott Key. Most nesting activity is presumed to be by loggerhead sea turtles. The other species of sea turtles have only rarely been observed in the park, and are not known to nest on park beaches. Nesting behavior of sea turtles may be affected by noise from combustion-powered boats, and the preferred alternative could result in a fewer motorized boats in the park. Although Alternative 4 includes primitive campsites on Elliott Key, overall development there would be minimal because only the Breezeway Loop trail would be improved. There would not be a substantial amount of light from the campsites. Mitigation measures such as education efforts regarding the importance of reducing artificial light, additional monitoring and patrols as visitation increases and possible limitations on visitor numbers would reduce the level of adverse impacts. No new development affecting sea turtle nesting habitat would occur. Sea turtle nesting behavior may be affected by noise from combustion-powered boats, and the Marine Reserve Zone could result in fewer motorized boats in the park. Therefore, the establishment of a Marine Reserve Zone, as well other restrictions, will likely benefit nesting sea turtles.

In addition, the following measures are used by BNP during any construction activities to reduce and avoid impacts to threatened and endangered species:

- Turbidity curtains are deployed and checked throughout the day to ensure no crocodiles or manatees have become entangled.
- Vessel operators are required to adhere to no-wake and minimum wake zones.
- The Standard Manatee Construction Conditions for In-water Work (FWC, 2011) are employed.
- The NPS adheres to the standard protection measures for sea turtles.

Under the preferred alternative, visitor services and infrastructure would remain near current levels. In almost all cases, existing structures and developed areas would be redeveloped to provide new or expanded services. Overall, the Service finds the actions proposed in the DGMP/EIS preferred Alternative 4 will benefit the listed species under consideration. Based on this information, the Service concurs with NPS's determinations of MANLTAA the Schaus swallowtail butterfly, the West Indian manatee and its critical habitat, the American crocodile and its critical habitat, the green sea turtle, the hawksbill sea turtle, the Kemp's Ridley sea turtle, the leatherback sea turtle and the loggerhead sea turtle. In addition, the Service finds that implementation of the DGMP/EIS will likely have beneficial effects on the fish and wildlife resources in the area.

If you have any questions regarding this memorandum, please contact Winston Hobgood at 772-469-4306.

cc: electronic only

BNP, Homestead, Florida (Elsa Alvear)

FWC, Tallahassee, Florida (FWC-CPS)

LITERATURE CITED

Florida Fish and Wildlife Conservation Commission. 2011. Standard Manatee Conditions for In-water Work. Tallahassee, Florida. http://myfwc.com/docs/WildlifeHabitats/Manatee_StdCondIn_waterWork.pdf



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NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
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F/SER31:KL

SEP 19 2012

Mr. Mark Lewis
Superintendent, Biscayne National Park
National Park Service
9700 SW 328th Street
Homestead, FL 33133

Re: Biscayne National Park General Management Plan

Dear Mr. Lewis:

Enclosed is the National Marine Fisheries Service's (NMFS) biological opinion (opinion) based on our review of impacts associated with the Biscayne National Park General Management Plan (GMP). This opinion is based on project-specific information provided in the draft environmental impact statement as well as NMFS' review of published literature. This opinion analyzed the project effects on sea turtles, smalltooth sawfish, elkhorn and staghorn corals, and designated critical habitat for elkhorn and staghorn corals. We believe that the implementation of the GMP is likely to adversely affect green, loggerhead, and hawksbill sea turtles but is not likely to jeopardize their continued existence.

We look forward to further cooperation with you on other National Park Service projects to ensure the conservation and recovery of our threatened and endangered marine species. If you have any questions regarding this consultation, please contact Kelly Logan, consultation biologist, by e-mail at Kel.Logan@noaa.gov or (954) 356-6790.

Sincerely,

Roy E. Crabtree, Ph.D.
Regional Administrator

Enclosure

File: 1514-22.P
Ref: P/SER/2011/03871



APPENDIX E: PURPOSE AND AUTHORITY FOR MARINE RESERVE ZONE AND SPECIAL RECREATION ZONE

MARINE RESERVE ZONE

(Excerpted from 2011 Draft GMP/EIS)

Purpose and Need

The purpose of the proposed marine reserve zones is to provide snorkelers and divers with the opportunity to experience a healthy, natural coral reef, with larger and more numerous tropical reef fish and an ecologically intact reef system, while not being so large as to completely eliminate the opportunities for fishing any of the park's reef areas. Visitors to parks in the American West expect to see large healthy trees such as sequoias and redwoods, and large healthy diverse populations of big mammals such as bison and elk. Similarly, visitors to the largest marine park in the national park system expect to see healthy coral reefs teeming with diverse communities of large, healthy fish.

To accomplish this, the park has established objectives of larger, healthier, diverse corals and larger number and diversity of fish. Coral reef areas that are unfished would provide an opportunity for fish to obtain larger sizes and consequently have greater reproductive success; unfished areas would also benefit from intact ecological communities and a reduction of fishing gear impacts to organisms and benthic habitats. Therefore a no-take marine reserve zone would be expected to provide improved visitor experience for divers and snorkelers. The portion of the park's coral reef protected in this zone would contribute toward the Coral Reef Task Force's goal of 20% of the reefs in Florida being included in marine reserves (U.S. Coral Reef Task Force 2000).

The marine reserve zones proposed in this plan are large enough to accommodate many

dive sites with enough mooring buoys that would not only protect reefs from anchor damage, but also provide an uncrowded snorkel or dive experience. The park would have the ability to move mooring buoys to other equally suitable locations should reef monitoring indicate that specific sites are being impacted at an unacceptable level. Many locations for reef fishing opportunities would remain in the park outside of the marine reserve zones.

Authority

Recreational fishing is allowed in parks when not specifically prohibited by a federal law. Commercial fishing is allowed only when specifically authorized by federal law or treaty right (NPS *Management Policies 2006*).

Section 3 of the law establishing Biscayne National Monument in 1968 (Public Law 90-606) states:

The waters within Biscayne National Monument shall continue to be open to fishing in conformity with the laws of the State of Florida except as the Secretary [of the Interior], after consultation with appropriate officials of said State, designates species for which, areas and times within which, and methods by which fishing is prohibited, limited, or otherwise regulated in the interest of sound conservation to achieve the purposes for which the national monument is established.

Section 103(a) of Public Law 96-287 (June 28, 1980), which established Biscayne National Park and added areas to the park north of Boca Chita Key, reiterated much the same

language regarding fishing as in the legislation that established Biscayne as a national monument in 1968, but added the following:

Provided, That with respect to lands donated by the State after the effective date of this Act, fishing shall be in conformance with State law.

These passages allow the Secretary of the Interior (through his delegates) to prohibit or limit fishing in areas within the boundaries of the original national monument for reasons of conservation, visitor experience, or to achieve the purposes for which the park is established. Biscayne National Park's purpose is to preserve and protect for the education, inspiration, recreation, and enjoyment of present and future generations a rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty. Fishing in areas of the park that were added later outside the original monument boundary is governed by the laws and regulations of the State of Florida.

The National Park Service can close areas or otherwise regulate specific uses through special regulations published in the *Code of Federal Regulations* (36 CFR) when necessary for safety or resource protection. Implementing the marine reserve zone would restrict uses of these areas and so would require special regulations under section 1.5 of 36 CFR.

Zone Locations

Locations of the proposed marine reserve zones were developed following mapping workshops held with the public in 2009 and a science review meeting held shortly thereafter. The size and location of the zone proposed in alternatives 3 and 4 are the same, while the proposed zone in alternative 5 is larger and extends to the eastern shore of Elliott Key (see alternative maps in chapter 2 of the General Management Plan). These areas were selected, in part, because they

include a variety of reef types for visitors to experience, existing markers that could serve as boundary markers, living coral cover, documented fish use by targeted fish species, and some of the Maritime Heritage Trail shipwrecks that visitors enjoy snorkeling and diving on. In all three alternatives, the proposed marine reserve zone is in the original national monument boundary.

SPECIAL RECREATION ZONE

Purpose and Need

The purpose of the proposed special recreation zone is to accommodate some recreational fishing while meeting the goal of providing a healthy coral reef ecosystem for a more enjoyable and diverse visitor experience. To accomplish this, some types of fishing would be prohibited and fishing pressure would be limited via permits in the special recreation zone. An adaptive management strategy (appendix F) would be used to evaluate the effectiveness of this approach at 3-, 5-, 8-, and 10-year intervals after implementation with the option of implementing management actions to affect fishing pressure as indicated by monitoring data. At the 10-year evaluation interval, the option to institute a marine reserve zone would be considered.

The special recreation zone proposed in this plan would be large enough to accommodate many dive and fishing sites with enough mooring buoys that would not only protect reefs from anchor damage but also provide an uncrowded snorkel, dive, or fishing experience. The park would have the ability to move mooring buoys to other equally suitable locations should reef monitoring indicate that specific sites are being impacted at an unacceptable level or to improve visitor experience.

Authority

Recreational fishing is allowed in parks when not specifically prohibited by a federal law. Commercial fishing is allowed only when specifically authorized by federal law, treaty right or special regulation (NPS *Management Policies 2006*).

Section 3 of the law establishing Biscayne National Monument in 1968 (Public Law 90-606) states:

The waters within Biscayne National Monument shall continue to be open to fishing in conformity with the laws of the State of Florida except as the Secretary [of the Interior], after consultation with appropriate officials of said State, designates species for which, areas and times within which, and methods by which fishing is prohibited, limited, or otherwise regulated in the interest of sound conservation to achieve the purposes for which the national monument is established.

Section 103(a) of Public Law 96-287 (June 28, 1980), which established Biscayne National Park and added areas to the park north of Boca Chita Key, reiterated the same language regarding fishing as in the legislation that established Biscayne as a national monument in 1968 but added the following:

Provided, That with respect to lands donated by the State after the effective date of this Act, fishing shall be in conformance with State law.

These laws allow the Secretary of the Interior (through his delegates) to prohibit or limit fishing in areas within the boundaries of the original national monument for reasons of conservation, visitor experience, or to achieve the purposes for which the park is established. Biscayne National Park's purpose is to preserve and protect for the

education, inspiration, recreation, and enjoyment of present and future generations a rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty. Fishing in areas of the park that were added later outside the original monument boundary is governed by the laws and regulations of the State of Florida.

The National Park Service can close areas or otherwise regulate specific uses through special regulations published in the *Code of Federal Regulations* (36 CFR) when necessary for safety or resource protection. Implementing the special recreation zone would restrict uses of these areas and so would require special regulations under section 1.5 of 36 CFR.

Zone Locations

The location of the proposed special recreation zone was developed largely based on the areas proposed as marine reserve zones in the 2011 Draft GMP/EIS. The areas proposed as marine reserves in 2011 followed mapping workshops held with the public in 2009 and a science review meeting held shortly after in 2009. To develop the size, shape and location of the special recreation zone, the National Park Service convened a science review meeting in 2012 that included representatives from Florida Fish and Wildlife Conservation Commission, Florida Department of Environmental Protection, and NOAA Fisheries. The special recreation zone area was selected, in part, because it includes a variety of reef types for visitors to experience, existing markers that could serve as boundary markers, living coral cover, documented fish use by targeted fish species, and some of the Maritime Heritage Trail shipwrecks on which visitors enjoy snorkeling and diving. In particular, the special recreation zone was sized larger than the original marine reserve zone in alternative 4, to include a greater expanse of patch reef habitat with the acknowledgement that the proposed management actions might need a

larger area to realize the desired outcomes of a healthy coral reef ecosystem.

The proposed special recreation zone is the same size and location in both alternatives 6

and 7 (see alternative maps in chapter 2). The proposed special recreation zone is within the original national monument boundary as defined in the 1968 enabling legislation.

APPENDIX F: ADAPTIVE MANAGEMENT STRATEGIES FOR SPECIAL RECREATION ZONE ALTERNATIVES 6 AND 7

OVERVIEW OF THE PROCESS

For the purposes of the special recreation zone adaptive management strategies, we use the following working definition taken from the Department of the Interior Technical Guide (Williams et al. 2007):

Adaptive management is a decision process that promotes flexible decision making that can be adjusted in the face of uncertainties as outcomes from management actions and other events become better understood. Careful monitoring of these outcomes both advances scientific understanding and helps adjust policies or operations as part of an iterative learning process. Adaptive management also recognizes the importance of natural variability in contributing to ecological resilience and productivity. It is not a 'trial and error process,' but rather emphasizes learning while doing. Adaptive management does not represent an end in itself, but rather a means to more effective decision and enhanced benefits. Its true measure is in how well it helps meet environmental, social, and economic goals, increases scientific knowledge, and reduces tensions among stakeholders.

Adaptive management allows decision makers to acknowledge the uncertainties surrounding the management of natural systems and helps natural resource managers respond to changing resource or system conditions over time through the collection and evaluation of additional social and ecological information. The knowledge that uncertainties exist gives managers the ability to consider them in their planning and to

modify management actions accordingly to progress toward desired outcomes. Adaptive management has the potential to improve a manager's understanding of social and ecological systems to better achieve management objectives.

The adaptive management process contains six steps that are usually completed sequentially (figure F-1). "Assess the Situation" is the typical starting point in this process.

Each of the steps of the process is discussed below in relation to the proposed special recreation zone described in alternatives 6 and 7. The National Park Service recognizes a complex jurisdictional relationship exists among the National Park Service, Florida Fish and Wildlife Conservation Commission, and NOAA Fisheries as they work cooperatively and collaboratively regarding the legislative boundaries and resources of Biscayne National Park. Tables F-2 and F-3 summarize the actions needed to implement the adaptive management strategies for alternatives 6 and 7.

Full descriptions are previously described in chapter 1, "Special Mandates and Administrative Commitments" of the 2011 Draft GMP/EIS on pages 10 and 11.

Assess the situation: Over the last three decades, 64% of reef fish species exhibited a decline in their frequency of occurrence within the park (Kellison et al. 2011). Current monitoring data indicates that hogfish, mutton snapper, yellowtail snapper, black grouper, and red grouper populations are low enough that current fishing intensity coupled with legal bag limits has the potential to result in the harvest of the majority of legal-sized fish in the park in a single year. This concern is further supported by park creel surveys which have shown that about half of fishing

trips in the park return to dock with no fish. The low abundance of fish is an unfavorable condition for park resources and visitor experience.

Coral reefs are important global resources that have experienced dramatic declines worldwide in recent years. Biscayne National Park is important to the function and dynamics of the larger Florida reef tract. The reefs within the park are also popular visitor destinations for snorkeling and scuba diving as well as glass-bottom boat viewing. Due to the concentration of fish around coral reefs, the reefs are also popular fishing destinations. Today's live stony coral is estimated to be about 5%–7% (NPS 2013) compared to live coral cover estimates of 8%–28% from 1977–1981 (Dupont et al. 2008). These current values are comparable to coral cover at other long-term sites in the Florida Keys, which have documented declines (Porter and Meier

1992; Ruzicka et al 2009). There is a clear relationship between healthy fish populations and healthy reef ecosystems (Lirman 1999; Newman et al. 2006; Mumby et al. 2007; Paddock et al. 2009). In addition, reefs are damaged by fishing gear (traps, nets, line), anchoring, boat grounding, and abrasion by other debris as well as careless snorkelers and divers. Contaminants, nutrient enrichment and algal blooms are other local factors. Regional effects include stress caused by warm water and cold water events and their interaction with a variety of coral diseases. It is expected that reductions in fishing pressure, marine debris, anchor damage, and other local stressors may be enough to partially offset regional stressors and trends. Reductions in these local stressors should at a minimum improve the recreational experience.

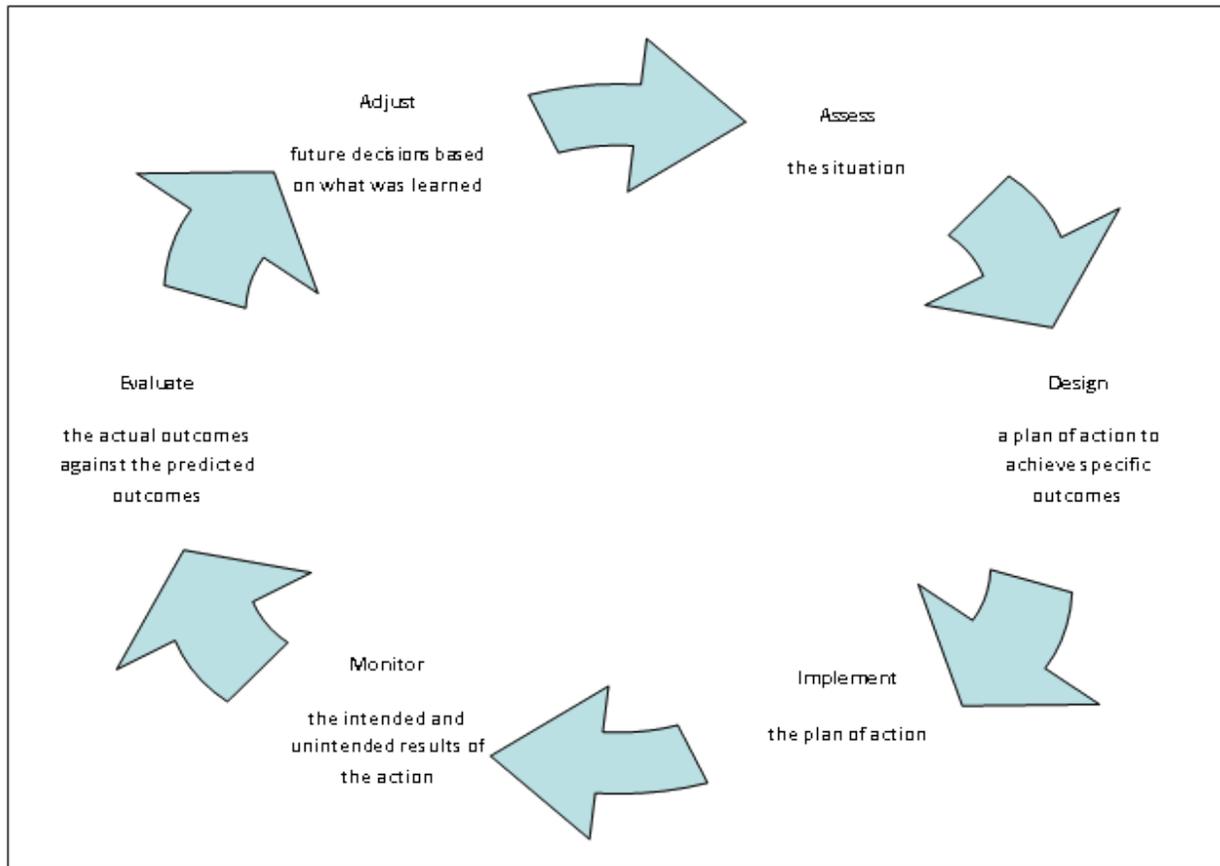


Figure F-1. Generic Adaptive Management Process

Design a plan of action to achieve specific outcomes: A special recreation zone is proposed in alternatives 6 and 7 that would adopt an alternative-specific, adaptive management strategy to achieve the goal of a healthier coral reef ecosystem within the zone to provide a more enjoyable and diverse visitor experience.

Within the special recreation zone the following activities and limitations would be put into effect:

- Fishing allowed year-round (alternative 6) or closed during months of June through September (alternative 7)
- For alternative 6 only, a dual permit, anticipated to be a FWC special activity license / NPS special use permit, would be required for fishing and harvest in the special recreation zone (other than for lionfish). A maximum number of permits would be issued annually; currently set at 430 angling permits and 70 fishing guide permits.
 - It is anticipated that Florida Fish and Wildlife Conservation Commission would issue these by lottery annually; however the specifics for issuing these licenses would be determined after the “Record of Decision” is signed.
 - An educational component could be required for permit holders.
 - Permit holders would be required to submit a monthly logbook with effort, catch, and harvest information.
- Hook and line fishing only, with the exception of lampara nets
- No grouper harvest allowed
- No lobster harvest (commercial or recreational)
- No spearfishing, with the exception of the nonnative lionfish using approved spearing devices (or hand-held nets)
- Anchoring prohibited; additional mooring buoys to be installed.
- All other state regulations apply
- No commercial fishing, with the exception of lampara net fishery to be managed under NPS-issued permit within this zone
- Snorkeling and diving allowed
- Active removal of marine debris
- Focused visitor education messaging
- Focused law enforcement effort
- Initiate Research and Monitoring Program to inform adaptive management of the special recreation zone
- Implementation of an adaptive management strategy (this appendix)

Implementation of an Adaptive Management Strategy (this appendix).

In alternative 6, the number of permits (e.g., special activity licenses) proposed for the special recreation zone was determined based on current estimates of fish abundance within the proposed special recreation zone and an assumed annual fish harvest per fisherman, and estimated level of harvest that would allow goals to be achieved. Fish abundance was estimated from a multiagency reef visual census (Brandt et al. 2009). The park’s long-term creel survey data set was used to estimate the number of people per fishing boat. Levels of harvest were estimated using daily bag limits and initial assumptions regarding the number of times special activity license holders will fish in the zone in a year. The level of total allowable fishing harvest was initially set at 50% of legal-sized snapper species (grey, mutton, yellowtail, lane snapper, and hogfish) present in the zone. Snapper were chosen as they are popular recreational species as well as the most abundant of the exploited fish species within the proposed zone. Zone-specific monitoring of fish abundance and harvest will inform adaptive management decisions to maintain or adjust the number of special activity licenses in the zone. Reviewing SAL logbooks

will help determine if harvest is greater than predicted. Fish abundance monitoring will help determine whether or not the reduced harvest caused by SAL limits is sufficient to allow progress towards the goals. While the initial number of permits to be issued has been established, that number could be reduced based on results of future monitoring of abundance and harvest extraction. By reducing the amount of fishing pressure in the special recreation zone through SAL limitations, it is anticipated that populations of snappers and other species would increase over time leading to greater numbers of fish and larger fish in the special recreation zone.

Implement the plan of action: After signing of the “Record of Decision” for the Final General Management Plan / Environmental Impact Statement for Biscayne National Park, the preferred alternative as identified in the “Record of Decision” would be implemented. The National Park Service and Florida Fish and Wildlife Conservation Commission would jointly implement the actions described above within their respective jurisdictional authorities and depending on the specific alternative. Where such actions require a change in existing regulations, the standard process for revising or establishing new regulations would be followed, including the opportunity for public involvement. The National Park Service would pursue a park special regulation to formally establish the special recreation zone and the visitor use limitations identified within this zone. For alternative 6, it is also anticipated that Florida Fish and Wildlife Conservation Commission would pursue a park-specific state regulation to formally establish the zone-based special activity license and the process for applying for a special activity license to fish the special recreation zone. Any activity limitations in the special recreation zone, as described above, would not be implemented until after the regulations are finalized. Specific roles and responsibilities for implementing the adaptive management strategy would be clearly defined in a new memorandum of

agreement between National Park Service and Florida Fish and Wildlife Conservation Commission, which would include joint development of a science and research plan to inform the adaptive management strategy.

A Science and Research Strategy would be developed in the first years of implementation. For alternative 6, the Science and Research strategy would be developed in coordination with the Florida Fish and Wildlife Conservation Commission. For alternative 7, the National Park Service would develop the strategy with input of scientists, but the Florida Fish and Wildlife Conservation Commission would not be a partner in its development or implementation. The Science Plan will fully develop the needed research and monitoring required to detect change in the indicator metrics and evaluate the factors that are influencing that change. This plan will substantially recommend the scope and scale for essential monitoring, identify additional monitoring recommendations, and identify and recommend the priority research projects needed to successfully evaluate the efficacy of the special recreation zone in meeting its resource and visitor experience objectives.

Monitor the outcomes of the actions: Indicators and expected trends have been established (table F-1) to measure the effectiveness of the special recreation zone in achieving the goals of an increase in the abundance of fish and lobster and a healthier coral reef ecosystem within the zone in order to provide a more enjoyable visitor experience. Empirical data collected in the first three years of implementation would be used to establish baseline conditions within the zone for use in future comparisons. Comparable data collected outside of the zone, but within the park boundary and other appropriate areas in the park vicinity, would be used for comparisons. Catch and effort data would be derived from self-reporting by permittees in a monthly logbook as well as park-conducted creel surveys.

Table F-1. Indicators and Metrics for Monitoring Outcomes of Adaptive Management Strategy

Indicator Topic	Indicator Metric	Rationale for Selection	Reference Conditions	Expected Trends
Fish and Spiny Lobster	Abundance and size structure of fishery-targeted species (e.g., snappers, groupers, grunts, lobster); structure of the non-targeted fish community.	The reduction in fishing pressure should result in larger, more numerous fish and lobster as part of an ecologically balanced reef system and result in a better visitor experience.	Outside zone within park and other appropriate areas within FL Keys, and baseline within zone.	Increases in fish metrics, when compared to reference areas and baseline values of the special recreation zone. The timeline for attaining a new equilibrium is unknown and highly variable by species due to external factors. Multiple analyses would be conducted on various metrics to ensure that detected changes are biologically meaningful.
Catch and Effort	Catch per unit effort, total catch, daily fishing intensity (number of trips, number of anglers, number of hours per trip) within the zone, number of angler permits issued and associated use patterns, average size of harvested fish (by species).	Catch per unit effort and average size indicate visitor satisfaction for those visitors who fish, and, indirectly fish abundance and size structure. Intensity and SAL metrics would assess fishing effort and extractive pressure (alternative 6 only). Number of angler permits issued is one of the adaptive management actions that can occur.	Outside zone within park and other similar habitat areas near park that are included in creel survey, and baseline within zone.	Species-specific catch per unit effort and average sizes should increase over reference zone and baseline. If harvest exceeds initial assumptions, a review of permit policies would occur (alternative 6 only). If total harvest prevents recovery of fish populations, then management actions should be aimed at reducing fishing pressure.
Benthic Habitat Community Structure	Live cover of taxa groups (e.g., stony corals, soft corals, sponges, crustose coralline algae), diversity of organisms, presence/absence of various taxa; disease; size class information.	Reductions in habitat damage from traps and fishing pressure are expected to result in healthier, more vibrant and more diverse benthic habitats.	Outside zone within park and other appropriate areas within FL Keys, and baseline within zone.	As benthic shifts are slow to be observed and are influenced by a wide variety of external factors, no specific threshold is defined and management actions would not be initiated by the status of this metric. However, this metric is important for interpreting changes in other metrics that would guide management actions.
Fish Behavior	Flight initiation distance (FID)	In other areas where spearfishing is prohibited, it has been documented and anecdotally observed that visitors can more closely approach fish.	Outside zone within park and other appropriate areas within FL Keys (e.g., Pennekamp State Park, which has prohibited spearfishing for	No threshold is defined. However, this metric is important for interpreting the effectiveness of eliminating spearfishing on fish behavior, which influences visitor experience. The expectation is that FID would decrease, but the time

Table F-1. Indicators and Metrics for Monitoring Outcomes of Adaptive Management Strategy

Indicator Topic	Indicator Metric	Rationale for Selection	Reference Conditions	Expected Trends
			decades), and baseline within zone.	frame needed to observe this is unknown.
Fish Movement	Fish movement and home ranges, emigration rates and patterns	This metric would examine spatial life history patterns and can be used to assess the extent of protection received by fish based on how much time is spent within the zone. This metric would allow for improved understanding of the zone's ecological connectivity and function within a broader regional context.	Not applicable, although data could be compared to published data from other areas of similar habitat and/or size.	No threshold is defined. However, this metric is important for interpreting changes in other metrics, particularly those related to fish and lobsters, which would guide management actions. We expect that the zone would support both resident and transient fish. Emigration rates would be one factor that influences changes in targeted fish abundances and size structures within the zone.
Marine Debris (e.g., traps, monofilament fishing line, and other derelict fishing gear; trash)	Presence, location, types, quantity, accumulation rate	Marine debris adversely affects not only visitor experience but also reef condition, reef restoration sites, and submerged archeological sites. Derelict fishing gear can entangle and otherwise kill marine life including sea turtles, fish, lobsters, sea birds, and marine mammals.	Outside zone within park, and baseline within zone	Decrease in the amount of fishing-related marine debris in the zone.
Social Science/human dimension/human activities	Visitor impressions, visitation patterns and rates, socio-economic patterns, visitor satisfaction rates, visitor understanding of zone purpose and regulations.	Improvements in the conditions of the resources in the zone are expected to increase visitor satisfaction and visitation rates. Differences in visitor satisfaction and visitation rates may be detected for both extractive and nonextractive users.	Outside zone within park, and baseline.	Increased visitor satisfaction in this zone compared to baseline and in a reference zone.

Table F-1. Indicators and Metrics for Monitoring Outcomes of Adaptive Management Strategy

Indicator Topic	Indicator Metric	Rationale for Selection	Reference Conditions	Expected Trends
Submerged archeological resources	Presence and accumulation of marine debris on submerged archaeological resources, presence and extent of new damage to submerged archaeological resources	Marine debris causes irreparable damage to irreplaceable archaeological sites. Submerged archaeological sites are enjoyed by visitors and fully protected by NPS.	Submerged archeological sites located outside the zone within the park and baseline	Decreased archeological site damage and debris accumulation in the zone compared to baseline and in a reference zone.

Monitoring would include indicators for targeted fish species, angler catch and effort, benthic habitat community structure, fish behavior and movement, marine debris, visitor satisfaction, and submerged archeological sites as summarized on table F-1. Appropriate SRZ-specific user capacity standards, as listed in chapter 2, would also apply.

Evaluate the observed trends against the expected trends (see table F-1): Some of the indicators do not have a numeric or qualitative change threshold. Instead, trends and external factors, as well as other data gathered from monitoring, would be considered.

Monitoring data would be used to inform adaptive management decisions to maintain or reduce the number of permits issued for the special recreation zone under alternative 6. Reviewing the logbooks would help determine if total take is greater than predicted and whether some species are preferentially targeted, and help the park determine the success of the zone in achieving desired outcomes. Specific to alternative 6, in years three, five, and eight, the agencies would evaluate catch and effort to determine if the original assumptions are being met. If these assumptions of effort and take are being exceeded, a multiagency team would evaluate potential reduction in number of permits to be issued for following years.

In years 5 and 10, the agencies would convene a panel of experts familiar with the marine ecology and fisheries of South Florida to review all data for all indicator topics and determine if the scientific effort (documented in the joint agency science plan) is adequate to detect change, if there has been any change in the performance metrics, and if performance metrics are trending toward performance expectations. The panel would provide an informal, impartial review of the monitoring results and make recommendations. The panel would consist of representatives from four groups: one

representative for the National Park Service, one representative for the NOAA Fisheries, one representative for the Florida Fish and Wildlife Conservation Commission, two representatives for academics. To achieve temporal consistency, the park would strive to have the same people at the 5- and 10-year reviews.

Adaptive management evaluation points (tables F-2 and F-3) would include:

- A. Whether the number of permits is sufficient to reduce the total level of take by recreational and guided fishing in the special recreation zone to no more than 50% of the legal-size snappers.
- B. Whether setting the maximum take of no more than 50% of the legal-sized snappers are allowing fish metrics of snappers and other fish species to show progress towards goals.
- C. Whether the level of monitoring effort is sufficient to answer questions A and B.
- D. Whether the number and location of mooring buoys and zone boundary markers is sufficient.
- E. Whether marine debris accumulation rates are within levels that can be maintained by removal efforts.
- F. Whether the level of public outreach is effective.
- G. Whether the level of law enforcement is effective.

Adjust future management actions based on what was learned: For alternatives 6 and 7, the following management actions may be adjusted at the 3, 5, 8, and 10 years:

- **Mooring Buoys.** Number and location of mooring buoys may be adjusted based on input from the public and from park Law Enforcement rangers and from social science survey results (Note: social science survey results only available three years after baseline and at 10 years). Relocation effort would aim to re-

distribute visitor use away from particularly sensitive areas, manage user conflicts, and minimize impacts to park resources.

- **Outreach.** Type, frequency, and messages communicated for outreach on this zone would be revisited and adjusted. Effort may include targeted messages for specific user groups and/or seasons or events as indicated by monitoring data as having a high frequency of noncompliance.
- **Law Enforcement Effort.** How frequently and thoroughly the zone is patrolled by law enforcement would be based on law enforcement statistics and public input (visitors reporting violations or commenting on their experience). Patrol effort and techniques may be targeted toward user groups or seasons of use as indicated by monitoring data as having a high frequency of non-compliance.
- **Marine Debris.** Increased efforts in removal would be undertaken if the monitored sites indicate debris accumulation exceeds removal rate. As extra efforts in removal are unfunded, there could be partnership opportunities.
- **Special Activity License (alternative 6 only).** Adjust number of special activity licenses issued for recreational fishing, not to exceed the maximum allowed.

Once it is determined that one or more of these future management actions is necessary or desirable to better achieve adaptive management objectives, an initial environmental screening process will be conducted to determine what, if any, additional environmental compliance may be required. Through this screening process, the National Park Service will document whether

adaptive management adjustments, both individually and cumulatively, are (1) within the range of management actions described for the selected alternative, and (2) fully analyzed in the environmental effects section of the Plan/SDEIS or previous NEPA documents incorporated by reference.

For alternatives 6 and 7, the metrics identified in table F-1 would be evaluated in years five and ten. At years three, five, and eight, logbook/ creel data would be analyzed to determine if the 50% harvest rate is accurate for use in potentially adjusting the number of licenses issued.

At years five and ten, the panel of experts would present their findings and recommend adjustments to the number of permits (alternative 6 only) and also provide recommendations to address nonfishing management (e.g., enforcement, education, marine debris removal, marking, etc.) based on observations from the partner agencies, permittee logs, etc. They may recommend changes to the scientific effort. These adjustments could be applied to either alternative 6 or alternative 7.

Following the 10-year adaptive management period for the special recreation zone, the National Park Service would consider monitoring data, consult with the Florida Fish and Wildlife Conservation Commission, NOAA Fisheries, and an expert panel and decide whether to continue adaptive management strategies for a special recreation zone or implement a marine reserve zone.

If at the end of the 10-year evaluation period, the decision is made to implement a marine reserve zone (no take for fishing), it would be established by park regulation as described in chapter 2.

Table F-2. Summary of Adaptive Management Actions to be Taken in Support of the Special Recreation Zone – Alternative 6

Adaptive Mgmt Steps	Actions to be Taken
Design, Implement	Legal processes: Establish a Memorandum of Understanding between National Park Service and Florida Fish and Wildlife Conservation Commission for implementation of the special recreation zone. Legally establish the special recreation zone and its various regulations and limitations through formal rule-making processes.
Design, Implement	Administrative Processes: The Florida Fish and Wildlife Conservation Commission special activity licenses or other special permit would be initiated by regulation for recreational fishing. Initiate NPS permits for guide services in the special recreation zone. Develop the science and research strategy to establish and refine monitoring protocols and identify research opportunities.
Implement Monitor	Determine ecological baselines: Conduct monitoring on performance metrics to determine baseline conditions upon implementation of the new special recreation zone for comparison at future monitoring intervals.
Implement Monitor	Establish starting point for marine debris removal: Remove marine debris from the special recreation zone, either in limited areas, or entire area as funding allows to determine effectiveness of new management actions in reducing marine debris.
Monitor, Evaluate, Adjust	Three-year check in: During year three of permit implementation, the agencies evaluate catch and effort to determine if the original assumptions are being met. If these assumptions are being exceeded, the agencies would evaluate potential reduction in number of permits and/or in the maximum percentage of fish considered allowable for harvest for following years. Evaluate adaptive management evaluation points A, C, D, E, F.
Evaluate	Five-year check in: During year five, the agencies would convene a panel of experts to review and determine if the scientific effort (documented in the joint agency science plan) is adequate to detect change, has there been any change in the performance metrics, and are performance metrics trending toward performance expectations. If not, the panel would provide suggestions to explain current findings and recommend adjustments to number of permits issued and/or in the maximum percentage of fish considered allowable for harvest. Other panel recommendations may address nonfishing management (e.g., enforcement, education, marine debris removal, marking, etc.) and changes to the scientific effort. Evaluate All adaptive management evaluation points.
Adjust	Following the five-year check, the Florida Fish and Wildlife Conservation Commission/National Park Service would consider expert panel recommendations and determine appropriate adaptive management adjustments to SAL/special use permit (SUP) numbers and/or in the maximum percentage of fish considered allowable for harvest, whether or not grouper numbers have recovered enough to allow some level or harvest, scientific effort, and nonfishing management following the panel report.
Monitor, Evaluate, Adjust	Eight-year check in: During year eight of SAL/ NPS permit implementation, the agencies evaluate catch and effort to determine if original assumptions are being met. If these assumptions are being exceeded, a multiagency team would evaluate potential reduction in number of SAL/SUP and/or in the maximum percentage of fish considered allowable for harvest for following years. Evaluate Adaptive Management Evaluation Points A, D, E, F.
Evaluate	Ten-year Evaluation: After 10 years of SRZ implementation, the agencies would reconvene the panel of experts to evaluate all of the results of management actions taken for the special recreation zone and report on the efficacy of the management approach to the agencies. The panel would provide recommendations for future adaptive management to be considered by the agencies. Evaluate all Adaptive Management Evaluation Points.
Adjust	Following the 10-year evaluation, the National Park Service, after consultation with Florida Fish and Wildlife Conservation Commission and other relevant agencies, and consideration of the expert panel recommendations, would determine appropriate adaptive management adjustments in SRZ management immediately following the panel report. This NPS decision may include relaxing regulations such as allowing grouper harvest or further restricting regulations to include possible conversion to a no-take marine reserve.

Table F-3. Summary of Adaptive Management Action to be Taken in Support of the Special Recreation Zone – Alternative 7

Adaptive Mgmt Steps	Actions to be Taken
Design, Implement	Legal processes: Legally establish the special recreation zone and its various regulations and limitations through formal NPS rulemaking processes.
Design, Implement	Initiate NPS seasonal closure during low oxygen months of June through September. Develop the Science and Research Strategy to establish and refine monitoring protocols and identify research opportunities.
Implement Monitor	Determine ecological baselines: Conduct monitoring on performance metrics to determine baseline conditions upon implementation of the new special recreation zone for comparison at future monitoring intervals.
Implement Monitor	Establish starting point for marine debris removal: Remove marine debris from the special recreation zone, either in limited areas, or entire area if possible in order to determine effectiveness of new management actions in reducing marine debris.
Monitor, Evaluate, Adjust	Three-year check in: National Park Service evaluates trend and threshold data to determine: (1) if depreciative visitor behaviors could be addressed by changes in level and types of education are required, (2) if changes in mooring buoy locations are needed to disperse use and impacts, or (3) if additional law enforcement is needed to prevent and/or detect or deter intentional impacts by park visitors.
Evaluate	Five-year check in: During year five, the National Park Service would convene a panel of experts review and determine if the scientific data are adequate to detect change, has there been any change in the performance metrics, and are performance metrics trending toward performance expectations. If not, the panel would provide suggestions to explain current findings and recommend adjustments to the seasonal closures. Other panel recommendations may address nonfishing management (e.g., enforcement, education, marine debris removal, marking, etc.) and changes to the scientific effort.
Adjust	Five-year check in: National Park Service would consider expert panel recommendations and determine appropriate adaptive management adjustments, may address nonfishing management (e.g., enforcement, education, marine debris removal, marking, etc.) and changes to the scientific effort, and nonfishing management following the panel report.
Monitor, Evaluate, Adjust	Eight-year check in: During year eight of seasonal closure, the National Park Service would evaluate fish population monitoring data to determine if assumptions are being met. If these assumptions are being exceeded National Park Service would evaluate potential reduction in the seasonal closure months for following years.
Evaluate	Ten-year Evaluation: After 10 years of SRZ implementation, the National Park Service would reconvene the panel of experts to evaluate all of the results of management actions taken for the special recreation zone and report on the efficacy of this management approach to the National Park Service. The panel would provide recommendations for future adaptive management to be considered by the National Park Service.
Adjust	Following the 10-year evaluation, the National Park Service, after consultation with relevant agencies and consideration of the expert panel recommendations, would determine appropriate adaptive management adjustments in SRZ management immediately following the panel report. This NPS decision may include relaxing regulations such as allowing grouper harvest or further restricting regulations to include possible conversion to a no-take marine reserve.

**APPENDIX G: STATE RESPONSE TO THE 2011 DRAFT GENERAL
MANAGEMENT PLAN AND ENVIRONMENTAL IMPACT STATEMENT**



Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr.
Secretary

January 10, 2012

Mr. Mark Lewis, Superintendent
Biscayne National Park
9700 SW 328th Street
Homestead, FL 33033-5634

RE: National Park Service – Draft General Management Plan/Environmental Impact Statement for Biscayne National Park – Miami-Dade County, Florida
SAI # FL201108225930C

Dear Superintendent Lewis:

The Florida State Clearinghouse has coordinated the state's review of the August 2011 Draft General Management Plan/Environmental Impact Statement (GMP/EIS) for Biscayne National Park under the following authorities: Presidential Executive Order 12372; § 403.061(42), *Florida Statutes (F.S.)*; the Coastal Zone Management Act, 16 U.S.C. §§ 1451 et seq., as amended; and the National Environmental Policy Act, 42 U.S.C. §§ 4321-4347, as amended.

The Florida Department of Environmental Protection (Department), designated by the Florida Coastal Management Program (FCMP) as the state's lead coastal management agency pursuant to § 306(c) of the Coastal Zone Management Act, 16 U.S.C. § 1456(c) and § 380.22, *F.S.*, has reviewed the Draft GMP/EIS under the provisions of 15 C.F.R. 930, subpart C and hereby notifies the National Park Service (NPS) that the GMP/EIS will be consistent with the FCMP only upon NPS' full compliance with the conditions stated in this letter. The bases for this conditional concurrence are set forth in Section III below, and a summary of comments received from other state and regional agencies is reflected in Section I. The comment letters from those agencies are attached and incorporated in this letter by reference.

I. SUMMARY OF STATE AGENCY COMMENTS

The Department's Office of Coastal and Aquatic Managed Areas (CAMA) supports the NPS' update of Biscayne National Park's GMP and notes that the Department is also preparing a new management plan for the adjacent 70,000-acre Biscayne Bay Aquatic Preserve. The national park and aquatic preserve comprise an important contiguous

ecosystem, and updated management plans and continued cooperation between the two programs are critical to manage important resources in Biscayne Bay. CAMA offers the following specific comments:

- The Biscayne Bay Aquatic Preserve (AP) often works with the NPS in training and outreach programs, as well as on water quality and restoration issues. Given the proximity of the two marine protected areas, the GMP/EIS should therefore recognize and support coordination between the programs. Staff looks forward to continuing this productive partnership with the park.
- CAMA supports the concept of a satellite visitor center closer to the Miami population center, if constructed in an appropriate location. It is likely that the facility would be adjacent to the AP, and staff reiterates the value of cooperation between AP staff and the NPS on outreach programs that foster stewardship and awareness of the park and preserve resources through the proposed facility.
- Preferred Alternative 4 would establish a 10,000-acre Marine Reserve Zone, in which recreational and commercial fishing would be prohibited. The area encompasses more than 2,600 acres of coral patch reef community. CAMA defers to the FWC on the necessity and effectiveness of prohibiting fishing in the zone for fisheries management purposes. Staff does recognize, however, that the use of marine protected areas in other areas has been an effective tool for the protection of reef resources. Expanding the network of coral reef protected areas for the improved management of coral reef resources is a goal of the United States Coral Reef Task Force, of which the U.S. Department of Interior and the State of Florida are members.

For additional information regarding CAMA's comments, please contact Ms. Carla Gaskin Mautz at (850) 245-2094.

The **South Florida Water Management District** (SFWMD) has reviewed the alternatives developed in the Draft GMP/EIS and advises that construction activities conducted in, on or over the water or within wetlands will require an Environmental Resource Permit (ERP) under Rule 40E-4, 40 or 400, *Florida Administrative Code*. Prior to issuance of an ERP, the state requires a demonstration that impacts to wetlands or other surface waters have been eliminated or reduced. For further information on the state's permitting and stormwater management requirements, please contact Mr. Ron Peekstok of the SFWMD's Natural Resources Management Section at (561) 682-6956.

The **Florida Fish and Wildlife Conservation Commission** (FWC) has provided detailed comments, recommendations and technical information in its letter of December 30, 2011, and Attachments 1, 2, 2A and 2B appended to the letter, copies of which are attached. The letter provides a detailed background of the efforts between the FWC and NPS to address the agency's concerns regarding management activities proposed in the Draft GMP/EIS. Because several major issues could not be resolved, however, the FWC finds it necessary to condition its concurrence regarding the consistency of the document with the federally approved FCMP.

II. STATE CONSISTENCY FINDING – CONDITIONAL CONCURRENCE

The FWC and the Department hereby notify the NPS that Alternatives 2 through 5 (including Preferred Alternative 4), as presented in the Draft GMP/EIS, will be consistent with the enforceable policies of the FCMP **if and only if** the following conditions are satisfied. Should the NPS fail to implement the following measures, **or some alternative measures identified and mutually agreed upon between the Department, FWC and NPS to ensure the GMP/EIS' consistency with the enforceable policies of the FCMP**, this conditional concurrence shall be treated as a finding that the Draft GMP/EIS is inconsistent with the FWC's enforceable policies in Chapter 379, *F.S.*, under 15 C.F.R. 930.4(b).

1. Modify TABLE 2 (BISCAYNE NATIONAL PARK MANAGEMENT ZONES, ALTERNATIVES 2 THROUGH 5) as specified in Attachment 1 to the FWC's December 30th letter, to reflect the manner in which marine fisheries management issues will be addressed in the park.
2. Amend the Draft GMP/EIS, where appropriate, to reflect that fishing activities and fishing vessel operations will be conducted in the manner specified in the Fishery Management Plan currently being jointly developed by the FWC and NPS pursuant to the five-year Memorandum of Understanding executed by the FWC and NPS in 2007, in which the agencies agreed to fully cooperate and jointly manage fisheries within the park.
3. Include the following commitment in the Draft GMP/EIS where appropriate:

The Park commits to continued coordination with the FWC and stakeholders prior to implementation of the proposed management zones to determine if the size and locations of the proposed zones could be modified, or transit corridors developed, to provide maximum access for fishing activities, while still achieving park management goals. This additional zoning coordination will be conducted as part of the Fishery Management Plan process.

The FWC emphasizes that the NPS' compliance with the foregoing conditions need not delay finalizing the Draft GMP/EIS. The management zones could remain as proposed, as long as the final GMP/EIS provides that the management of fishing activities and fishing vessel operations within the zones will be governed by the Fishery Management Plan and that the Park commits to continued coordination with the FWC and stakeholders on the delineation and implementation of the management zones. The FWC recognizes that the GMP provides the framework for NPS' management of park resources – it does not implement the management actions reflected in the plan.

The FWC also recognizes that the management zones and actions listed below cannot be implemented through the Superintendent's Compendium process, and must instead be undertaken as rulemaking, because they would result in a significant alteration in the public use pattern of the park and are of a highly controversial nature (*see* 36 C.F.R. § 1.5(b)). Again, finalizing the Draft GMP/EIS need not be delayed to achieve consistency with the FWC's enforceable policies in the FCMP, as subsequent regulatory processes (*e.g.*, Fishery Management Plan development, implementation of management actions/management zones through rulemaking) could provide for further coordination and resolution of the issues of concern to the FWC and stakeholders.

Absent modification of the Draft GMP/EIS to address the three conditions listed above, this conditional concurrence shall be treated as an objection, because the FWC has determined that the following management actions contained in the Draft GMP/EIS that reduce or eliminate fishing activities, either directly or indirectly, are inconsistent with the FWC's enforceable policies contained in the FCMP:

1. Direct or indirect prohibition of recreational or commercial fishing activities;
2. Area closures;
3. Access limitations;
4. Limitations or prohibitions on the use of internal combustion motors;
5. Limitations or prohibitions on vessel type, size, and speed;
6. Limitations on harvesting gear; and
7. Permit requirements specific to fishing activities.

The FWC has further indentified one or more of the foregoing management actions that the NPS could implement in any of the following zones described in the Draft GMP/EIS, to achieve desired conditions. Therefore, the following zones are also inconsistent with the FWC's enforceable policies in the FCMP:

1. Marine Reserve Zone included in Alternatives 3, 4 and 5;
2. Multiuse Zones included in Alternatives 2-5;
3. Slow Speed Zones included in Alternatives 2-5;
4. Noncombustion Engine Use Zones included in Alternatives 2-5;
5. Access by Permit Zones included in Alternatives 2, 3 and 5;
6. Nature Observation Zones included in Alternatives 2-5;
7. Visitor Service/Park Administration Zones included in Alternatives 2-5;
8. Sensitive Underwater Archeological Zones included in Alternatives 2-5; and
9. Sensitive Resource Zones included in Alternatives 2-5.

III. BASIS FOR FINDING OF CONDITIONAL CONCURRENCE

The following state laws are enforceable policies of the federally approved FCMP and therefore provide the bases for the FWC's objection:

379.23 Federal conservation of fish and wildlife; limited jurisdiction. –

(2) The United States may exercise concurrent jurisdiction over lands so acquired and carry out the intent and purpose of the authority except that the existing laws of Florida relating to the Department of Environmental Protection or the Fish and Wildlife Conservation Commission shall prevail relating to any area under their supervision.

The seven management actions listed above are inconsistent with this enforceable policy of the FCMP, because they will reduce or eliminate fishing activities through the enforcement and implementation of federal law rather than state law.

379.244 Crustacea, marine animals, fish; regulations; general provisions. –

(1) OWNERSHIP OF FISH, SPONGES, ETC. – All fish, shellfish, sponges, oysters, clams, and crustacea found within the rivers, creeks, canals, lakes, bayous, lagoons, bays, sounds, inlets, and other bodies of water within the jurisdiction of the state, and within the

Gulf of Mexico and the Atlantic Ocean within the jurisdiction of the state, excluding all privately owned enclosed fish ponds not exceeding 150 acres, are the property of the state and may be taken and used by its citizens and persons not citizens, subject to the reservations and restrictions imposed by these statutes. No water bottoms owned by the state shall ever be sold, transferred, dedicated, or otherwise conveyed without reserving in the people the absolute right to fish thereon, except as otherwise provided in these statutes.

The seven management actions listed above are inconsistent with this enforceable policy of the FCMP, because they will restrict the public's right to fish in a manner not provided by Florida law.

379.2401 Marine fisheries; policy and standards. –

(1) The Legislature hereby declares the policy of the state to be management and preservation of its renewable marine fishery resources, based upon the best available information, emphasizing protection and enhancement of the marine and estuarine environment in such a manner as to provide for optimum sustained benefits and use to all the people of this state for present and future generations.

The FWC adheres to the foregoing policy when managing the state's marine fishery resources for fishing activities, and because the statute is included in the federally approved FCMP, it applies equally to the NPS in its management of marine fishery resources located within park boundaries for desired resource conditions and visitor experiences.

The seven management actions described above are inconsistent with this enforceable policy, because they are not based on "best available information" and, by reducing or eliminating fishing activities, they do not provide for "optimum sustained benefits and use" to the people of this state.

379.2401 Marine fisheries; policy and standards. –

(3) All rules relating to saltwater fisheries adopted by the commission shall be consistent with the following standards:

(c) Conservation and management measures shall permit reasonable means and quantities of annual harvest, consistent with maximum practicable sustainable stock abundance on a continuing basis.

Mr. Mark Lewis, Superintendent
Biscayne National Park
Page 7 of 8
January 10, 2012

The seven management actions listed above are inconsistent with this enforceable policy, because they conflict with the marine fisheries rules developed and promulgated by the FWC for saltwater fisheries, by reducing or eliminating "reasonable means and quantities of annual harvest." The Draft GMP/EIS does not provide any data showing that the "maximum practicable stock abundance" of the park's marine fisheries resources will be impacted if fishing (harvesting) is not reduced or eliminated.

Please see the FWC's December 30th letter (attached) for additional comments and recommendations regarding commitments made by the NPS in the Memorandum of Understanding previously noted, which were designed to facilitate fishery management planning by improving communication, cooperation and coordination between the FWC and the BNP. Of particular concern to the FWC is the joint pledge to seek the "least restrictive management action as necessary to fully achieve mutual management goals for the fishery resources of the Park and adjoining areas."

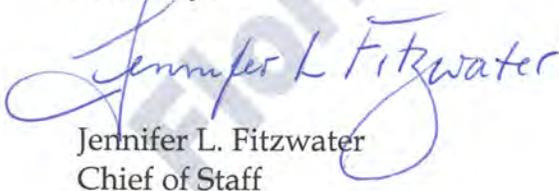
CONCLUSION

In accordance with 15 C.F.R. 930.43(c), a copy of this letter has been sent to the Director of the NOAA Office of Ocean and Coastal Resource Management. Mediation by the Secretary of the U.S. Department of Commerce may be sought pursuant to 15 C.F.R. 930, subpart G, for serious disagreements between a state and federal agency with regard to direct federal action as contemplated by 15 C.F.R. 930, subpart C.

Should you have any questions regarding the FWC's comments and recommendations, please contact Ms. Lisa Gregg at (850) 487-0554 or Lisa.Gregg@MyFWC.com.

Thank you for the opportunity to review the Draft GMP/EIS. For additional information or assistance regarding the state's review, please contact Ms. Lauren P. Milligan, Coordinator of the Florida State Clearinghouse, or Mr. Danny Clayton, Administrator of the Florida Coastal Management Program, at (850) 245-2163.

Sincerely,


Jennifer L. Fitzwater
Chief of Staff

JLF/sm/lm

Mr. Mark Lewis, Superintendent
Biscayne National Park
Page 8 of 8
January 10, 2012

Enclosures

cc: Ms. Donna Wieting, NOAA OCRM Acting Director
Ms. Morgan Elmer, NPS Denver Service Center-Planning
Mr. Nick Wiley, FWC Executive Director
Mr. Scott Sanders, FWC Conservation Planning Services
Ms. Jessica McCawley, Director, FWC Marine Fisheries Management
Ms. Lisa Gregg, FWC Marine Fisheries Management
Ms. Erma Slager, DEP Acting Deputy Secretary
Ms. Carla Gaskin Mautz, DEP Coastal & Aquatic Managed Areas
Ms. Sally Mann, DEP Office of Intergovernmental Programs

Florida State Clearinghouse



Florida

Department of Environmental Protection

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Project Information	
Project:	FL201108225930C
Comments Due:	10/03/2011
Letter Due:	01/10/2012
Description:	NATIONAL PARK SERVICE - DRAFT GENERAL MANAGEMENT PLAN/ENVIRONMENTAL IMPACT STATEMENT FOR BISCAYNE NATIONAL PARK - MIAMI-DADE COUNTY, FLORIDA.
Keywords:	NPS - DRAFT GMP/EIS FOR BISCAYNE NATIONAL PARK - MIAMI-DADE CO.
CFDA #:	15.916
Agency Comments:	
SOUTH FL RPC - SOUTH FLORIDA REGIONAL PLANNING COUNCIL	
The SFRPC notes that the project should be consistent with the NEPA and ESA, and recommends that the NPS continue to coordinate with all governments of jurisdiction, particularly Miami-Dade County and its Comprehensive Development Master Plan, environmental groups and concerned local citizens. The goals and policies of the "Strategic Regional Policy Plan for South Florida" should also be observed when making decisions regarding this general management plan.	
FISH and WILDLIFE COMMISSION - FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION	
FWC requests that the NPS honor the commitments made in the Memorandum of Understanding (MOU) between the FWC and BNP. The MOU was specifically designed to facilitate fishery management planning by improving communication, cooperation, and coordination between the FWC and BNP, and a significant amount of effort and detail went into MOU development to clearly reflect objectives, expectations, management approaches, and responsibilities for both parties. Staff has expressed significant concerns that the Draft GMP/EIS states, "Due to this ongoing planning process, the GMP will not address fisheries management in its alternatives." GMP Alternatives 2-5 would, however, utilize zones where fishing activities are purposefully reduced or eliminated, or are inadvertently restricted by gear type, vessel speed, access, etc. The FWC indicates that the proposed fisheries management regulatory actions within the Draft GMP that reduce or eliminate fishing activities are in direct conflict with the existing MOU. Therefore, the FWC can only support implementation of the proposed activities if certain conditions are met.	
STATE - FLORIDA DEPARTMENT OF STATE	
No Comment/Consistent	
ENVIRONMENTAL PROTECTION - FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION	
DEP's CAMA supports this update of Biscayne National Park's GMP and notes that it is also preparing a new management plan for the adjacent 70,000-acre Biscayne Bay Aquatic Preserve. The national park and aquatic preserve comprise an important contiguous ecosystem and updated management plans and continued cooperation between the two programs are critical to manage important resources in Biscayne Bay. CAMA offers the following specific comments: -- The Biscayne Bay Aquatic Preserve often cooperates with the Biscayne National Park - assisting with training, water quality issues, restoration issues and outreach programs. Given the proximity of these two marine protected areas, the plan should recognize and support coordination between the programs. Staff looks forward to continuing this productive partnership with the park. -- CAMA supports the concept of a satellite visitor center closer to the Miami population center, if constructed in an appropriate location. It is likely that this facility would be adjacent to the Biscayne Bay Aquatic Preserve and staff reiterates the value of cooperation between the aquatic preserve and national park on outreach programs that could foster stewardship and awareness of these resources through the proposed facility. -- Preferred Alternative 4 establishes a 10,000-acre Marine Reserve Zone, which would not allow recreational or commercial fishing. The area encompasses more than 2,600 acres of coral patch reef community. CAMA defers to the FWC concerning the necessity and effectiveness of the area for fisheries management purposes. Staff does recognize, however, that use of marine protected areas, such as this, is well established as an effective tool for the protection of reef resources. Expanding the network of coral reef marine protected areas for improved management of coral reef resources is a goal of the U.S. Coral Reef Task Force.	
SOUTH FLORIDA WMD - SOUTH FLORIDA WATER MANAGEMENT DISTRICT	
The South Florida Water Management District (District) has reviewed the various Alternatives developed in the Draft Biscayne National Park General Management Plan and pursuant to Rule 40E-4, 40 or 400, Florida Administrative Code (F.A.C.), activities conducted in, on or over the water, or within wetlands, as defined by Rule 62-340, F.A.C., will require an Environmental Resource Permit. Prior to issuance of an Environmental Resource Permit, the state would require a demonstration that impacts to wetlands or other surface waters were eliminated or reduced. For further information on District permitting requirements, please contact Mr. Ron Peekstok of the Natural Resources Management Section at (561) 682-6956. If you have any comments or questions, please contact Ms. Deborah Oblaczynski at (561) 682-2544 or doblaczy@sfwmd.gov .	



December 30, 2011

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and Wildlife
Conservation
Commission**

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Ms. Sally Mann, Director

Office of Intergovernmental Programs

Department of Environmental Protection

3900 Commonwealth Boulevard, Mail Station 47

Tallahassee, FL 32399-3000

Sally.mann@dep.state.fl.us

Re: SAI #FL201108225930C - National Park Service – Draft General Management Plan/Environmental Impact Statement (Draft GMP/EIS) for Biscayne National Park – Miami-Dade County, Florida

Dear Ms. Mann:

The Florida Fish and Wildlife Conservation Commission (FWC) has completed a second agency review of the Draft General Management Plan/Environmental Impact Statement (Draft GMP/EIS) for Biscayne National Park (BNP, Park). The FWC provides the following comments pursuant to the National Environmental Policy Act and the Coastal Zone Management Act/Florida Coastal Management Program.

Background

Biscayne National Park is currently operating under a General Management Plan (GMP) that was completed in 1983. The GMP is in need of revision to address increased usage of Park resources, while maintaining a level of resource protection and providing for opportunities to enjoy Park resources that is expected from a National Park. This Draft GMP/EIS proposes alternatives for management of BNP for the next 20 or more years.

The FWC conducted a review of the Draft GMP/EIS and on October 11, 2011, submitted a determination of conditional consistency with the Coastal Zone Management Act/Florida Coastal Management Program to the Florida State Clearinghouse. Subsequently, the Park extended the date for completion of the State Coastal Zone Management Act federal consistency review until January 10, 2012, to allow for additional coordination efforts to attempt to resolve the consistency issues identified by the FWC. Additional coordination efforts have included the following:

- Teleconference on November 30, 2011, between FWC and BNP staff during which time staff identified specific issues and a schedule to address them.
- An onsite visit on December 7, 2011, by FWC South Florida Regional Director Chuck Collins with BNP Superintendent Mark Lewis to review the proposed management zones.
- Teleconference on December 20, 2011, between FWC and BNP staff to discuss scientific data issues.

Consistency Statement

These additional coordination efforts were helpful with regard to mutual understanding of concerns about the GMP. Several of the major concerns, however, could not be addressed at this point, and therefore FWC still finds it necessary to condition its concurrence that the GMP is consistent with the Florida Coastal Management Program pursuant to the Coastal Zone Management Act.

a. Conditions for Consistency

The following conditions are necessary in order for the FWC to determine the Draft General Management Plan/Environmental Impact Statement (Draft GMP/EIS) for Biscayne National Park will be consistent with FWC enforceable policies included within the federally approved Florida Coastal Management Program:

- 1) On pages 49-58 (Table 2: Biscayne National Park Management Zones, Alternatives 2 through 5), modify Table 2 as specified in Attachment 1 to reflect how marine fisheries management issues will be addressed.
- 2) Address fisheries management issues through the Fishery Management Plan process rather than the General Management Plan process, and amend Draft GMP/EIS language, where appropriate, to reflect that all fishing activities and fishing vessel operation will be conducted in the manner specified in the Fishery Management Plan.
- 3) Include the following commitment in the Draft GMP/EIS where appropriate: “The Park commits to continued coordination with the FWC and stakeholders prior to implementation of the proposed management zones to determine if the size and locations of the proposed zones can be modified, or transit corridors developed, to provide maximum access for fishing activities, while still achieving Park management goals. This additional zoning coordination will be conducted as part of the Fishery Management Plan process.”

FWC wishes to emphasize that complying with the above requested conditions need not delay finalizing the Draft GMP/EIS. The management zones could remain as proposed, as long as specific management of fishing activities and fishing vessel operation within the zones is shifted to the Fishery Management Plan as opposed to being addressed in the Draft GMP/EIS (conditions 1 and 2 above), and the Park commits to further zoning coordination (condition 3 above). The FWC recognizes that a GMP by itself does not implement the management actions that are proposed, and only provides a framework for National Park Service managers to manage Park resources. The FWC also recognizes that the proposed management actions identified below (or proposed management zones identified below that contain such management actions) could not be implemented through the Superintendent’s Compendium process, and must be published as rulemaking in the Federal Register because they would result in a significant alteration in the public use pattern of the Park area and are of a highly controversial nature (36 CFR § 1.5(b)). Again, finalizing this Draft GMP/EIS does not need to be delayed in order to achieve consistency with FWC enforceable policies included within the federally approved

Florida Coastal Management Program, as subsequent regulatory processes (e.g., Fishery Management Plan development, implementation of management actions/management zones through rulemaking in the Federal Register), could provide for further coordination and resolution of the issues of concern to the FWC and stakeholders.

Absent modification of the Draft GMP/EIS pursuant to the conditions above, this letter must be treated as an objection, as FWC has determined that proposed management actions contained within the Biscayne National Park Draft GMP/EIS that reduce or eliminate fishing activities, either directly or indirectly, are inconsistent with FWC enforceable policies included within the Florida Coastal Management Program. These management actions are identified as follows:

- 1) fishing activities are directly prohibited (either recreational or commercial fishing activities, or both);
- 2) area closures;
- 3) access limitations;
- 4) limitations or prohibitions on the use of internal combustion motors;
- 5) limitations or prohibitions on vessel type, size, and speed;
- 6) limitations on harvesting gear; and
- 7) permit requirements specific to fishing activities.

In each of the following Zones included in the Draft GMP/EIS, FWC has identified one or more of the above management actions that the Park may potentially use to achieve desired conditions; therefore, the following zones are also inconsistent with FWC enforceable policies included within the Florida Coastal Management Program:

- 1) Marine Reserve Zone included in Alternatives 3, 4 and 5.
- 2) Multiuse Zones included in Alternatives 2-5.
- 3) Slow Speed Zones included in Alternatives 2-5.
- 4) Noncombustion Engine Use Zones included in Alternatives 2-5.
- 5) Access by Permit Zones included in Alternatives 2, 3 and 5.
- 6) Nature Observation Zones included in Alternatives 2-5.
- 7) Visitor Service/Park Administration Zones included in Alternatives 2-5.
- 8) Sensitive Underwater Archeological Zones included in Alternatives 2-5.
- 9) Sensitive Resource Zones included in Alternatives 2-5.

b. Basis for Determination

The following enforceable policies within the federally approved Florida Coastal Management Program provide the basis for FWC's objection.

379.23 Federal conservation of fish and wildlife; limited jurisdiction.—

(2) The United States may exercise concurrent jurisdiction over lands so acquired and carry out the intent and purpose of the authority except that the existing laws of Florida relating to the Department of Environmental Protection or the Fish and Wildlife Conservation Commission shall prevail relating to any area under their supervision.

The seven management actions previously identified are inconsistent with this enforceable policy because they will reduce or eliminate fishing activities pursuant to National Park Service laws, without considering the laws of the Fish and Wildlife Conservation Commission.

*379.244 Crustacea, marine animals, fish; regulations; general provisions.—
(1) OWNERSHIP OF FISH, SPONGES, ETC.—All fish, shellfish, sponges, oysters, clams, and crustacea found within the rivers, creeks, canals, lakes, bayous, lagoons, bays, sounds, inlets, and other bodies of water within the jurisdiction of the state, and within the Gulf of Mexico and the Atlantic Ocean within the jurisdiction of the state, excluding all privately owned enclosed fish ponds not exceeding 150 acres, are the property of the state and may be taken and used by its citizens and persons not citizens, subject to the reservations and restrictions imposed by these statutes. No water bottoms owned by the state shall ever be sold, transferred, dedicated, or otherwise conveyed without reserving in the people the absolute right to fish thereon, except as otherwise provided in these statutes.*

The seven management actions previously identified are inconsistent with this enforceable policy because they will restrict the public's right to fish in a manner not provided by Florida Statute.

*379.2401 Marine fisheries; policy and standards.—
(1) The Legislature hereby declares the policy of the state to be management and preservation of its renewable marine fishery resources, based upon the best available information, emphasizing protection and enhancement of the marine and estuarine environment in such a manner as to provide for optimum sustained benefits and use to all the people of this state for present and future generations.*

This enforceable policy declares the policy of the State to be management and preservation of the state's renewable marine fishery resources, and is interpreted as follows:

- 1) Actions must be taken to manage and preserve the State's renewable marine fishery resources.
- 2) Actions taken must be based on the best available information.
- 3) Actions taken must emphasize protection and enhancement of the marine and estuarine environment.
- 4) Actions taken must accomplish management and preservation of the State's marine fishery resources in such a manner as to provide for optimum sustained benefits and use to all the people of this state for present and future generations.

The FWC adheres to this policy when managing the State's marine fishery resources for fishing activities, and because of the statute's inclusion in the federally-approved Florida Coastal Management Program, this policy equally applies to the Park when managing

State marine fishery resources located within Park boundaries for desired resource conditions and visitor experiences.

The seven management actions previously identified are inconsistent with this enforceable policy because they are not based on the best available information and they will not provide for optimum sustained benefits and use to all the people of this state for present and future generations by reducing or eliminating fishing activities.

379.2401 Marine fisheries; policy and standards.—

(3) All rules relating to saltwater fisheries adopted by the commission shall be consistent with the following standards:

(c) Conservation and management measures shall permit reasonable means and quantities of annual harvest, consistent with maximum practicable sustainable stock abundance on a continuing basis.

The seven management actions previously identified are inconsistent with this enforceable policy because they are inconsistent with how marine fisheries rules are developed and promulgated by the FWC for saltwater fisheries, by reducing or eliminating “reasonable means and quantities of annual harvest”. The Draft GMP/EIS does not provide any data that show the “maximum practicable stock abundance” of the marine fisheries resources will be impacted if fishing (harvest) were not reduced or eliminated.

Other Comments and Recommendations

This conditional consistency determination could have been avoided if the Park had honored commitments they made in the Memorandum of Understanding (MOU) between the FWC and BNP. The MOU was specifically designed to facilitate fishery management planning by improving communication, cooperation, and coordination between the FWC and BNP, and a significant amount of effort and detail went into MOU development to clearly reflect objectives, expectations, management approaches, and responsibilities for both parties.

While there are numerous MOU commitments the Park did not honor during the development of the Draft GMP/EIS (further addressed in Attachment 2), the FWC wishes to draw specific attention to one commitment that was not honored, and is most concerning to the FWC. The MOU specifically states as follows:

“WHEREAS, FWC and the Park agree to seek the least restrictive management actions necessary to fully achieve mutual management goals for the fishery resources of the Park and adjoining areas. Furthermore, both parties recognize the FWC's belief that marine reserves (no-take areas) are overly restrictive and that less-restrictive management measures should be implemented during the duration of this MOU. Consequently, the FWC does not intend to implement a marine reserve (no-take area) in the waters of the Park during the duration of this MOU,

unless both parties agree it is absolutely necessary. Furthermore, the FWC and the Park recognize that the Park intends to consider the establishment of one or more marine reserves (no-take areas) under its General Management Planning process for purposes other than sound fisheries management in accordance with Federal authorities, management policies, directives and executive orders...”

The Park did not seek the least restrictive management actions to accomplish management goals, and did not propose a Marine Reserve Zone in the Draft GMP/EIS “for purposes other than sound fisheries management.” This, in addition to the disregard for the coordination commitments made and joint management approaches agreed upon, have put both the FWC and the Park in a difficult situation that could have been avoided.

The FWC has a vast amount of expertise encompassing decades of statewide resource management, research, enforcement, and institutional knowledge to assist the Park with development of appropriate management strategies that will meet the goals of the State of Florida, the FWC, and BNP, and maintain consistency with FWC enforceable policies included within the federally approved Florida Coastal Management Program. We are taking this opportunity to provide such assistance with additional comments, recommendations, and supporting technical information on the Draft GMP/EIS, included as Attachment 2. Specific attention should be paid to the two action items requested in section VII. Fisheries Management Coordination, Management Actions/Management Zones.

Closing Remarks

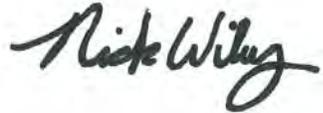
The extensive fisheries management content within the Draft GMP/EIS indicates fisheries management issues need to be further considered and addressed through the Fishery Management Plan process, including but not limited to additional zoning coordination and data analyses. While last-minute efforts were made to address zoning issues through an onsite visit by the FWC, and data issues through a teleconference between FWC and BNP, these coordination efforts did not provide sufficient resolution of these issues.

To restate the FWC’s position, management actions proposed in the Draft GMP/EIS that reduce or eliminate fishing activities and the data used to support these actions are inconsistent with FWC enforceable policies included within the federally approved Florida Coastal Management Program, and furthermore violate mutually agreed upon conditions of the MOU. These management actions should be coordinated with the FWC pursuant to the MOU, and executed within the framework of the Fishery Management Plan. These management actions should not be executed within the framework of the General Management Plan. The FWC is willing to explore fisheries management issues within the context of further Fishery Management Plan development; however, consistent with discussions over the past ten years, FWC will not support a Marine Reserve Zone

which includes a management action that closes large areas for fishing within BNP, until measurable management objectives have been clearly defined and less restrictive management measures have been appropriately evaluated in close coordination with FWC and stakeholders.

The FWC appreciates the opportunity to provide input on the Draft GMP/EIS for BNP. We remain willing to work with BNP so the GMP can be finalized in a manner consistent with FWC's authorities within the Florida Coastal Management Program. If you have any questions or would like to discuss our comments, please contact Jessica McCawley in the Division of Marine Fisheries Management at (850) 487-0554 or jessica.mccawley@myfwc.com.

Sincerely,

A handwritten signature in black ink that reads "Nick Wiley". The signature is written in a cursive, flowing style.

Nick Wiley
Executive Director

nw/jm/lg

BNP General Management Plan-EIS_2273_123011

Attachments

cc: Mark Lewis, Superintendent, Biscayne National Park

TABLE 2: BISCAYNE NATIONAL PARK MANAGEMENT ZONES, ALTERNATIVES 2 THROUGH 5

	RESOURCE CONDITION	VISITOR EXPERIENCE	MANAGEMENT ACTIONS AND FACILITIES
Visitor Services/Park Administration Zone (Concentrated use)	<p>This zone would provide for a high level of visitor activity and administrative operations. The zone would be modified for visitor access and park operations in a way that aesthetically blends with the natural and cultural environment.</p> <ol style="list-style-type: none"> 1. Elements of the natural and cultural environment would remain. 2. Sights and sounds of human activity would frequently supplant the sights and sounds of nature. 3. There would be tolerance for moderate resource impacts to accommodate visitor services and park operations. 4. New development of park administrative facilities would occur only on previously disturbed sites. Some development for visitor access and activities might occur. The zone would not be near sensitive natural or cultural resources if such resources could not be adequately protected. 5. The significance and vulnerability of cultural resources would be evaluated, and appropriate management actions would be determined. Cultural resources might be stabilized and hardened (protecting archeological values from unauthorized artifact removal or other destructive activities) to permit visitor access or considered for adaptive reuse. 	<p>Visitors would have opportunities to receive orientation and information, interact with park staff, and experience and learn about park resources.</p> <ol style="list-style-type: none"> 1. Appropriate visitor activities could include sightseeing, walking, swimming, recreational fishing, boating, camping, participating in educational activities, and interacting with resources. 2. Visitors would see native flora and fauna and might see cultural resources. 3. Interpretive and educational opportunities would be greatest in this zone. Visitor activities might be self-directed and/or visitors might use interpretive services to plan their activities. Visitor education could be self-directed or structured. 4. Interpretive services would be offered in multiple languages. 5. Special events could be allowed in this zone with appropriate permits. 6. The probability of encountering others would be high. Visitors would experience a modified environment that accommodates high levels of use and minimizes further resource impacts. 7. Facilities and services would enhance opportunities to experience and understand park resources and provide an orientation to the park. 8. Visitor activities might be highly regulated to preserve elements of the natural and cultural environment, allow access to cultural resources, prevent visitor conflicts, and enhance public safety. 9. Vessel type, size, and speed might be regulated to enhance resource protection and preserve the desired visitor experience. 10. Commercial visitor services and facilities would be appropriate in this zone. 	<p>Management actions would focus on managing the higher levels of visitor use within the zone and providing administrative services. Management actions could include</p> <ol style="list-style-type: none"> 1. administering daily parkwide operations 2. providing maintenance activities 3. providing interpretive and enforcement services 4. providing emergency services 5. implementing resource stewardship 6. prioritizing, overseeing, and managing research projects 7. defining additional compatible uses 8. limiting public access to certain parts of this zone (housing, maintenance, and administration) 9. regulating visitor activities and vessel type, size, and speed 10. authorizing commercial services 11. managing recreational fishing in the interest of sound conservation to protect and preserve marine resources for the education, inspiration, recreation, and enjoyment of present and future generations. <p>Facilities would be appropriate in size and scale, blending with the natural and cultural landscape. Extent, size, and layout would be the minimum needed to accommodate the intended purposes. Existing and new visitor facilities or improvements would be analyzed for ongoing need, usefulness, and impacts on resources. New administrative facilities could be located outside park boundaries.</p> <ol style="list-style-type: none"> 1. Appropriate visitor facilities could include visitor centers, kiosks, wayside exhibits, educational spaces, observation boardwalks, include roads, parking areas, docks, restrooms, picnic areas, campgrounds, navigational aids, mooring buoys and trails improved and maintained as necessary for handicapped accessibility. 2. Appropriate park administrative facilities could include maintenance, storage, offices, and staff housing.

Delete stricken language

Amend highlighted language to read, "managing fishing activities, including fishing vessels and fishing vessel operation, in accordance with the Fishery Management Plan, in the interest of sound conservation....."

	RESOURCE CONDITION	VISITOR EXPERIENCE	MANAGEMENT ACTIONS AND FACILITIES
Dredged Navigation Channels Zone (Boat transit in dredged channels)	<p>The purpose of this zone is to allow transportation routes for vessels in existing channels including the Intracoastal Waterway and the Black Point, Homestead Bayfront, and Turkey Point channels.</p> <ol style="list-style-type: none"> 1. Natural conditions and processes could be impacted by transportation use of the zone. 2. Unnatural sounds might be prevalent. 3. Resources within the dredged navigation channels would continue to be impacted by activities that maintain existing channels. Within the channels, moderate impacts on natural conditions would be tolerated. Impacts on resources outside the channels would be kept to an absolute minimum. 4. There could be a high level of human use and activity. 5. The existing depth, configuration, and alignment of navigational channels would not be expanded, and no new channels would be created. Channels would not exceed the following existing depths within the park: Intracoastal Waterway: 7 feet Black Point Channel: 4.5 feet Homestead Bayfront Channel: 4.5 feet Turkey Point Channel: 7.5 feet 6. Channels would be marked with signs and navigational aids to protect resources and enhance public safety. 7. The significance and vulnerability of cultural resources would be evaluated, and appropriate management actions would be determined. 	<p>The visitor experience would involve moving along a marked navigational channel by water vessel and would be perceived as linear or sequential in nature.</p> <ol style="list-style-type: none"> 1. Appropriate activities would be the use of channels for traveling through the park and/or gaining access into other park areas. 2. Visitor activity would be self-directed travel through or within the park at varying speeds, Recreational and commercial fishing that does not impede vessel traffic could be allowed. 3. Opportunities for discovery, challenge, and adventure could be low. Visitors would need to be self-reliant and possess navigational skills. 4. Visitors would benefit from learning about this zone and how to navigate safely within it. 5. Special events would not generally be allowed in this zone. 6. There could be a high probability of encountering other people in the zone. Visitors could expect to hear unnatural sounds. 7. Because of congested vessel traffic at times, conditions in the navigational channels could be dangerous. Visitors might encounter commercial ships and would need to exercise caution. Visitors would navigate through a well-marked channel of a specified depth. Use could be intensively managed and regulated to ensure safe passage and resource protection. 8. Vessel size would generally not be regulated except by conditions of the channel. Speed of vessels in the Intracoastal Waterway would be at a pace that is appropriate to conditions and skill levels. 9. Commercial traffic could be allowed in this zone without the requirement of a permit. 	<p>Management activities would focus on resource protection and navigational aids to facilitate safe travel through and within the park. Appropriate management actions could include</p> <ol style="list-style-type: none"> 1. regulating visitor activities 2. providing law enforcement services 3. monitoring resource impacts 4. managing these zones for transportation and public safety (there might be overlapping jurisdiction with other agencies; coordination and cooperation with other agencies would occur) 5. taking measures to prevent human-caused impacts 6. managing recreational and commercial fishing in the interest of sound conservation to protect and preserve marine resources for the education, inspiration, recreation, and enjoyment of present and future generations 7. dredging (proposed dredging would need a site-specific environmental study and NPS approval) <p>Facilities appropriate in these zones would include navigational aids and signs for resource protection and enhancing visitor safety.</p>

Delete stricken language, and insert language to read, "Appropriate fishing activities for this zone will be specified in the Fishery Management Plan."

Amend highlighted language to read, "managing fishing activities, including fishing vessels and fishing vessel operation, in accordance with the Fishery Management Plan, in the interest of sound conservation....."

Table 2: Biscayne National Park Management Zones, Alternatives 2 through 5

	RESOURCE CONDITION	VISITOR EXPERIENCE	MANAGEMENT ACTIONS AND FACILITIES
Multiuse Zone (land and water) (Full range of recreational opportunities)	<p>This zone would provide opportunities for visitors to recreate in natural or cultural settings. Natural and cultural scenes would remain largely intact.</p> <ol style="list-style-type: none"> 1. Natural conditions and processes would predominate. The environment might be adapted for human use. 2. Sounds and sights of human activity might be apparent. 3. There would be tolerance for minimal resource impacts. 4. Additions to the landscape, including signs, buoys, and markers, might be used to enhance visitor experience and public safety and to protect resources. 5. The significance and vulnerability of cultural resources would be evaluated, and appropriate management actions would be determined. To permit visitor access, cultural resources might be stabilized and hardened (protecting archeological values from unauthorized artifact removal or other destructive activities). 	<p>Visitors would experience a natural or cultural setting, whether they are on the water, under the water, or on land. Providing opportunities for people to interact with the resources in this zone would be important. Visitor use of this zone would be resource-based recreation and education that is consistent with park purpose and significance.</p> <ol style="list-style-type: none"> 1. Appropriate visitor activities could include sightseeing, boating, scuba diving, snorkeling, swimming, sport fishing, nature-watching, hiking, picnicking, camping, and visiting cultural resources. Commercial fishing could be allowed. 2. There would be opportunities for challenge, adventure, and discovery. Visitors might need to use outdoor skills and be self-reliant. 3. Visitor activities might be self-directed, or visitors might use interpretive services to plan their activities. 4. Special events could be allowed in this zone with the appropriate permit. 5. The probability of seeing or encountering others would range from low to moderate most of the time. 6. Occasional special events might result in high levels of visitor encounters for short periods. 7. Visitor activities might be limited to protect resources and enhance public safety. Limitations might be short or long term. 8. Vessel type, size, and speed could be regulated to enhance resource protection and public safety and preserve the desired visitor experience. 9. Commercial fishing would follow the permitting procedures as outlined in the Fishery Management Plan. 	<p>Management actions would focus on enhancing visitor experience and safety, protecting resources, minimizing impacts from visitor and commercial use, and restoring disturbed areas. Appropriate management actions could include</p> <ol style="list-style-type: none"> 1. determining types and levels of use by considering the desired visitor experience and resource vulnerability to impact 2. managing access based on the determined user capacity 3. inventoring and monitoring resources 4. providing interpretation and enforcement services 5. conducting research and restoring and stabilizing resources 6. minimizing and mitigating impacts from visitor and commercial use 7. defining additional compatible uses 8. managing fishing in consultation with the state 9. developing permit systems for various activities 10. regulating vessel type, size, and speed 11. managing recreational and commercial fishing in the interest of sound conservation to protect and preserve marine resources for the education, inspiration, recreation, and enjoyment of present and future generations. <p>Facilities in this zone would be small, unobtrusive, and dispersed. Facilities would provide basic visitor services, enhance visitor safety, and be compatible with resource protection goals. Facilities could include</p> <ol style="list-style-type: none"> 1. primitive trails 2. signs, mooring buoys, and navigation markers 3. interpretive exhibits 4. Restrooms, primitive camping and picnicking sites 5. research equipment

Delete stricken language, and insert language to read, "Appropriate fishing activities for this zone will be specified in the Fishery Management Plan."

Amend highlighted language to read, "managing fishing activities, including fishing vessels and fishing vessel operation, in accordance with the Fishery Management Plan, in the interest of sound conservation....."

	RESOURCE CONDITION	VISITOR EXPERIENCE	MANAGEMENT ACTIONS AND FACILITIES
Slow Speed Zone (Shallow Water Habitat Protection and Visitor Experience)	<p>The preservation of shallow water habitats, restoration of degraded and impacted resources, and continuation of natural processes would be the resource goals in this zone.</p> <ol style="list-style-type: none"> 1. Protection and continuation of natural processes . 2. Minor impact to Panoramic viewsheds. 3. There would be tolerance for minor resource impacts, including noise levels. 4. Evidence of human impact would be minimal or part of a cultural scene. 5. The significance and vulnerability of the cultural resources would be evaluated, and appropriate management actions would be determined. 	<p>Visitors would have opportunities to experience nature.</p> <ol style="list-style-type: none"> 1. Appropriate visitor activities would include boating (motorized or non-motorized), sightseeing, recreational fishing, swimming, snorkeling, and nature observation. Commercial fishing would be allowed with hours, engine use, trap type, tackle and location as specified in the Fishery Management Plan or other document. 2. Boats with motors could be used when propelled at slow (wakeless) speeds to reduce user conflicts and ensure visitor safety. 3. Visitor activities would be mostly self-directed and have minor resource impacts. 4. Limited commercial services might provide appropriate visitor recreational activities if compatible with resource protection goals and desired visitor experience 	<p>Management actions would focus on protecting visitors and water-based resources, restoring disturbed areas, minimizing impacts from visitor use, and reducing conflicts between different types of users. Appropriate management actions could include</p> <ol style="list-style-type: none"> 1. determining types of use (user capacity) considering the desired visitor experience and the vulnerability of the resources to impacts 2. inventorying and monitoring resources 3. providing interpretation and enforcement services 4. conducting research and restoring and stabilizing resources 5. taking measures to prevent human-caused impacts 6. defining additional compatible uses <p>Facilities generally would not be appropriate, except when determined that they would enhance resource protection or public safety. Facilities could include</p> <ol style="list-style-type: none"> 1. signs and other navigational aids 2. research and monitoring apparatus that is minimal and unobtrusive 3. mooring buoys and informational markers such as hazard markers

Delete stricken language, and insert language to read, "Appropriate fishing activities, fishing vessels and fishing vessel operation for this zone will be specified in the Fishery Management Plan."

Table 2: Biscayne National Park Management Zones, Alternatives 2 through 5

	RESOURCE CONDITION	VISITOR EXPERIENCE	MANAGEMENT ACTIONS AND FACILITIES
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Noncombustion Engine Use Zone (Shallow water habitat and natural sounds protection)</p>	<p>The preservation of natural sounds, near-shore nursery areas and shallow water habitats, restoration of degraded and impacted resources, and continuation of natural processes would be the dominant resource goals in this zone.</p> <ol style="list-style-type: none"> Natural processes would predominate. Natural sounds, sights, and vistas would prevail. Panoramic viewsheds would remain unaltered. There would be tolerance for minor resource impacts. Evidence of human impact would be minimal or part of a cultural scene. Human-caused intrusions, including visual obstructions, would be kept to an absolute minimum, except for resource protection and visitor safety purposes. The significance and vulnerability of the cultural resources would be evaluated and appropriate management actions would be determined. 	<p>Visitors would be immersed in nature with opportunities to experience natural sounds, tranquility, and closeness to nature.</p> <ol style="list-style-type: none"> Appropriate visitor activities could include noncombustion engine boating (paddling, poling, or trolling), sightseeing, recreational fishing, swimming, snorkeling, and nature observation. Commercial fishing could be allowed with hours, engine use, trap type, tackle and location as specified in the Fishery Management Plan or other document. Boats equipped with combustion engines could be used when propelled by push-pole or electric trolling motor, with outboard engine tilted up. Visitors would be self-reliant and have maximum opportunities to experience a sense of discovery and adventure. Application of outdoor skills would be essential. The sights and sounds of nature would be more prevalent than those of human activities. Visitor activities would be mostly self-directed and have minor resource impacts. There would be some opportunities for interpretive activities. Special events would not be allowed. Visitor activities in these zones could be limited in the interest of protecting resources and enhancing public safety. Limitations might be short or long term. Use of combustion engines would generally not be allowed. However, in designated areas between 3 feet to 5 feet in depth, the use of combustion engines would be allowed at slow speeds in channels. Limited commercial services might provide appropriate visitor recreational activities if compatible with resource protection goals and desired visitor experience. 	<p>Management actions would focus on protecting water-based resources, restoring disturbed areas, minimizing impacts from visitor use, and providing visitors with educational opportunities that encourage resource protection. Appropriate management actions could include</p> <ol style="list-style-type: none"> inventorying and monitoring resources determining types and levels of use considering the desired visitor experience and the vulnerability of the resources to impacts providing interpretation and enforcement services conducting research and restoring and stabilizing resources taking measures to prevent human-caused impacts defining additional compatible uses developing a permit system for various activities managing recreational and commercial fishing in the interest of sound conservation to protect and preserve marine resources for the education, inspiration, recreation, and enjoyment of present and future generations. <p>Facilities generally would not be appropriate, except when determined that they would enhance resource protection or public safety. Facilities could include</p> <ol style="list-style-type: none"> signs and other navigational aids research equipment — if installed, research apparatus would be minimal and unobtrusive. If research could be accomplished in another management zone, it would not occur in this zone. mooring buoys.

Delete stricken language, and insert language to read, "Appropriate fishing activities, fishing vessels and fishing vessel operation for this zone will be specified in the Fishery Management Plan."

Amend highlighted language to read, "managing fishing activities, including fishing vessels and fishing vessel operation, in accordance with the Fishery Management Plan, in the interest of sound conservation....."

	RESOURCE CONDITION	VISITOR EXPERIENCE	MANAGEMENT ACTIONS AND FACILITIES
<p>Access-by-Permit Zone (Full range of recreational opportunities; uncrowded, permit system)</p>	<p>The access-by-permit zone would provide opportunities for visitors to recreate in natural or cultural settings where natural processes occur with minor evidence of disturbance from human use. The zone would provide protection for resources such as fish nursery areas and coral reefs.</p> <ol style="list-style-type: none"> Natural processes would predominate. This management zones would perpetuate a full complement of native species. Natural sounds, sights, and vistas would prevail. There would be tolerance for minor resource impacts. Evidence of human impact would be minimal or part of a cultural scene. Human-caused intrusions, including visual obstructions, would be kept to an absolute minimum, except for resource protection and visitor safety purposes. The significance and vulnerability of cultural resources would be evaluated, and appropriate management actions would be determined. 	<p>Visitors would be immersed in nature. Visitor activities and access to these zones would be managed through a permit system to provide visitors with opportunities to experience natural sounds, tranquility, closeness to nature and a sense of relative remoteness. Limited numbers of visitors would enjoy a full range of resource-based recreational opportunities.</p> <ol style="list-style-type: none"> Appropriate activities could include sightseeing, boating, swimming, snorkeling, scuba diving, and participating in recreational and commercial fishing. Visitor activities would usually be self-directed, which would require self-reliance and provide maximum opportunities to experience a sense of discovery and adventure. Application of outdoor skills would be essential. Visitors would receive orientation and information, interact with park staff and experience and learn about park resources before and after entering the park. Interpretive and educational opportunities would enable visitors to plan their trip into the park in advance through the permitting system. Special events would not be allowed. The probability of encountering others would be low. There would be only occasional encounters with others outside of one's social group. Vessel type, size, and speed might be regulated to enhance resource protection and preserve the desired visitor experience. Visitor activities could be structured through the use of commercial services with groups of limited size. 	<p>Management actions would focus on protecting resources, ensuring visitors have an uncrowded experience, minimizing impacts from visitor use, and providing visitors with educational opportunities that encourage resource protection. Appropriate management actions could include</p> <ol style="list-style-type: none"> determining types and levels of use considering the desired visitor experience and the vulnerability of the resources to impacts managing and limiting access through a permit system providing interpretation and enforcement services taking measures to prevent human-caused impacts regulating visitor activities and vessel type, size, and speed authorizing commercial services conducting research and monitoring resource conditions; restoring and stabilizing resources managing recreational and commercial fishing in the interest of sound conservation to protect and preserve marine resources for the education, inspiration, recreation, and enjoyment of present and future generations. <p>Facilities generally would not be appropriate, except when determined that they would enhance resource protection or public safety. Facilities could include</p> <ol style="list-style-type: none"> signs and other navigational aids limited mooring buoys primitive trails research equipment—if installed, research apparatus would be minimal and unobtrusive. If research could be accomplished in another management zone, it would not occur in the access-by-permit zone.

Delete stricken language.

Amend highlighted language to read, "managing fishing activities, including fishing vessels and fishing vessel operation, in accordance with the Fishery Management Plan, in the interest of sound conservation....."

Table 2: Biscayne National Park Management Zones, Alternatives 2 through 5

	RESOURCE CONDITION	VISITOR EXPERIENCE	MANAGEMENT ACTIONS AND FACILITIES
Nature Observation Zone (Intact ecosystem preservation)	<p>The preservation of natural and cultural resources, restoration of degraded and impacted resources, and continuation of natural processes would be the dominant goals in this zone. The nature observation zone would provide a sustainable ecosystem, including fully functioning communities, with natural complexity structure, and diversity of organisms.</p> <ol style="list-style-type: none"> Natural processes would predominate. Nature observation areas would preserve and/or restore a full complement of native species. Natural sounds, sights, and vistas would prevail. Panoramic viewsheds would remain unaltered. There would be tolerance for minor resource impacts. Evidence of human impact would be minimal or part of a cultural scene. Human-caused intrusions, including visual obstructions, would be kept to an absolute minimum, except for resource protection and visitor safety purposes. The significance and vulnerability of the cultural resources would be evaluated, and appropriate management actions would be determined. 	<p>Visitors would be immersed in nature with opportunities to experience natural sounds, tranquility, solitude, and closeness to nature. Visitors would have opportunities to experience and gain in-depth knowledge about sustainable ecosystems with fully functioning interdependent communities of organisms.</p> <ol style="list-style-type: none"> Appropriate visitor activities could include sightseeing, nature observation, and recreational fishing from the land. Visitors would be self-reliant and have maximum opportunities to experience a sense of discovery and adventure. Application of outdoor skills would be essential. Interaction with nature would predominate, with only occasional encounters with others. There would be a sense of relative remoteness. The sights and sounds of nature would be more prevalent than those of human activities. Visitor activities would be mostly self-directed and have minor resource impacts. There would be opportunities for interpretive activities emphasizing sustainable ecosystems. Special events would not be allowed. Visitor activities in these zones could be limited in the interest of protecting resources and enhancing public safety. Limitations might be short or long term. Limited commercial services that provide appropriate visitor recreational activities might be appropriate if compatible with resource protection goals and desired visitor experience. 	<p>Management actions would focus on protecting resources, restoring disturbed areas, minimizing impacts from visitor use, and providing visitors with opportunities that encourage understanding of the natural functioning of resources within a sustainable ecosystem. Appropriate management actions could include</p> <ol style="list-style-type: none"> determining types and levels of use considering the desired visitor experience and the vulnerability of the resources to impacts intense inventorying and monitoring of resources providing interpretation and enforcement services conducting research and restoring and stabilizing resources taking measures to prevent human-caused impacts defining additional compatible uses developing permit systems for various activities <p>Facilities generally would not be appropriate, except when determined that they would enhance resource protection or public safety. Facilities could include</p> <ol style="list-style-type: none"> signs and other navigational aids primitive trails research equipment—if installed, research apparatus would be minimal and unobtrusive. If research could be accomplished in another management zone, it would not occur in the nature observation zone.

Delete stricken language, and insert language to read, "Appropriate fishing activities for this zone will be specified in the Fishery Management Plan."

	RESOURCE CONDITION	VISITOR EXPERIENCE	MANAGEMENT ACTIONS AND FACILITIES
Marine Reserve Zone (ecosystem preservation; non-extractive; visitor experience)	<p>The Marine Reserve Zone would provide a high level of protection from direct human-caused impacts for water-based ecosystems, habitats, and processes while allowing visitors to experience the zone. Natural processes occur with negligible disturbance from human use. This zone would protect natural resources such as marine nursery areas and coral reefs. The Marine Reserve Zone would provide the opportunity to compare the resource status of an area with no extractive uses to other areas allowing removal of resources.</p> <ol style="list-style-type: none"> 1. Natural processes would predominate. 2. Resource impacts would be reduced. 3. Most lasting signs of human use would not be apparent. Evidence of human impact would be restricted to cultural resources such as historic shipwrecks. 4. Intervention and restoration could occur to mitigate and stabilize human-caused disruption or for resource management purposes. Otherwise alterations to natural resources would not occur. 5. The significance and vulnerability of cultural resources would be evaluated, and appropriate management actions would be determined. 	<p>Visitors would be immersed in nature with opportunities to experience natural sounds, tranquility, solitude, and closeness to nature. Visitors would have opportunities to observe and learn about the differences and benefits to resources of a non-extractive use area compared to areas allowing removal of resources. Research activities might be allowed under a permit.</p> <ol style="list-style-type: none"> 1. Appropriate visitor activities could include boating, sightseeing, nature-watching, mooring, swimming, snorkeling, or diving. Commercial and recreational fishing would not be appropriate activities. Anchoring would not be allowed. 2. Visitors would be self-reliant and have maximum opportunities to experience a sense of discovery and adventure. Application of outdoor skills would be essential. 3. Interaction with nature would predominate, with only occasional encounters with others. There would be a sense of relative remoteness. The sights and sounds of nature would be more prevalent than those of human activities. Visitor activities would be mostly self-directed and have negligible resource impacts. 4. Special events, with the exception of cleanup events or citizen science, would generally not be allowed. 5. Visitors would benefit from the research by learning about protected resources. 6. Limited commercial services that provide appropriate visitor recreational activities might be allowed if compatible with resource protection goals and desired visitor experiences. 	<p>Management actions would focus on the preservation and protection of water-based ecosystems, habitats, and processes. Appropriate management actions could include</p> <ol style="list-style-type: none"> 1. determining types and levels of use considering the desired visitor experience and the vulnerability of the resources to impacts 2. intervening and restoring natural resources to mitigate and stabilize human-caused disruption 3. conducting research aimed at monitoring resource conditions and understanding natural processes 4. prioritizing, overseeing, and managing research projects 5. taking measures to prevent human-caused impacts 6. defining additional compatible uses <p>Facilities generally would not be appropriate, except when determined that they would enhance resource protection or public safety. Facilities could include</p> <ol style="list-style-type: none"> 1. signs, mooring buoys, and navigational aids 2. research equipment — if installed, research apparatus would be minimal and unobtrusive. If research could be accomplished in another management zone, it would not occur in the marine reserve zone.

Delete stricken language, and insert language to read, "Appropriate fishing activities for this zone will be specified in the Fishery Management Plan."

Table 2: Biscayne National Park Management Zones, Alternatives 2 through 5

	RESOURCE CONDITION	VISITOR EXPERIENCE	MANAGEMENT ACTIONS AND FACILITIES
Sensitive Underwater Archeological Zone (Visitors not allowed in water)	<p>The Sensitive Underwater Archeological Zone would provide protection for significant and vulnerable underwater cultural sites. Research activities could occur.</p> <ol style="list-style-type: none"> Natural sea and soundscapes would be maintained as much as possible. Human-caused cultural resource degradation would not be tolerated. Intervention to natural processes would be allowed if necessary to protect cultural site integrity. Preservation and stabilization actions might occur. 	<p>Visitors would view protected resources from within vessels on the surface of the water. Research activities might be allowed under permit.</p> <ol style="list-style-type: none"> Appropriate visitor activities could include sightseeing, nature-watching, recreational hook and line fishing, and transit through the zone. Apparatus other than hook and line fishing gear would not be allowed in the water below the lowest point of the vessel. Commercial fishing and trapping would not be appropriate. Anchoring would not be allowed. Visitors must remain in their boats, and access to the water for activities including swimming, snorkeling or diving would not be allowed. Researchers and other cooperating personnel could enter the zone for authorized purposes. Any impacts on cultural resources would be negligible. Visitors would benefit from the research by learning about significant and vulnerable resources as well as how they are studied and preserved. Commercial services would only transit through the zone. Underwater viewing devices including but not limited to face masks, glass-bottom vessels, glass-bottom buckets, and/or underwater cameras of any kind would not be allowed. 	<p>Management actions would focus on preservation and protection of underwater cultural sites. Appropriate management actions could include</p> <ol style="list-style-type: none"> mitigating, stabilizing, and restoring resources and collecting artifacts in imminent danger of destruction or loss conducting research aimed at monitoring resource conditions and understanding the cultural context prioritizing, overseeing, and managing research projects taking measures to prevent human-caused impacts defining additional compatible uses managing recreational fishing in the interest of sound conservation to protect and preserve marine resources for the education, inspiration, recreation, and enjoyment of present and future generations. entering into agreements aimed at resource protection <p>Facilities generally would not be appropriate, except when determined that they would enhance resource protection or public safety. Facilities could include</p> <ol style="list-style-type: none"> signs and other navigational aids research equipment — if installed, research apparatus would be minimal and unobtrusive. If research could be accomplished in another management zone, it would not occur in the Sensitive Underwater Archeological Zone.

Delete stricken language, and insert language to read, "Appropriate fishing activities for this zone will be specified in the Fishery Management Plan."

Amend highlighted language to read, "managing fishing activities, including fishing vessels and fishing vessel operation, in accordance with the Fishery Management Plan, in the interest of sound conservation....."

RESOURCE CONDITION	VISITOR EXPERIENCE	MANAGEMENT ACTIONS AND FACILITIES
<p>Sensitive Resource Zone (Complete protection of exceptional & critical resources)</p> <p>Natural Resources: The Sensitive Resource Zone would provide complete protection for exceptional and critical ecosystems, habitats, and processes and for sensitive nesting and nursery areas. Natural processes occur with negligible disturbance from human use. This zone would be closed to visitor access to permit natural processes to proceed. Research or actions aimed at monitoring natural conditions could occur.</p> <ol style="list-style-type: none"> Natural processes would predominate. Natural land, sea, and soundscapes would predominate within the zone. There would be no tolerance for resource impacts. Lasting signs of human use would not be apparent. Intervention and restoration could occur to mitigate and stabilize human-caused destruction. Otherwise, alterations to natural resources would not occur. The significance and vulnerability of natural resources would be evaluated, and appropriate management actions would be determined. <p>Cultural Resources: The Sensitive Resource Zone would provide complete protection for exceptional and sensitive cultural sites and landscapes. This zone would be closed to visitor access to protect site integrity. Research activities could occur.</p> <ol style="list-style-type: none"> Natural land, sea, and soundscapes would be maintained as much as possible. Cultural resource degradation would not be tolerated. Intervention of natural processes might occur to protect cultural site integrity. Evidence of historic human use that contributes to the site's cultural value would be apparent. Preservation and stabilization actions might occur. 	<p>Natural Resources: Sensitive Resource Zones would not be managed for visitor access, and use would be highly restricted.</p> <ol style="list-style-type: none"> Visitors would not be allowed into the zone. Research activities might be allowed under a permit. Researchers and other cooperating personnel might enter the zone for authorized purposes. Any impacts on natural processes would not be tolerated. Visitors would benefit by learning about sensitive and vulnerable resources as well as how they are studied and preserved. Vessels and vehicles would be restricted from the zone except for administrative, emergency, or research purposes. Commercial activity would not be allowed. <p>Cultural Resources: This zone would not be managed for visitor access, and use would be highly restricted.</p> <ol style="list-style-type: none"> Visitors would not be allowed into the zone. Research activities might be allowed under a permit. Researchers and other cooperating personnel could enter the zone for authorized purposes. Any impacts on cultural resources would not be tolerated. Visitors would benefit by learning about sensitive and vulnerable resources as well as how they are studied and preserved. Vessels and vehicles would be restricted from the zone except for administrative, emergency, or research purposes. Commercial activity would not be allowed. 	<p>Natural Resources: Management actions would focus on the preservation and protection of ecosystems, habitats, and processes unique to this zone. Appropriate management actions could include</p> <ol style="list-style-type: none"> intervening and restoring resources to mitigate and stabilize human-caused destruction conducting research aimed at monitoring resource conditions and understanding natural processes prioritizing, overseeing, and managing research projects taking measures to prevent human-caused impacts defining additional compatible uses providing interpretive and enforcement services. <p>Facilities would not be allowed. If installed, research apparatus would be minimal and unobtrusive. If research could be accomplished in another management zone, it would not occur in the Sensitive Resource Zone.</p> <p>Cultural Resources: Management actions would focus on preservation and protection of cultural sites and landscapes. Appropriate management actions could include</p> <ol style="list-style-type: none"> mitigating, stabilizing, and restoring resources and collecting artifacts in imminent danger of destruction or loss conducting research aimed at monitoring resource conditions and understanding the cultural context prioritizing, overseeing, and managing research projects taking measures to prevent human-caused impacts defining additional compatible uses providing interpretive and enforcement services. <p>Facilities would not be allowed in this zone. If installed, research apparatus would be minimal and unobtrusive. If research could be accomplished in another management zone, it would not occur in the Sensitive Resource Zone.</p>
	<p>1) Insert at the end of the highlighted sentence, "...unless fishing activities were allowed pursuant to the Fishery Management Plan." 2) Insert "6. Appropriate fishing activities for this zone will be specified in the Fishery Management Plan."</p>	

Attachment 2. Comments and Recommendations and Supporting Technical Information

I. Boating Restricted Areas and Uniform Waterway Markers

The FWC requests that National Park Service (NPS) apply for the Florida Uniform Waterway Marker (FUWM) Permit for all signs and buoys (markers) placed in the waterways of the Park, regardless of which Alternative is adopted by NPS. By voluntarily applying for the FUWM permit, which the Park has already done for existing waterway markers, NPS will ensure that their markers are consistent with state and federal regulations (United States Aids to Navigation System, a system consistent with the International Association of Lighthouse Authorities Maritime Buoyage System). The Uniform Waterway Marker system ensures that boaters see consistent messages and symbols while boating throughout the state. Consistent waterway markers symbols and messages ensure greater zone compliance and ultimately less impact on benthic resources. By applying for a FUWM permit, the Park's waterway markers will be more readily identifiable when they are damaged or destroyed, expediting the notification process. FWC's Marker On-Call Program is a statewide program that quickly identifies damaged or destroyed waterway markers and notifies the owner, regardless of the agency to which the marker belongs.

The Preferred Alternative (Alternative 4) in the Draft GMP/EIS suggests the installation of a number of additional waterway markers (both regulatory and informational) within the Park. In an effort to minimize risk associated with vessel collisions with markers, the FWC suggests the Mooring Buoy and Marker Plan be developed to minimize the number of waterway markers while providing for appropriate levels of boater awareness and accomplishing other goals. FWC staff within the Division of Law Enforcement, Boating and Waterway Section, has considerable experience in this area and would be eager to participate in the development of the Mooring Buoy and Marker Plan.

Additionally, to reduce vessel operator confusion and complement existing state zones within the park, the FWC suggests that NPS consider adopting the state definitions of "no power-driven vessels," "no motor zone," or "manually propelled vessels only," and "slow speed minimum wake", to accomplish vessel operation objectives. The NPS can accomplish the same objective of prohibiting combustion engines by using the appropriate state definitions (refer to 68D-23.103(3)(b), (d)-(f), Florida Administrative Code).

Since 1991, the FWC has had regulatory zones located within the park boundary – particularly the 1000' buffer zone from Black Point to Turkey Point and Idle Speed No Wake zone within the North Canal located north of Turkey Point Power Plant and adjacent to the Park Administrative & Visitor Center. Should the NPS adopt any non-combustion engine use and slow speed zones along the western park boundary, the more restrictive NPS zone would be posted and the FWC markers posting the state zone would need to be removed or replaced to reflect the NPS regulation. In addition, the FWC strongly recommends that NPS adopt the State definitions of Slow Speed Minimum Wake. The Draft GMP/EIS references the term slow (wakeless) speed within Table 2 (pages 49-58), "Visitor Experience" column. The use of the State term of "Slow Speed Minimum Wake" reduces vessel operator confusion and perhaps increases compliance as

they enter/exit the park boundary and encounter other local or State regulatory zones. In addition the FWC has been successful in the use of the State zones in establishing federal manatee sanctuaries with the United States Fish and Wildlife Service. The State definition of “‘Slow Speed Minimum Wake’ ... means that a vessel must be fully off plane and completely settled into the water. The vessel must then proceed at a speed which is reasonable and prudent under the prevailing circumstances so as to avoid the creation of an excessive wake or other hazardous condition which endangers or is likely to endanger other vessels or other persons using the waterway. At no time is any vessel required to proceed so slowly that the operator is unable to maintain control over the vessel or any other vessel or object that it has under tow” (Ch. 68D-23.103(3)(b), Florida Administrative Code.).

The Draft GMP/EIS needs to further elaborate on the intended regulations for the “Marine Reserve Zone,” should such a zone be included in subsequent versions of the GMP. Currently, it states that boat size, type, and speed could be regulated to protect resources in the zone. With the exception of fishing as a prohibited activity, the plan does not state what activities are permitted or what vessel speed limits are being considered.

The Preferred Alternative (Alternative 4) in the Draft GMP/EIS indicates that the number of proposed moorings for many of the sites will be limited. In the interest of our continued support of safe and reasonable use of the waters and marine resources within the Park, we encourage staff to evaluate current and historic use trends for the areas where moorings are intended to be installed and to ensure that appropriate numbers of moorings are installed and maintained to support those levels of use. In those instances where anchoring is not permitted when all the moorings are in use, public access to public resources may be restricted, even though the activities being conducted may have an extremely low impact on such resources. If an appropriate number of moorings are installed to meet traditional and current use volume, many of the negative impacts to benthic resources would be eliminated while ensuring public access to public resources.

II. Personal Watercraft Transit

The FWC very much supports responsible efforts to protect Florida’s environment while ensuring a wide variety of safe and enjoyable opportunities for Florida’s residents and visitors. However, we would like to emphasize that any efforts to amend the boating restrictions within the Park should include a provision which would allow for the operation of personal watercraft to transit south Miami-Dade County via the Atlantic Intracoastal Waterway, to ensure safety to those wishing to transit the Park to destinations beyond Park boundaries.

III. Marine Habitat Restoration

The FWC supports the restoration of damaged marine resources including coral reef, seagrass and mangrove communities. FWC staff within the Division of Habitat Species Conservation, Aquatic Habitat Conservation and Restoration Section, would be willing partners in any marine restoration efforts conducted by BNP staff.

IV. Exotic Species Removal

The FWC encourages the removal of the Indo-pacific lionfish (*Pterois volitans*) from BNP. Lionfish are a significant predator on native reef fish populations, including many that serve important roles in the continue health of the reef community. Lionfish also compete for food resources used by native species such as grouper and snapper. Park staff should investigate the use of Park-sponsored lionfish tournaments to assist in the control of lionfish populations. Removal of lionfish through public participation offers a recreational opportunity for the public while benefitting native fish communities.

V. Satellite Visitor Education Center

The FWC supports the idea of a satellite visitor education center in Miami, as long as it is not within the boundaries of the Bill Sadowski Virginia Key Critical Wildlife Area (CWA). A specific location on Virginia Key is not mentioned in the Draft GMP/EIS, but recent City of Miami Master Plans for Virginia Key have placed such a visitor center within or adjacent to the CWA.

VI. Listed Species

Recent surveys for the federally endangered Schaus' swallow-tail butterfly (*Heraclides aristodemus ponceanus*) are finding very few individuals (Attachment 2A). The vast majority are being found in BNP on the south end of Elliot Key near Petrel Point. The NPS should consider designating the area around Petrel Point (about ½ mile north and south of Petrel Point) as a Sensitive Resource Zone or as a Nature Observation Zone.

VII. Fisheries Management Coordination

Memorandum of Understanding

In 2002 and subsequently in 2007, the FWC entered into a Memorandum of Understanding (MOU) with BNP to “facilitate the management, protection, and scientific study of fish and aquatic resources” within BNP, “by improving communication, cooperation and coordination” between the FWC and the Park (Attachment 2B).

The MOU provides relevant background information, lists objectives to be achieved, outlines regulatory authorities, and details expectations of work on behalf of both the FWC and the Park for the mutual benefit of the aquatic resources within the Park. It is unfortunate--that despite the existing MOU wherein FWC and the Park agreed to make efforts to the maximum extent possible to cooperate fully and jointly to manage fisheries within the Park--the FWC is forced to provide extensive comments with regards to fisheries management issues on a Draft GMP/EIS through the Florida State Clearinghouse.

One of the tasks identified in the MOU is the joint development of a comprehensive fisheries management plan. The purpose of the Fishery Management Plan is to provide for the long-term management of fish and aquatic resources within the Park, separately yet complementary to a General Management Plan.

The development of the Fishery Management Plan is ongoing, and the Draft GMP/EIS specifically states: “Due to this ongoing planning process, the GMP will not address fisheries management in its alternatives” (page 16). However, Alternatives 2-5 of the Draft GMP/EIS would utilize zones where fishing activities are directly or indirectly reduced or eliminated through prohibitions on fishing activities, area closures, access limitations, limitations or prohibitions on the use of internal combustion motors, limitations or prohibitions on vessel type, size and speed, limitations on harvesting gear, and permit requirements. All 10 of the proposed zones in the Draft GMP/EIS propose to manage fishing activities in some manner, and “managing recreational [and commercial] fishing in the interest of sound conservation” is specifically identified as a management action in the majority of the zone descriptions. For example, the management objective for the Marine Reserve Zone included within Alternatives 3, 4 and 5 (pages 76, 82 and 88 respectively) addresses specific fisheries management objectives (e.g., larger and more numerous tropical reef fish, reducing mortality of fish), and compares the proposed management strategy of eliminating all fishing to other fisheries management strategies (e.g., catch and release, slot limits). This is clearly a fisheries management issue and as such belongs in a Fishery Management Plan, not a General Management Plan.

The proposed management actions within the Draft GMP/EIS that reduce or eliminate fishing activities are in direct conflict with the MOU which states:

Article I – Background and Objectives:

“WHEREAS, FWC and the Park agree that properly regulated commercial and recreational fishing will be continued within the boundaries of the Park. FWC and the Park recognize and acknowledge that commercial and recreational fishing constitutes activities of statewide importance that benefit the health and welfare of the people of the State of Florida.”

Article III – Statement of Work:

- A. FWC and the Park agree to:
3. Provide for recreational and commercial fishing and opportunities for the angling public and other Park visitors to enjoy the natural aquatic environment.

In addition, the proposed management actions within the Draft GMP/EIS have not been jointly evaluated with the FWC, and the FWC was not consulted in advance of these recent actions being proposed and released to the public for comment. This is also in direct conflict with the MOU which states:

Article III – Statement of Work:

- A. FWC and the Park agree to:
2. Acknowledge that the FWC will play a crucial role in implementing and promulgating new regulations as may be deemed appropriate, as well as take other management actions to achieve the mutual objectives for the management of fisheries within the boundaries of the Park for the term of this MOU. However, the agencies agree to consult with each

other on any actions that they may propose to be taken to conserve or protect fish populations and other aquatic resources within Park boundaries or to further regulate the fisheries.

5. Consult with each other and jointly evaluate the commercial and recreational harvest of fishery resources within the Park. Such consultation and evaluation, as set forth in the enabling legislation establishing the Park, should include a full review of all commercial and recreational fishery practices, harvest data, permitting requirements, techniques and other pertinent information for the purposes of determining to what extent mutually agreed upon fishery management goals are being met within the Park and to determine what additional management actions, if any, are necessary to achieve stated management goals.

The proposed regulatory actions combined with the lack of advanced agency coordination make it abundantly clear that the Park's regulatory strategy is to address fisheries management issues within the context of the General Management Plan and outside of the framework of the MOU and the Fishery Management Plan. The enabling acts establishing BNP and the MOU executed in good faith clearly call for consultation and coordination with the State of Florida/FWC regarding fisheries management, and the Fishery Management Plan is the most appropriate tool to support this consultation and coordination. Any significant restrictions on fishing opportunities within the BNP are clearly fishery management issues falling under the purview of these requirements and mutual agreements for consultation and coordination. There is no doubt the Draft GMP/EIS proposes significant restrictions on fishing opportunities that should be addressed through the framework of the MOU and the Fishery Management Plan. The FWC respectfully calls for NPS to honor these requirements and commitments by withdrawing these fishery- and fishing-related provisions from the GMP and working closely with FWC and stakeholders to develop proposals that reflect a better balance between resource protection and the public interest.

Management Actions/Management Zones

The FWC recognizes and supports that BNP has different but complementary goals for managing Florida's fish and wildlife resources located within Park boundaries, to provide for a level of resource conditions and visitor experiences that is expected of a National Park. The FWC also recognizes the significant value of the habitat resources within the Park to recreational and commercial fisheries, and the need to protect them. While the FWC can provide conceptual support for many of the management actions and management zones contained within the Draft GMP/EIS because of the benefits to fishery resources, the FWC cannot support how these actions and zones have been developed and are being proposed because of the significant impacts to fishing activities. Management strategies yet to be developed could provide maximum access for fishing activities while still achieving Park management goals, and development of these strategies will require additional coordination with the FWC and fishing stakeholders through the Fishery Management Plan process.

To begin coordination efforts, we would formally request BNP re-initiate coordination with the FWC and stakeholders on the Fishery Management Plan/Environmental Impact Statement in order to appropriately address the items identified by this consistency review.

In addition, we would request that the Park make modifications to the zones as discussed during the onsite visit on December 7, 2011, by FWC South Florida Regional Director Chuck Collins with BNP Superintendent Mark Lewis. We request these modifications be incorporated into the Final GMP/EIS. The modifications are as follows:

- 1) Modify the proposed zones in Preferred Alternative 4 around the Arsenickers from a 500' Noncombustible Engine Use Zone plus a 500' Slow Speed Zone, to only a 500' Slow Speed Zone. This area is currently managed by a 250' No-Wake Zone.
- 2) Modify the proposed zones in Preferred Alternative 4 for the creeks south of Jones Lagoon from a Noncombustible Engine Use Zone to a Slow Speed Zone.

Marine Reserve Zone

The FWC does not support establishment of a Marine Reserve Zone that prohibits fishing activities within BNP until measureable management goals have been clearly defined and less-restrictive fisheries management actions have been appropriately evaluated. During the December 20, 2011, teleconference call, the FWC proposed that the Park develop a management strategy evaluation of alternative management strategies, ranging from less restrictive fishery restrictions to no-take marine reserves. This type of simulation modeling is used to assess the potential outcomes for different management strategies, and can be used in situations such as Biscayne National Park where there is minimal data available and time limitations that will not facilitate additional data collection. The Park was not receptive to the FWC proposal, citing delays in the General Management Plan approval process as one reason for their objection. In response to this objection, FWC would refer the Park to the "Conditions for Consistency" section of the attached letter, which stated finalization of the GMP could be accomplished without delay even with compliance with FWC conditions. In that case, the Marine Reserve Zone could be still be included in the GMP, but specific management of fishing activities within the Marine Reserve Zone would be shifted from the Draft GMP/EIS to the Fishery Management Plan. The management strategy evaluation would then be part of the Fishery Management Plan process, and not the GMP process.

**Schaus' Swallowtail Butterfly Survey at Biscayne National Park
and North Key Largo, 2011**

This report is omitted due to sensitive natural resources material.

Memorandum of Understanding**between****the State of Florida, Fish and Wildlife Conservation Commission****and****the National Park Service, Biscayne National Park**

NPS Agreement Number G5250H0083

ARTICLE I – BACKGROUND AND OBJECTIVES

WHEREAS, The purpose of this Memorandum of Agreement (MOU) is to facilitate the management, protection and scientific study of fish and aquatic resources within the National Park Service, Biscayne National Park (hereinafter referred to as the Park) by improving communication, cooperation and coordination between the Florida Fish and Wildlife Conservation Commission, (hereinafter referred to as the FWC) and the Park; and

WHEREAS, Biscayne National Monument was established by Congress in 1968 “in order to preserve and protect for the education, inspiration, recreation, and enjoyment of present and future generations a rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty” (PL 90-606). The Monument was later expanded in 1974 (PL 93-477), and again in 1980 (PL 96-287), to its current size of 173,000 acres (270 square miles), when it was also redesignated as the Park, where excellent opportunities are provided for fishing, snorkeling, scuba diving, boating, canoeing, kayaking, windsurfing and swimming; and

WHEREAS, the State of Florida conveyed sovereign submerged lands to the United States in 1970 to become part of Biscayne National Monument; and

WHEREAS, the Park is made up predominantly of submerged lands (95 percent), and may be divided generally into three major environments: coral reef, estuarine and terrestrial. The boundaries of the Park begin at the west mangrove shoreline, extend east to Biscayne Bay (including seagrass communities and shoals), the keys (including hardwood hammocks, mangrove wetlands, sandy beaches and rocky inter-tidal areas), the reef, and continue to their easternmost extent at a contiguous 60-foot depth contour. The northern boundary of the Park is near the southern extent of Key Biscayne, while the southern boundary is near the northern extent of Key Largo, adjacent to the Barnes Sound and Card Sound areas; and

WHEREAS, Biscayne Bay has also been designated by the State of Florida as an Aquatic Preserve, Outstanding Florida Water, Outstanding National Resource Water (pending ratification of State water quality standards) and lobster sanctuary under Florida Law, and by Dade County as an aquatic park and conservation area; and

WHEREAS, both FWC and the Park have responsibilities under Federal and State laws and regulations that affect fish and other aquatic resources within the Park; and

WHEREAS, FWC and the Park agree that “when possible and practicable, stocks of fish shall be managed as a biological unit” (Chapter 370.025(d) Florida Statutes). This statement is intended to recognize that measures to end overfishing and rebuild stocks are most effective when implemented over the range of the biological stock; however, it is not intended to preclude implementation of additional or more restrictive management measures within the Park than in adjacent State waters as a means of achieving mutual objectives; and

WHEREAS, FWC and the Park agree that properly regulated commercial and recreational fishing will be continued within the boundaries of the Park. FWC and the Park recognize and acknowledge that commercial and recreational fishing constitutes activities of statewide importance that benefit the health and welfare of the people of the State of Florida. The parties also recognize and acknowledge that preserving the nationally significant resources of the Park to a high conservation and protection standard to be agreed upon by both parties in the fishery management plan for all citizens to enjoy is of statewide as well as national importance, and as such, will also benefit the health and welfare of the people of the State of Florida; and

WHEREAS, FWC and the Park agree to seek the least restrictive management actions necessary to fully achieve mutual management goals for the fishery resources of the Park and adjoining areas. Furthermore, both parties recognize the FWC’s belief that marine reserves (no-take areas) are overly restrictive and that less-restrictive management measures should be implemented during the duration of this MOU. Consequently, the FWC does not intend to implement a marine reserve (no-take area) in the waters of the Park during the duration of this MOU, unless both parties agree it is absolutely necessary. Furthermore, the FWC and the Park recognize that the Park intends to consider the establishment of one or more marine reserves (no-take areas) under its General Management Planning process for purposes other than sound fisheries management in accordance with Federal authorities, management policies, directives and executive orders; and

WHEREAS, both parties wish this MOU to reflect their common goals and intended cooperation and coordination to achieve those goals.

ARTICLE II – AUTHORITY

In the Organic Act of 1916, U.S.C. § 1, Congress created the National Park Service (NPS) to promote and regulate the National Park System for “the purpose of conserving the scenery and the natural and historic objects and wildlife therein and to provide for the enjoyment of the same in such manner and by such means as would leave them unimpaired for the enjoyment of future generations.” Congress further determined, in 16 U.S.C. § 1a-1, that the authorization of activities within units of the National Park System be construed, and the protection, management and administration of national parks be conducted, in the light of high public value and integrity of the National Park System.

The legislation establishing the Park states that the “Secretary shall preserve and administer the park in accordance with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented. The waters within the park shall continue to be open to fishing in conformity with the laws of the State of Florida except as the Secretary, after consultation with appropriate officials of said State, designates species for which, areas and times within which, and methods by which fishing is prohibited, limited, or otherwise regulated in the interest of sound conservation to achieve the purposes for which the park is established: Provided, that with respect to lands donated by the State after the effective date of this Act, fishing shall be in conformance with State law.” PL 96-287, § 103(a), codified at 16 U.S.C. § 410gg-2(a).

As a unit of the National Park System, the Park is authorized under 16 U.S.C. §§ 1-6 to participate in memoranda of understanding that document mutually agreed upon policies, procedures and relationships that do not involve funding.

The FWC was created by Article IV, § 9 of the Florida Constitution and is vested with the state’s executive and regulatory authority with respect to freshwater aquatic life, wild animal life and marine life. This authority, directly derived from the Constitution, provides the FWC with autonomy to regulate and manage wild animal life, freshwater aquatic life and marine life within the State of Florida, which includes the areas encompassed by the Park.

The FWC is authorized under Chapter 370.103, Florida Statutes, to enter into cooperative agreements with the Federal Government or agencies thereof for the purpose of preserving saltwater fisheries within and without state waters and for the purpose of protecting against overfishing, waste, depletion, or any abuse whatsoever. Such authority includes authority to enter into cooperative agreements whereby officers of the FWC are empowered to enforce federal statutes and rules pertaining to fisheries management.

The regulatory responsibility of the State of Florida with respect to fishing on the original Park lands is set forth in section 103(a) of PL 96-287 (see above). The regulatory responsibility of the State of Florida with respect to fishing on additional lands conveyed to the Park after the effective date of PL 96-287 is set forth in a Board of

Trustees of the Internal Improvement Trust Fund Dedication dated December 13, 1985, which contains the following special reservation: "All rights to fish on the waters shall be retained and not transferred to the United States and fishing on the waters shall be subject to the laws of the State of Florida."

NOW, THEREFORE, both parties agree as follows:

ARTICLE III – STATEMENT OF WORK

A. FWC and the Park agree to:

1. Seek concurrence in meeting their management goals and strive to identify means, measures and other interagency actions for the mutual benefit of the aquatic resources within Biscayne Bay and the Park.
2. Acknowledge that the FWC will play a crucial role in implementing and promulgating new regulations as may be deemed appropriate, as well as take other management actions to achieve the mutual objectives for the management of fisheries within the boundaries of the Park for the term of this MOU. However, the agencies agree to consult with each other on any actions that they may propose to be taken to conserve or protect fish populations and other aquatic resources within Park boundaries or to further regulate the fisheries.
3. Provide for recreational and commercial fishing and opportunities for the angling public and other Park visitors to enjoy the natural aquatic environment.
4. Manage fisheries within the Park and Biscayne Bay according to applicable Federal and State laws, and in a manner that promotes healthy, self-sustaining fish populations and recognizes the biological characteristics and reproductive potential of individual species. Desired future conditions for fisheries and visitor experiences within the Park will be established cooperatively to further guide fisheries management.
5. Consult with each other and jointly evaluate the commercial and recreational harvest of fishery resources within the Park. Such consultation and evaluation, as set forth in the enabling legislation establishing the Park, should include a full review of all commercial and recreational fishery practices, harvest data, permitting requirements, techniques and other pertinent information for the purposes of determining to what extent mutually agreed upon fishery management goals are being met within the Park and to determine what additional management actions, if any, are necessary to achieve stated management goals.
6. Collaborate on the review and approval of proposals for fisheries stock assessment, site characterization, maintenance or restoration, including scientifically based harvest management, species reestablishment, stocking, habitat protection, and habitat restoration or rehabilitation.

7. Notify each other, as early as possible, of the release of information pertaining to the development of agency policies, management plans, statutes, rules and regulations that may affect fisheries and aquatic resource management within the Park boundary.
8. Share scientific information, field data and observations on Park fishery resources and activities affecting those resources, except in situations where the exchange of such data would violate State or Federal laws or regulations (e.g. law enforcement investigations and confidential landings statistics). The parties will provide each other with copies of reports that include results of work conducted within the Park or Biscayne Bay.
9. Jointly consider proposals for the management and control of exotic (non-indigenous) species, if found to occur within the Park or in adjacent areas, that may pose a threat to the integrity of Park resources. Exotic species are those that occur in a given place as a result of direct or indirect, deliberate or accidental actions by humans.
10. Review and coordinate, on an annual basis, proposals for fisheries and aquatic resources management, research, inventory and monitoring within the Park and Biscayne Bay. Each party will provide prospective researchers with legal notice of agency-specific permitting requirements. Additionally, as a courtesy, and to encourage information sharing, the FWC and the Park will provide each other with annual summaries of marine and terrestrial research, inventory and monitoring activities conducted within and in close proximity to the Park.
11. Meet at least once annually and otherwise as needed to coordinate management and research activities and exchange information on fish and aquatic resources within the Park and Biscayne Bay.

12. Recognize that there may be times when the missions of the FWC and the Park may differ, and that while efforts will be made to the maximum extent possible to cooperate fully and jointly manage fishing within the Park as intended by Congress when the Park was established, there may be occasion when the two agencies choose to disagree. Such occasions will not be construed, as impedes and every attempt will be made to avoid communication barriers and to not jeopardize future working relationships.
13. Develop a comprehensive fisheries management plan (hereinafter referred to as the Plan) for the long-term management of fish and aquatic resources within the Park. The Plan will summarize existing information and ongoing activities, clarify agency jurisdiction, roles and responsibilities, identify additional opportunities for cooperative management, list key issues, establish management goals and objectives, describe desired future conditions, indicators, performance measures and management triggers, and develop a list of prioritized project statements. Specifically, with respect to developing the Plan, the two agencies agree as follows:

B. The FWC agrees to:

1. Assist the Park, and play a collaborative role in coordinating with the Park and its cooperators, in the development and ongoing review of the Plan.
2. Provide representation to a technical committee formed to guide interagency fisheries management within Biscayne Bay, including the Park, and participate in monthly teleconference calls and meetings as may be scheduled for purposes of steering fisheries management planning project.
3. Assign staff, including those from the Florida Marine Research Institute, as deemed appropriate to assist the Park and its cooperators in developing credible project statements or preliminary research proposals. The emphasis of such proposals will be to design and prioritize projects intended to meet known fisheries data gaps or resource knowledge deficiencies to facilitate scientifically based and informed fisheries management decision- and rule-making.
4. Provide representation to and support for forming the Scientific Advisory Panel for the purposes described in C.4 below.
5. Provide access to and support for requests by the Park to existing data and information as may be applicable to Biscayne Bay fisheries and aquatic resources, jurisdictions and other pertinent aspects to developing the Plan.
6. Review and comment upon drafts of the Plan and participate in joint meetings that will be arranged to solicit public opinion and comment concerning proposed

fisheries management actions and/or alternatives as may be described within the draft Plan; and to review and comment upon any fisheries and aquatic resources issues and alternatives as may be identified within the Park's General Management Plan, also being developed in 2001–2002.

7. Facilitate information exchange and otherwise provide briefings to FWC Commissioners as necessary and deemed appropriate by the FWC.
8. Facilitate information exchange and otherwise provide briefings as may be deemed appropriate to the South Atlantic Fishery Management Council, of which FWC's Director of the Division of Marine Fisheries is a member.
9. Work with the Park to promulgate or revise existing State and Federal rules/regulations as may be jointly identified and recommended within the Plan.
10. As may be provided under State law and FWC policies, and upon full review, comment, revision and concurrence by the FWC, co-sign and endorse the Plan.

C. The Park agrees to:

1. Subject to the availability of funds, provide project funding support to cooperators, under contractual requirements separate from this MOU and described within an approved study plan prepared by NPS, to complete the Plan.
2. Secure contractors and cooperation from other fisheries experts to develop and/or assist the Park in developing the Plan. These cooperators may include, but are not limited to, research fishery biologists, aquatic ecologists and fisheries program managers from the FWC, Tennessee Valley Authority, Everglades National Park, National Marine Fisheries Service, Southeast Fisheries Science Center, and the University of Miami--Rosenstiel School of Marine and Atmospheric Science.
3. Form a technical steering committee comprised of Park personnel as well as those cited in C.2 above, and arrange and coordinate monthly teleconference calls and periodic other meetings of this committee as necessary to develop the Plan.
4. Arrange and coordinate a Scientific Advisory Panel to review the findings and recommendations contained in the 2001 report entitled "Site Characterization for Biscayne National Park: Assessment of Fisheries Resources and Habitats," prepared under contract for the Park by Dr. Jerald S. Ault, et al.
5. Work with the FWC to promulgate or revise existing State and Federal rules/regulations as may be jointly identified and recommended within the Plan.
6. Pursuant to the National Environmental Policy Act, arrange and coordinate public meetings, Federal Register Notices, and other requirements associated with preparing an Environmental Impact Statement in conjunction with the Plan.

7. Under contractual arrangements separate from this MOU, finance, print, and distribute a reasonable and sufficient number of draft and final copies of the Plan to all cooperators and other entities with an expressed or vested interest.

8. As requested by the FWC, help conduct or simply attend briefings, presentations or other forums concerning fisheries/wildlife management within Biscayne Bay, including the Park.

9. Facilitate and encourage the joint publication of press releases and the interchange between parties of all pertinent agency policies and objectives, statutes, rules and regulations, and other information required for the wise use and perpetuation of the fisheries resources of the Park.

10. Facilitate research permitting to state entities for activities needed to accomplish goals identified in the Plan.

ARTICLE IV – TERMS OF AGREEMENT

This MOU shall become effective upon signature by all parties hereto, and is executed as of the date of the last of those signatures and shall remain in effect for a term of five (5) years unless rescinded as provided in Article IX. It may be reaffirmed and extended for an additional five years.

This MOU in no way restricts the FWC or the Park from participating in similar activities with other public or private agencies, organizations, and individuals.

This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the Park and the FWC will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors will be set forth in separate written agreements executed by the parties and shall be independently authorized by appropriate statutory authority.

ARTICLE V – KEY OFFICIALS

A. For Biscayne National Park:

Superintendent
Biscayne National Park
9700 SW 328th Street
Homestead, FL 33033

B. For the Florida Fish and Wildlife Conservation Commission:

Executive Director
Florida Fish and Wildlife Conservation Commission
620 South Meridian Street
Tallahassee, FL 32399-1600

ARTICLE VI – PRIOR APPROVAL

Not applicable

ARTICLE VII – REPORTS AND/OR OTHER DELIVERABLES

Upon request and to the full extent permitted by applicable law, the parties shall share with each other final reports of actions involving both parties.

ARTICLE VIII – PROPERTY UTILIZATION

Unless otherwise agreed to in writing by the parties, any property furnished by one party to the other shall remain the property of the furnishing party. Any property furnished by the Park to the FWC during the performance of this MOU shall be used and disposed of as set forth in Federal property management regulations found at 41 C.F.R. Part 102.

ARTICLE IX – MODIFICATION AND TERMINATION

Either party may terminate this MOU by providing 60 days advance written notice to the other party. However, following such notice and before termination becomes effective, the parties will attempt to address and resolve the issues that led to the issuance of the notice.

Any disputes that may arise as a result of this MOU shall be subject to negotiation upon written request of either party, and each of the parties agrees to negotiate in good faith. The parties shall use their best efforts to conduct such negotiations at the lowest organizational level before seeking to elevate a dispute. If the parties cannot resolve the dispute through negotiation, they may agree to mediation using a neutral acceptable to both parties. Subject to the availability of funds, each party will pay an equal share of any costs for mediation services as such costs are incurred. If the dispute cannot be resolved through mediation, it will be elevated to a third party acceptable to both the Park and FWC for a final decision.

This MOU may be reviewed and/or modified at any time upon written agreement of the FWC and the Park.

ARTICLE X – STANDARD CLAUSES

A. Compliance With Laws

This MOU is subject to the laws of the United States and the State of Florida, and all lawful rules and regulations promulgated thereunder, and shall be interpreted accordingly.

B. Civil Rights

During the performance of this MOU, the parties agree to abide by the terms of the U.S. Department of the Interior (hereinafter referred to as the Department)– Civil Rights Assurance Certification, non-discrimination and will not discriminate against any person because of race, color, religion, sex, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, sexual orientation, national origin, disabilities, religion, age or sex.

C. Promotions

The FWC will not publicize or otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts, or other publications), which states or implies Governmental, Departmental, bureau or Government employee endorsement of a product, service or position, which the Department represents. No release of information relating to this MOU may state or imply that the Government approves of the FWC's work product, or considers the Department's work product to be superior to other products or services.

D. Public Information Release

The FWC will obtain prior approval from the Park for any public information releases, which refers, to the Department, any bureau, park unit, or employee (by name or title), or to this MOU. The specific text, layout, photographs, etc. of the proposed release must be submitted with the request for approval.

E. Liability Provision

Each party to this agreement will indemnify, save and hold harmless, and defend each other against all fines, claims, damages, losses,

judgments, and expenses arising out of, or from, any omission or activity of such person organization, its representatives, or employees. During the term of the MOU, the Park will be liable for property damage, injury or death caused by the wrongful or negligent act or omission of an employee, agent, or assign of the Park acting within the scope of his or her employment under circumstances in which the Park, if a private person, would be liable to a claimant in accordance with the law of the place where the act or omission occurred, only to the extent allowable under the Federal Tort Claims Act, 28 U.S.C. Sec. 2671 et seq.

ARTICLE XI - SIGNATURES

IN WITNESS HEREOF, the parties hereto have executed this agreement on the dates set forth below.

FOR BISCAYNE NATIONAL PARK:

Signature: Mark Lewis

Mark Lewis
Superintendent
Biscayne National Park

Date: 9/14/07

FOR THE FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION:

Signature: Ken Haddad

Ken Haddad
Executive Director
Florida Fish and Wildlife Conservation Commission

Date: 9/14/07



October 31, 2011

Mr. Mark Lewis
Superintendent
Biscayne Bay National Park
U.S. Department of the Interior
9700 S.W. 328th Street
Homestead, FL 33033

RE: SFRPC#11-0817, Clearinghouse review of the General Management Plan (GMP)/Environmental Impact Statement (EIS) for the Biscayne Bay National Park located off of Miami-Dade County.

Dear Mr. Lewis:

We have reviewed the above-referenced General Management Plan (GMP) for the Biscayne Bay National Park for consistency with the Council's regional policy document, the *Strategic Regional Policy Plan (SRPP)* and have the following comments:

- The project should be consistent with the goals and policies of the National Environmental Policy Act (NEPA), the Endangered Species Act and its corresponding regulations. It is important for the applicant to coordinate involvement with all governments of jurisdiction, particularly that of the Miami-Dade County and its Comprehensive Development Master Plan (CDMP), environmental groups, as well as concerned public citizens.
- The last comprehensive planning effort (general management plan) for Biscayne Bay National Park was completed in 1983. Much has occurred since 1983; the population near the park has greatly increased, visitor use patterns and types have changed, and people want to bring new recreational activities into the Park. Each of these changes has major implications for how visitors access and use the National Park and the facilities needed to support those uses, how resources are managed, and how the National Park Service (NPS) manages its operations.
- The GMP provides five (5) alternatives suggesting comprehensive management options for the Biscayne National Park for the next 15 to 20 years. Based on the five alternatives presented in the Marine Reserve Study Summary, with supporting criteria and science data for the selection of appropriate marine preservations, Alternatives 2 - 5 would benefit natural and cultural resource protection while providing a diversity of visitor experiences and educational opportunities and are more consistent with the *SRPP* rather than Alternative 1 (no-action).
- The *SRPP* identifies the Biscayne Bay National Park as a regional priority. The Goals and Policies of the *Strategic Regional Policy Plan for South Florida (SRPP)*, in particular those indicated below, should be observed when making decisions regarding this general management plan:

GOAL 14 **Preserve, protect and restore Natural Resources of Regional Significance.**

Policy 14.2 Improve the quality and connectedness of Natural Resources of Regional Significance by eliminating inappropriate uses of land, improving land use designations, and utilizing land acquisition where necessary.

- Policy 14.7 Restore, preserve, and protect the habitats of rare and state and federally listed species. For those rare and threatened species that have been scientifically demonstrated by past or site specific studies to be relocated successfully, without resulting in harm to the relocated or receiving populations, and where *in-situ* preservation is neither possible nor desirable from an ecological perspective, identify suitable receptor sites, guaranteed to be preserved and managed in perpetuity for the protection of the relocated species that will be utilized for the relocation of such rare or listed plants and animals made necessary by unavoidable project impacts. Consistent on-site shall be preserved on-site.
- Policy 14.14 Increase public awareness and continue to support programs regarding the importance of maintaining and enhancing the tree canopy and other native vegetative cover in improving air quality and natural habitat.
- Policy 14.15 Require the ecologically sensitive use of natural areas as a condition to access and utilization. Promote environmental education through parks, nature centers, and schools.
- Policy 14.16 Coordinate funding from various groups to produce common documents to be distributed to the public regarding natural resource protection, appropriate recreational opportunities, and access.
- Goal 16 Enhance and preserve natural system values of South Florida's shorelines, estuaries, benthic communities, fisheries, and associated habitats, including, but not limited to, Florida Bay, Biscayne Bay, tropical hardwood hammocks, and the coral reef tract.**
- Policy 16.2 Protect the Biscayne Bay Aquatic Preserve (BBAP) through such measures as:
a. discontinuing all untreated stormwater discharges to the Bay;
b. requiring stormwater treatment systems to meet the required non-degradation water quality standards for this Class III, Outstanding Florida Water body;
c. discouraging development that proposes to fill within the Bay or discharge contaminants to its waters; and
d. connecting developments that are served by septic tanks within the watershed of the BBAP to central sanitary waste treatment facilities to treat pathogens and remove nutrients from the wastewater effluent.
- Policy 16.3 Enhance and preserve coastal, estuarine, and marine resources, including but not limited to, tropical hardwood hammocks, mangroves, sea grass and shellfish beds and coral habitats.

Thank you for the opportunity to comment. If you require further information, please contact me at 954-985-4416.

Sincerely,



Eric Swanson
Policy Analyst

ES/kal

cc: Ms. Lauren P. Milligan, Florida State Clearinghouse

2011-03835

COUNTY: MIAMI-DADE
SCH-100-NPS-BNP
DADE

DATE: 8/22/2011
COMMENTS DUE DATE: 10/3/2011
CLEARANCE DUE DATE: 10/21/2011
SA#: FL201108225930C

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HISTORIC PRESERVATION
SEP 6 P 1:41

MESSAGE:

STATE AGENCIES	WATER MNGMNT. DISTRICTS	OPB POLICY UNIT	RPCS & LOC GOVS
ENVIRONMENTAL PROTECTION	SOUTH FLORIDA WMD		
FISH and WILDLIFE COMMISSION			
X STATE			

The attached document requires a Coastal Zone Management Act/Florida Coastal Management Program consistency evaluation and is categorized as one of the following:

- Federal Assistance to State or Local Government (15 CFR 930, Subpart F). Agencies are required to evaluate the consistency of the activity.
- X Direct Federal Activity (15 CFR 930, Subpart C). Federal Agencies are required to furnish a consistency determination for the State's concurrence or objection.
- Outer Continental Shelf Exploration, Development or Production Activities (15 CFR 930, Subpart E). Operators are required to provide a consistency certification for state concurrence/objection.
- Federal Licensing or Permitting Activity (15 CFR 930, Subpart D). Such projects will only be evaluated for consistency when there is not an analogous state license or permit.

Project Description:

NATIONAL PARK SERVICE - DRAFT GENERAL MANAGEMENT PLAN/ENVIRONMENTAL IMPACT STATEMENT FOR BISCAIYNE NATIONAL PARK - MIAMI-DADE COUNTY, FLORIDA.

To: Florida State Clearinghouse

AGENCY CONTACT AND COORDINATOR (SCH)
3900 COMMONWEALTH BOULEVARD MS-47
TALLAHASSEE, FLORIDA 32399-3000
TELEPHONE: (850) 245-2161
FAX: (850) 245-2190

EO. 12372/NEPA Federal Consistency

- No Comment
- Comment Attached
- Not Applicable
- No Comment/Consistent
- Consistent/Comments Attached
- Inconsistent/Comments Attached
- Not Applicable

From:

Division of Historical Resources
Bureau of Historic Preservation
Division/Bureau:

Reviewer: S. Edwards *PREV for State* 9/15/11

Date: 9-13-2011

RECEIVED

SEP 16 2011

DEP Office of Intergov't Programs

APPENDIX H: ERRATA

On page 66, the 2011 Draft GMP/EIS erroneously left out a description of existing partnerships that would be expected to continue under the no-action alternative. That description has been included in the SDEIS in chapter 2, at the end of the Description of Alternative 1 (no action).

On pages 126 and 197, the 2011 Draft GMP/EIS erroneously described the existing manatee protection area as extending the length of the mainland shoreline. Elsewhere in the document, it was accurately described as extending only from Black Point County Park south to Turkey Point. In this SDEIS, the no-action alternative is correctly described with the Manatee protection area extending only from Black Point County Park south to Turkey Point and this information was used as the basis for comparison with both alternatives 6 and 7 where the proposed slow speed zone would extend the length of the mainland shoreline and thus benefit manatees.

On the alternative maps and in chapter 2 in the 2011 Draft GMP/EIS, the description of the alternatives, estimated acres were provided. Since the release of the 2011 Draft GMP/EIS, improved GIS data is available and some of the acreages for the zones have been refined as indicated in the maps and text of this SDEIS.

The park's Fire Management Plan helps guide resource management efforts in the park. The 2011 Draft GMP/EIS erroneously referred to park terrestrial vegetation as fire adapted in reference to the Fire Management Plan. Because the terrestrial vegetation communities in the park are not fire-adapted, prescribed fire is not part of natural resource management in the park though the plan does allow for burning of piled debris, notably along the sea turtle nesting beaches to restore this important habitat. This information has

been corrected throughout the SDEIS in reference to the relationship to the Fire Management Plan and cumulative impacts to terrestrial vegetation in chapter 4.

The costs described in chapter 2 were adjusted to 2013 dollars and the cost table (table 3) was reformulated to clarify what costs are reflected in the park's authorized base budget, currently funded projects and increases, and to separate the facility and nonfacility costs of each action alternative.

The 2011 Draft GMP/EIS failed to acknowledge that generally increasing human populations in the local community would be expected to result in increased boats on the water; therefore, an associated increase in boat engine noise would be expected throughout the park. This information has been added to this SDEIS in the soundscape impact topic in chapter 4.

References to and explanations of recreational and commercial fishing throughout the document have been edited for simplicity, accuracy, and consistency in terminology with the Fishery Management Plan.

As required by section 7 of the Endangered Species Act, during the agency and public review process in 2011 the National Park Service formally consulted with NOAA Fisheries and the U.S. Fish and Wildlife Service regarding endangered species effects of the preferred alternative (alternative 4) as described in the 2011 Draft GMP/EIS. The biological opinion issued by NOAA Fisheries concluded that three species of sea turtles, acroporid corals, and smalltooth swordfish were being impacted by recreational activities that are currently ongoing in the park and surrounding waters and would be expected to continue, at least in some areas, under the preferred alternative and all other

alternatives considered. While the National Park Service had proposed a finding of “may affect, not likely to adversely affect” NOAA Fisheries concluded “may affect, likely to adversely affect” but that those impacts would not be expected to jeopardize the continued existence of the species analyzed. As a result of this consultation process, the National Park Service has incorporated the “may affect, likely to adversely affect” finding for those species as considered in each of the alternatives addressed in this SDEIS based upon the analysis provided by the consulting agencies. Consistent with the methodology and terminology described at the beginning of chapter 4, the impact conclusion for these species has likewise been changed to “moderate adverse.”

The CEQ has promulgated regulations for federal agencies’ implementation of NEPA (40 CFR 1500–1508). Section 1500.2 states that federal agencies shall, to the fullest extent possible, interpret and administer the policies, regulations, and public laws of the United States in accordance with the policies set forth in the act (Sections 101[b] and 102[1]). This requires a new section for Environmental Impact Statements called “Consistency with the purposes of NEPA”

Similarly the format and content of the analysis for environmentally preferable alternative has been refined to focus more narrowly on the regulatory definition presented in 43 CFR 46.30 as the alternative “that causes the least damage to the biological and physical environment and best protects, preserves, and enhances historical, cultural, and natural resources.” Thus the Consistency with the Purposes of NEPA section for alternatives 1, 6, and 7 has been added to this SDEIS and all seven alternatives will be included in the FEIS. And the “Environmentally Preferable Alternative” section has been revised in this SDEIS.

Conclusions regarding the cultural resources impacts of some alternatives presented in the 2011 Draft GMP/EIS were re-evaluated and modified for consistency with the impact methodology and intensity thresholds presented at the beginning of chapter 4.

Consistent with NPS policy revision (NPS 2011b), the Determination of Impairment is no longer included in the Environmental Impact Statement and instead will be included in the “Record of Decision” at the conclusion of the planning process.

SELECTED REFERENCES

In addition to the references provided in the 2011 Draft GMP/EIS, the following references are included in this SDEIS:

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2010 CREMP 2009 Final Report. Fish & Wildlife Research Institute / Florida Fish and Wildlife Conservation Commission. Saint Petersburg, FL. 110 pp.
- Wootton, Robert J.
1992 Fish Ecology. Springer, 1992.

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Florida Fish and Wildlife Conservation Commission
NOAA Fisheries - National Marine Fisheries Service

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As the nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering sound use of our land and water resources; protecting our fish, wildlife, and biological diversity; preserving the environmental and cultural values of our national parks and historical places; and providing for the enjoyment of life through outdoor recreation. The department assesses our energy and mineral resources and works to ensure that their development is in the best interests of all our people by encouraging stewardship and citizen participation in their care. The department also has a major responsibility for American Indian reservation communities and for people who live in island territories under U.S. administration.

NPS 169/106381B November 2013



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National Park Service
U.S. Department of the Interior

Biscayne National Park
Florida

