

**FISHERY MANAGEMENT PLAN/ ENVIRONMENTAL IMPACT STATEMENT
RECORD OF DECISION**

Recommended:

Date:



7.9.14

**Brian Carlstrom
Superintendent
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Approved:

Date:



7/10/14

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NATIONAL PARK SERVICE
UNITED STATES DEPARTMENT OF THE INTERIOR

FISHERY MANAGEMENT PLAN/ ENVIRONMENTAL IMPACT STATEMENT
RECORD OF DECISION

Biscayne National Park
Florida

The Department of the Interior, National Park Service (NPS), has prepared this “Record of Decision” (ROD) on the *Final Fishery Management Plan / Environmental Impact Statement* for Biscayne National Park (park). This record of decision includes a background description of the project, a statement of the decision made, a listing of mitigation measures to minimize environmental harm, a synopsis of other alternatives considered, the bases for decision, a description of the environmentally preferred alternative, an overview of public and agency involvement in the decision-making process, and an attached determination of nonimpairment of park resources and values for the preferred alternative (Attachment 1).

BACKGROUND OF THE PROJECT

Biscayne National Park hosts both commercial and recreational fishers. Increases in South Florida’s boating and fishing population combined with improved fishing and boating technology pose a threat to the long-term sustainability of fishery-related resources, and numerous scientific studies suggest that many of the park’s fisheries resources are in decline. A Fishery Management Plan (FMP) was therefore deemed necessary to guide sustainable use of the park’s fishery-related resources. The park’s FMP will guide fishery management decisions in the park for the next five to ten years.

Biscayne National Park’s FMP is the result of a cooperative effort between the park and the Florida Fish and Wildlife Conservation Commission (FWC). This partnership is a necessary part

of fishery management in Biscayne National Park because the park's enabling legislation states that fishing within the park must be in accordance with the laws of the State of Florida.

The FMP Final Environmental Impact Statement (EIS) presents a range of five alternatives considered for the park's FMP and identifies a preferred alternative. The five alternatives are Alternative 1 (the no-action alternative, Maintain Status Quo), Alternative 2 (Maintain At or Above Current Levels), Alternative 3 (Improve Over Current Levels), Alternative 4 (Rebuild and Conserve Park Fisheries Resources), and Alternative 5 (Restore Park Fisheries Resources). Alternative 4 has been identified as the NPS preferred alternative. The development of the alternatives and the identification of the preferred alternative were based on a combination of public input (derived from three public comment periods including public meetings, and the input of the FMP Working Group, a targeted group of stakeholders representing a range of varied interests in the plan), inter-agency meetings, and environmental and socioeconomic analyses.

STATEMENT OF DECISION MADE (SELECTED ACTION)

With the selected action, labeled as the "Preferred Alternative" in the *Final Fishery Management Plan / Environmental Impact Statement*, a considerable change from current management strategies will occur. Substantial improvement in the status of park fisheries resources and a further reduction in fishing-related habitat impacts will be sought. Numbers of commercial fishers will decrease over time via establishment of a non-transferable permit system.

Alternative 4, as well as all other alternatives in the FMP, focuses on Desired Future Conditions (DFCs) of the park's fisheries resources and *not* on the exact management activities to be implemented. The intention of the FMP is to determine the DFCs; the cooperating agencies will then work together to develop the specific regulatory changes necessary to achieve the DFCs of the selected Alternative. Implementation of Alternative 4 will require considerable changes to current fishing regulations within the park. Specific management measures may occur as follows.

- Management actions would be enacted (in conjunction with the FWC) to increase the abundance and average size of targeted fish and invertebrate species within the park by at least 20% over current conditions and over conditions in similar habitat outside the park.

Actions could include considerable increases in minimum size limits, establishment of slot limits, substantial decreases in bag limits, and seasonal or spatial closures. These efforts initially would be focused on frequently harvested species such as grouper, snapper, hogfish, and spiny lobster, which studies have indicated have already been negatively affected by fishing impacts. Future efforts, as deemed appropriate given the best available data, could include less-impacted species such as grunts and barracuda, and catch-and release species such as bonefish and permit.

- The two-day lobster sport season would be eliminated in the park.
- The use of an air supply or gear with a trigger mechanism while spearfishing would be prohibited.
- New commercial fisheries would not be allowed to develop within the Park. The Park would continue to allow commercial fishing within its borders, provided that the fisheries were established and occurring when the Park was expanded and established as a national park in 1980.
- Future growth in the number of commercial fishermen would be prevented. All commercial fishers would be required to purchase a limited-entry, Special Use Permit from the park Superintendent. The permit would be permanently non-transferable, would require annual renewal, and would be “use or lose”, such that a permit could not be renewed if: (1) it was not renewed the previous year, or (2) no catch was reported in the previous year.
- The park would seek to have FWC establish coral reef protection areas (CRPAs) to delineate coral reef habitat on which lobster and crab traps could not be deployed. Traps within the CRPAs could be moved outside CRPA boundaries by authorized FWC or Park staff, or other authorized personnel. Additionally, the trap number from traps observed within CRPAs would be recorded, and traps with three or more recorded violations could be confiscated from Park waters.
- The park would work to establish a trap-free zone north and east of park headquarters at Convoy Point in which deployment of commercial or recreational crab traps would not occur. The purpose of the zone would be to provide a natural viewscape for visitors viewing the park from the park Visitor Center, as well as to avoid conflicts with other recreational

activities (e.g., windsurfing, canoeing and kayaking) occurring in this high visitor-use area. Beginning at park headquarters, the zone would range north to the mouth of Mowry Canal (C-103), east to the spoil islands located near the mouth of Mowry Canal, southeast to the mouth of the marked channel leading to Homestead Bayfront Marina, and west along the marked channel back to park headquarters. The park and the FWC would work with industry to seek voluntary compliance with the trap-free zone; if unsuccessful, the park and the FWC would explore the possibility of establishing an official closure.

- The park would seek to establish an annual permit system for commercial guides operating in the park.
- The park would propose a no-trawl zone within Biscayne Bay, in which commercial shrimp trawling would be prohibited. This zone would serve to protect juvenile fish and invertebrates commonly caught as bycatch in trawls, as well as protect essential fish habitat.
- Shrimp trawlers would be subject to inspection by park staff to ensure that trawl gear is in compliance with FWC regulations. Up to two failed inspections would result in warnings to the permit-holder; a third failed inspection would result in termination of the commercial permit-holder's permit.
- Satisfaction of fishers would be maintained at or above 90%. If the level of satisfaction decreased below 90%, the park would make further efforts to identify characteristics of a fishing outing most important to providing a satisfying experience (i.e., through interviews and surveys), and make subsequent efforts to provide those characteristics (staff and funding dependent).

New regulations will be implemented through the federal rulemaking process (for federal rules) and through the FWC's rulemaking process (for park-specific state rules). The public will have the opportunity to comment on all proposed regulatory changes. Regulatory changes that would be implemented to meet these DFCs are expected to improve fisheries and habitat resources. No environmental harm is expected from the implementation of Alternative 4, and based upon a

review of the impacts; implementation of the selected alternative will not violate the NPS Organic Act.

Upon implementation of the selected alternative, the NPS will monitor responses of fisheries resources using both fisheries-dependent and fisheries-independent methods. By continuing to conduct surveys of recreational fishers in the park, the NPS will be able to assess changes in visitor satisfaction and the fishing experience of those visiting the park. NPS staff members also hope to obtain relevant information regarding the status of the park's fisheries resources from scientists and researchers from agencies and academic institutions conducting relevant studies within and around the park. Law enforcement rangers will continue to patrol the park and will be consistently enforcing any new regulations implemented under the FMP.

MITIGATION MEASURES TO MINIMIZE ENVIRONMENTAL HARM

Congress charged the NPS with managing the lands under its stewardship in such manner and by such means as will leave them unimpaired for the enjoyment of future generations (NPS Organic Act, 16 USC 1). As a result, the NPS routinely evaluates and implements mitigation whenever conditions occur that could adversely affect the sustainability of national park system resources.

Mitigation measures that will be implemented are outlined in detail in Attachment 2, Terms and Conditions of the National Marine Fisheries Service (NMFS) Biological Opinion. NMFS issued its Biological Opinion based on the review of impacts associated with the Biscayne National Park General Management Plan (GMP) and associated plans, including the Fishery Management Plan, which tier under the GMP.

OTHER ALTERNATIVES CONSIDERED

In addition to Alternative 4 (the Preferred Alternative), four other alternatives were considered during the planning process and analyzed for the potential impacts of actions on the environment. These alternatives are summarized below.

Alternative 1 – Maintain Status Quo

Alternative 1, the no-action alternative, serves as a basis of comparison with the other alternatives. Alternative 1 is characterized by continuing current fisheries management according to the park's enabling legislation, established NPS management policies and existing authorities, and in conjunction with state fishery regulations. No regulatory changes would be triggered by the establishment of the FMP. Regulatory changes would occur only if mandated by the FWC following their normal rule-making process, or through the federal regulatory and public review process.

Alternative 2 – Maintain At or Above Current levels

Under Alternative 2, a minor change from current management strategies would take place. Park fisheries resources and habitat conditions would be maintained at or above current levels. Recreational (per person) harvest (e.g., bag limits), numbers of commercial fishers, and fishing-related habitat impacts (those caused directly or indirectly by fishing activities) would be maintained at or below current levels. Additional park-specific regulations and management actions would be enacted only if park fisheries resources or recreational fishing experience decline, or if fishing-related habitat impacts increase, from current levels. Law enforcement staffing and enforcement strategies, as well as education and coordination efforts, would not change from current levels. Specific management measures would include:

- Fishery-targeted fish and invertebrates populations would be maintained at current levels. Park fisheries resources would not likely differ in abundance or average size from those outside the park unless populations decline in areas adjacent to the park. Park-specific management actions would be enacted only if populations or mean sizes in the park declined below current levels.

- Satisfaction of fishers would be maintained at or above 80%. If the level of satisfaction decreased below 80%, the park would make further efforts to identify characteristics of a fishing outing most important to providing a satisfying experience (i.e., through interviews and surveys), and make subsequent efforts to provide those characteristics (staff and funding dependent).
- New commercial fisheries would not be allowed to develop within the park. The park would continue to allow commercial fishing within its borders, provided that the fisheries were established and occurring when the park was changed from a national monument to a national park and subsequently expanded to its current boundary.
- Future growth in the number of commercial fishermen would be prevented. All commercial fishers would be required to purchase a limited-entry, Special Use Permit from the park Superintendent. The permit would be transferable and would require annual renewal for each year in which landings are reported.
- The park would seek to establish an annual permit system for commercial guides operating in the park.
- Shrimp trawlers would be subject to inspection by park staff to ensure that trawl gear is in compliance with FWC regulations. Up to two failed inspections would result in warnings to the permit-holder; a third failed inspection would result in termination of the commercial permit-holder's permit (see above).
- Management actions to reduce the level and impact of debris associated with recreational and commercial fisheries would be considered if an increase above current levels is observed. Such actions could include increased removal efforts by Park staff and partner groups, increased education efforts, or spatial closures. Additionally, the park would explore the feasibility and effectiveness of establishing a regulation to restrict traps from hardbottom habitat (staff and funding dependent).

Alternative 3 – Improve Over Current levels

Under Alternative 3, a moderate change from current management strategies would occur. Improvement from the current condition of park fisheries resources would be sought through

regulatory changes including moderate decreases in recreational harvest and limits on spearfishing. Numbers of commercial fishers would remain at current levels or decrease over time, and fishing-related habitat impacts would be reduced. This alternative would require implementation of new regulations governing fishing activities within the park.

Specific management measures would occur as follows. Unless differentiated below, this alternative would result in the same actions described in Alternative 2, as well as in the actions below:

- Management actions listed below would be enacted (in conjunction with the FWC) to increase the abundance and average size of fishery-targeted fish and invertebrates species within the park by at least 10% over current conditions and over conditions in similar habitat outside the park. Initially, these efforts would be focused on frequently harvested species such as grouper, snapper, hogfish, and spiny lobster, which studies have indicated have already been negatively affected by fishing impacts. Future efforts, as deemed appropriate given the best available data, could include less-impacted species such as grunts and barracuda, and catch-and release species such as bonefish and permit.
- Spearfishing would be limited to gear lacking a trigger mechanism (e.g., the Hawaiian sling model). The use of air-providing equipment (e.g., scuba and hookah) while spearfishing would be prohibited. These regulations are expected to improve fisheries resources by reducing the harvest of undersized fish, since park data reveal that spearfishers are more than twice as likely as anglers to take at least one undersized fish per trip, likely due to failure to correct for underwater magnification.
- Commercial fishers would be required to purchase a limited-entry, Special Use Permit from the park Superintendent. The permit in this alternative differs from that described in Alternative 2 in that the permit would be non-transferable for the first five years. Permits would require annual renewal, and would be “use or lose”, such that a permit could not be renewed if (1) it was not renewed the previous year, or (2) no catch was reported in the previous year.
- The park would work to establish a trap-free zone north and east of park headquarters at Convoy Point in which deployment of commercial or recreational crab traps would not occur. The purpose of the zone would be to provide a natural viewscape for visitors viewing the

park from the park Visitor Center, as well as to avoid conflicts with other recreational activities (e.g., windsurfing, canoeing and kayaking) occurring in this high visitor-use area. Beginning at park headquarters, the zone would range north to the mouth of Mowry Canal (C-103), east to the spoil islands located near the mouth of Mowry Canal, southeast to the mouth of the marked channel leading to Homestead Bayfront marina, and west along the marked channel back to park headquarters. The park and the FWC would work with industry to seek voluntary compliance with the trap-free zone; if unsuccessful, the park and the FWC would explore the possibility of establishing an official closure.

- The park would seek to have FWC eliminate the two-day recreational lobster sport season in the park to protect coral reef habitat from diver-related damage.
- The park would seek to have FWC establish coral reef protection areas (CRPAs) to delineate coral reef habitat on which lobster and crab traps could not be deployed. Traps within the CRPAs could be moved outside CRPA boundaries by authorized FWC or Park staff, or other authorized personnel.

Alternative 5– Restore Park Fisheries Resources

Under Alternative 5, a substantial change from current management strategies would occur. Substantial improvement in park fisheries resources status to conditions more representative of pre-exploitation levels and a further decline in fishing-related habitat impacts would be sought. Numbers of commercial fishers would decrease over time via establishment of a non-transferable permit system. Among the five alternatives, this alternative would require the most extreme changes to current fishing regulations within the park. Specific management measures would occur as follows. Unless differentiated below, this alternative would result in the same actions described in Alternative 4, as well as in the actions below:

- Management actions would be enacted (in conjunction with the FWC) to restore the abundance and average size of targeted fish and invertebrate species within the park to within 20% of historic, pre-exploited levels. As in Alternatives 3 and 4, these efforts initially would be focused on frequently harvested species such as grouper, snapper, hogfish, and spiny lobster, which studies have indicated have already been negatively affected by fishing

impacts. Future efforts, as deemed appropriate given the best available data, could include less-impacted species such as grunts and barracuda, and catch-and release species such as bonefish and permit

- All spearfishing would be prohibited within the park.

BASIS FOR DECISION

This record of decision has been developed in accordance with the policies and purposes of the National Environmental Policy Act of 1969, as amended (42 USC 4371 et seq.), which requires relevant environmental documents, comments, and responses be part of the record in making decisions. Furthermore, the act requires that the alternatives considered by the decision maker are encompassed by the range of alternatives discussed in the relevant environmental documents and that the decision maker consider the alternatives described in the environmental impact statement.

The National Park Service, in coordination with its cooperating agency, the Florida Fish and Wildlife Conservation Commission, has made the decision to implement Alternative 4, Rebuild and Conserve Park Fisheries Resources for its Fishery Management Plan. This alternative was identified as the ‘Preferred Alternative’ in the draft and final versions of the EIS. Public feedback and agency involvement did not result in substantive modification to the NPS preferred alternative, although public feedback and agency involvement did result in some changes to certain elements of the Preferred Alternative in the final EIS.

Although Alternative 5 was identified in the EIS as the “environmentally preferred alternative”, the NPS determined that Alternative 4 best balances resource protection and visitor use. Factors considered during alternative selection included: A) assessment of the direction and degree of environmental impacts to the park’s fisheries resources, given their current status, B) the ability of an alternative to equitably balance conservation, enjoyment and extractive uses of the park’s fisheries resources, C) impacts on recreational and commercial fishing, D) feasibility of successfully implementing regulations to achieve alternative goals, and E) socioeconomic

impacts. Factors A and B were weighted more heavily than the remaining factors. Following is a factor-by-factor summary of impacts under each alternative:

- The direction and degree of environmental impacts to fisheries resources

As discussed throughout the FMP EIS, the fisheries resources within the park are well-documented as having declined from their historical status, with many species under considerable fishing pressure. Some species are considered overfished or undergoing overfishing at the stock level. Furthermore, both the NPS and the FWC agreed that resources in a National Park should be held at a higher standard than in surrounding areas. Based on this information, the cooperating agencies agreed that Alternative 1 (Maintain Status Quo) would allow the park's already taxed fisheries resources to further degrade. Alternative 2 (Maintain at Current Levels) and Alternative 3 (Improve over Current Levels) were deemed insufficient to protect the park's declining resources and inadequate in ensuring that fishing could continue as a sustainable activity for this and future generations. Impacts to fisheries resources from Alternative 4 (Rebuild and Conserve Park Fisheries Resources) and Alternative 5 (Restore Park Fisheries Resources) were determined to have positive impacts and to be adequate for long-term resource protection. On the basis of current conditions of the park's fisheries resources and the direction and degree of environmental impacts to these resources, Alternatives 4 and 5 were deemed acceptable.

- Ability of an alternative to equitably balance conservation, enjoyment and extractive uses of the park's fisheries resources

Alternatives 1 and 2 heavily favor extractive use while Alternative 5 heavily favors conservation. Alternatives 3 and 4 each present a blend of resource use and protection, however Alternative 4 proposes actions that would ensure long-term protection and sustainable extractive activities, thereby promoting an equitable balance of conservation, enjoyment and extractive uses of the park's fisheries resources for this and future generations. Therefore, Alternative 4 was determined to result in the best and most equitable balance between conservation, enjoyment and extractive uses of the park's fisheries resources.

- Impacts to recreational and commercial fishing

In terms of fishing regulations, Alternative 1 represents the no-change action, with increasing regulatory requirements proposed for each subsequent alternative. Alternative 5 thus represents the alternative that would require the most stringent regulatory changes. Of the alternatives, Alternative 1 would have the smallest impact on present day recreational and commercial fishing while Alternative 5 would place the greatest restrictions on recreational and commercial fishing. Because the NPS is charged with managing resources for this and future generations, impacts of each alternative to future generations' fishing opportunities were also considered. Under Alternatives 1, 2 and 3, it is believed that resources would continue to degrade to such an extent that fishing could become an unproductive and not enjoyable activity for future generations. Alternatives 4 and 5 would require more stringent regulations, but would better maintain fisheries resources so that future generations could continue to successfully fish and enjoy fishing.

- Feasibility of successfully implementing regulations to achieve alternative goals

Because Alternative 1 would require no special regulatory changes, this alternative would be the simplest to implement. Among the action alternatives, Alternative 2 would require the fewest and least stringent regulatory changes and thus could be considered the most feasible in terms of successful implementation of regulations needed to achieve the alternative's goals. Each successive alternative would require increasingly stringent regulations which could be more difficult to establish and enforce. However, the cooperating agencies do not wish to forego necessary resource management actions that may be difficult to implement simply because less challenging options are available.

- Socioeconomic impacts associated with implementing each alternative

A thorough explanation of socioeconomic impacts can be found in Chapter 4 of the FEIS. Socioeconomic impacts considered include effects on the numbers of recreational and commercial fishers, the profitability of commercial fishers and guides, the suppliers of recreational and commercial fishers, and other components of the local and regional social and economic structure. Alternative 1 is the no-change alternative and thus would likely have a neutral effect on socioeconomics. Alternative 2 was also deemed to have a neutral effect because any potential long-term impacts to communities that support recreational and

commercial fishing could be balanced out by increases in the number of recreational fishers and the local and regional population. Due to potential implementation of regulations that would restrict the nature and/or quantity of commercial and recreational fishing activities in the park, Alternatives 3, 4, and 5 were each evaluated to have long-term adverse effects that would be minor in scope.

DESCRIPTION OF THE ENVIRONMENTALLY PREFERRED ALTERNATIVE

The environmentally preferred alternative is the alternative that causes the least damage to the biological and physical environment and best protects, preserves, and enhances historic, cultural, and natural resources. The “environmentally preferred alternative” is not to be confused with the “preferred alternative,” which indicates the alternative identified by the NPS to best balance resource protection and visitor use. Alternative 5 is determined to be the environmentally preferred alternative, based on its furtherance of the following national environmental policy goals:

- Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations

The no-action alternative (Alternative 1 - Maintain Status Quo) would likely result in further degradation of park fisheries resources. Each of the action Alternatives would result in management strategies and actions that would increasingly function to preserve park resources for succeeding generations. Because Alternative 5 seeks the greatest improvement in fishery resources over the long-term, it would best fulfill the responsibilities of each generation as trustees of the environment for succeeding generations.

- Assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings

Two issues addressed in the alternatives which affect the factors in this requirement are fishing-related habitat debris, which affects aesthetics, and the presence of a healthy, intact ecosystem with a full complement of its inherent benthic and motile taxa, which affects aesthetic, productivity, and cultural values. From a habitat debris standpoint, Alternatives 2-5 are roughly

equal in meeting this requirement, as all would result in increased efforts to reduce habitat debris if levels of debris increased over current levels. In terms of providing an intact ecosystem, Alternative 5 would do the most to restore the ecosystem in the park.

- Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences

For the fishery management plan, “uses of the environment” corresponds to the harvest or catch and release of fish and invertebrates from park waters, as well as recreational fishing experience. Alternative 1 (Maintain Status Quo) is least restrictive on recreational and commercial fishing activities, and thus allows for the widest range of beneficial uses of the environment (from a visitor experience and use standpoint). However, data suggest that historical and current levels of recreational and commercial fishing pressure, combined with habitat and water quality impacts, have negatively affected the fisheries resources in the park. Thus, Alternative 1 does not satisfy the portion of this requirement that states “without degradation, risk to health or safety, or other undesirable and unintended consequences.” Likewise, since Alternative 2 allows for current levels of fishery harvest, it does not meet the “without degradation...” requirement. Alternative 3 would result in moderate restrictions on fishing activity, thus still allowing considerable beneficial use of the environment, while likely satisfying the “without degradation” requirement. Alternative 4 would result in greater restrictions on fishing activity in the park while providing more environmental protection than Alternative 3. Alternative 5 (Restore Park Fisheries Resources) would result in the greatest restrictions on fishing activity in the park, while providing the highest environmental protection of the alternatives. Thus, Alternative 5 would provide for the widest range of beneficial uses of the environment while best minimizing degradation, risk of health or safety, or any other undesirable and unintended consequences.

- Preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice

Alternative 5 (Restore Park Fisheries Resources) would best preserve the natural aspects of the park’s marine environment through management of marine debris (identical in Alternatives 2-5, with the exception of the potential removal of lobster or crab traps from coral reef protected areas (CRPAs) in Alternatives 4 and 5) and by resulting, through strict fishery restrictions, in the

most unimpacted marine environment of all the Alternatives. None of the alternatives would directly affect historic or cultural resources.

- Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities

In Alternatives 1 and 2, management actions are deemed insufficient to offset increasing fishing pressure (resulting from increased population) that is as expected over time, ultimately resulting in diminished resource use and a marine ecosystem that is further impacted relative to current conditions. Alternatives 3 and 4 would both result in management actions that would begin to offset increasing fishing pressure, as well as improve existing conditions. Alternative 5 makes the most considerable steps to offset fishing pressure and return the park's fisheries resources toward unexploited levels. Thus, Alternative 5 goes the farthest in protecting fisheries resources and would best achieve a balance between population and resource.

- Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources

None of the alternatives address recycling of depletable resources. Since fishery populations could be considered a renewable resource, and since Alternative 5 goes farthest in protecting fisheries resources, Alternative 5 most fully satisfies this requirement.

PUBLIC AND AGENCY INVOLVEMENT

Public Meeting and Newsletters

Throughout the planning process, the planning team gathered public input on issues, proposed actions, and alternatives. Public involvement included public meetings, newsletters, updates via the park web site (<http://www.nps.gov/bisc>), and the park's FMP Working Group meetings.

These public involvement opportunities were used to identify the issues, alternatives, and impact topics to be considered for planning and to keep the public informed and involved throughout the planning process. Newsletters were issued in April 2002, March 2003, and August 2009. Public meetings were held in April 2002, May 2002, May 2003, and September 2009. Public comment periods were open from April 22 – June 17, 2002, March 14 - May 9, 2003, and August 5-

October 6, 2009, with comments received guiding FMP development/refinement and alternative selection.

Additionally, in response to public support for an advisory process, the park and the FWC requested in Fall 2003 that a Working Group be formed under the authority of the Florida Keys National Marine Sanctuary (FKNMS) Advisory Council (hereafter, SAC). The park's FMP Working Group consisted of recreational and commercial fishers, a marine-life collector, divers, scientists, resource managers, and members of the conservation community. The Working Group was formed to generate recommendations for the FMP and met for six full-day meetings during the period of January to October 2004. The meetings were administered by a professional facilitator, were open to the public, and included opportunity for public comment. During those meetings, the Working Group identified issues on which they thought the FMP should focus, and recommended fishery management goals and methods of accomplishing those goals (e.g., through regulatory changes and education). The Working Group finalized their recommendations in October 2004, and presented the recommendations to the SAC, which endorsed the recommendations and forwarded them under FKNMS Superintendent Signature to the park and the FWC. The recommendations of the Working Group were considered by the park during the development of alternatives. Many of the recommendations were incorporated, either intact or with modifications, into the park's Preferred Alternative.

Release of the Draft Fishery Management Plan / Environmental Impact Statement

The Biscayne National Park *Draft Fishery Management Plan / Environmental Impact Statement* was released in August 2009 for a 60-day public comment period ending October 6, 2009. Three public meetings were held on September 17, September 18, and September 19 in Florida City, Miami, and Key Largo, respectively. The purpose of these meetings was to review and discuss the draft plan and receive public input. Attendees included members of the general public and representatives of various agencies and organizations.

Public comments were solicited during the public meetings. Meeting attendees had several options for submitting their comments, as attendees were invited to speak on a microphone to the entire audience, relay comments to an NPS representative who could capture their concerns,

submit written comments during the meeting, or take home public comment forms which could be mailed in later. Newsletters were sent out in advance of the meeting to notify individuals of the dates and times of the public meetings. A media release was sent to local media outlets. Copies of the document were distributed by mail as well as provided at park Headquarters, posted on the Internet, and provided at the Homestead, South Dade Regional, and main Miami-Dade main libraries.

Comments were received via letter, verbal comments at meetings, and postings on the NPS Planning, Environment and Public Comment website. A total of 337 individual pieces of correspondence were received, including public and agency comments. Agency comments are included in Chapter 5 of the *Final Fishery Management Plan / Environmental Impact Statement*.

Agency Consultation and Coordination

Section 7 (a)(2) of the Endangered Species Act of 1973, as amended, requires that each federal agency, in consultation with the Secretary of the Interior, ensure that any action the agency authorizes, funds, or carries out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. The US Fish and Wildlife Service (USFWS) and NMFS were consulted multiple times during 2004 and 2005 regarding possible effects of actions in the preferred alternative on species listed as Threatened or Endangered under the Endangered Species. Additional consultation was sought in 2007 with special focus on marine species and critical habitats. Concurrence from USFWS was received and consultation was completed in November 2009. Formal consultation with NMFS was completed in September 2012 with the issuing of a Biological Opinion as part of a programmatic consultation that considered the impacts of the park's proposed General Management Plan (GMP) and all plans, including this Fishery Management Plan (FMP), which tier under the GMP. NMFS determined that implementation of the GMP is likely to adversely affect green, loggerhead, and hawksbill sea turtles but is not likely to jeopardize their continued existence. As part of the Biological Opinion, NMFS issued Terms and Conditions with which the NPS must comply in order to be exempt from liability for take of sea turtles and other protected species (Attachment 2).

In compliance with Section 106 of the National Historic Preservation Act of 1966 (16 USC 270, et seq.), the State of Florida Division of Historical Resources was consulted regarding possible effects of actions in the preferred alternative on historic properties. The State Historic Preservation Officer determined that actions in the preferred alternative will have no adverse effect on historic properties.

Partnership with Florida Fish and Wildlife Conservation Commission (FWC)

In the spring of 2001, representatives from the park briefed the FWC in Tallahassee regarding the results of a completed site characterization in the park and the need to develop a FMP to guide interagency decision-making concerning fisheries management in the park. Efforts to establish a Memorandum of Understanding (MOU) to cooperatively develop a FMP for the park began. Throughout the planning process, the Park periodically presented updates to the FWC commissioners.

An FMP Technical Committee was formed to guide development of the FMP. The Technical Committee was comprised of NPS national, regional and park representatives, FWC staff, Tennessee Valley Authority contractors, and ad hoc members representing the National Marine Fisheries Service, University of Miami – Rosenstiel School of Marine and Atmospheric Sciences, and the FWC-Florida Marine Research Institute.

On October 10th, 2002, the five-year MOU between NPS / Biscayne National Park and the FWC was finalized. The MOU outlined each agency's role, function and responsibilities in developing the interagency FMP for the park. The MOU was renewed for an additional five years in September 2007 and then again, although with minor changes, for an additional two years in October 2012.

On November 27-28, 2007, the park hosted a multi-agency science review meeting attended by representatives of the NPS, National Marine Fisheries Service Southeast Fisheries Science Center, FWC, and the University of Miami's Rosenstiel School of Marine and Atmospheric Science (RSMAS). This science review helped inform the development of the FMP Draft Environmental Impact Statement.

On August 17, 2010, the FWC's then Chairman, Rodney Barretto, signed a letter addressed to the park's then superintendent Mark Lewis entitled "Intent to initiate Commission rulemaking following approval of Fishery Management Plan Final Environmental Impact Statement by National Park Service". This letter not only indicated that the FWC intends to initiate Commission rulemaking following the acceptance of the Fishery Management Plan FEIS, but also reaffirmed the FWC's commitment to continue to work with the park as stipulated in the Memorandum of Understanding between the two cooperating agencies. On February 3, 2014, a second letter that was addressed to the current park superintendent Brian Carlstrom and entitled "Intent to initiate Commission rule making following approval of Fishery Management Plan Record of Decision issuance by National Park Service" was signed by FWC Chairman Richard Corbett and reaffirmed the FWC's intentions to continue working cooperatively with the NPS for fishery management within the park.

ATTACHMENT 1

DETERMINATION OF NONIMPAIRMENT FOR BISCAYNE NATIONAL PARK RESOURCES AND VALUES

DETERMINATION OF NONIMPAIRMENT

A determination of nonimpairment is made for each of the resource impact topics carried forward and analyzed in Chapter 4 of the *Final Fishery Management Plan / Environmental Impact Statement* for the NPS preferred alternative. While Congress has given NPS the management discretion to allow certain impacts within parks, that discretion is limited by the statutory requirement (enforceable by the federal courts) that NPS must leave park resources and values unimpaired, unless a particular law directly and specifically provides otherwise. Impairment is an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources and values, including the opportunities that otherwise would be present for the enjoyment of those resources or values. For example, a loss of fisheries resources within the park, due to overfishing at unsustainable levels, could be considered impairment since it would result in lost opportunities for enjoyment of fisheries resources (for both extractive and non-extractive activities) while drastically altering natural resource community composition.

Nonimpairment determinations are not necessary for visitor use and experience and park operations and facilities because impairment findings relate back to park resources and values. These impact areas are not generally considered to be park resources or values according to the Organic Act, and they cannot be impaired in the same way that park resources and values can be impaired.

Nonimpairment determinations have been made for each resource category, as described below:

Targeted Fish Species. Under Alternative 4, the abundance and mean (individual) size of populations of targeted fish species would be increased by 20% over current levels. The effects of increased human population growth, improved technology and increased recreational bycatch would be offset by management actions designed to increase park fishery populations by 20% over current levels. These actions geared at improving abundances and sizes of targeted species

by 20% could result in targeted species within the park being in better condition than those same species occurring outside the park if mean size and abundance remained at current levels or declined in areas outside the park, or to similar mean size and abundance within versus outside the park if mean size and abundance increased in areas outside the park. Various elements, including changes to species-specific regulations, limitations on spearfishing, the commercial permit system, and a no-trawl zone in the bay could each help improve the condition of targeted fish species by resulting in an increase in mean density or length of targeted fish populations. The preferred alternative will be beneficial to targeted fish species and therefore will not result in impairment.

Targeted invertebrate species. The elimination of the two-day lobster sport season, establishment of the commercial permit system, possibility of trap seizure from established Coral Reef Protection Areas, and the establishment of a no-trawling zone within Biscayne Bay could all result in positive impacts to targeted invertebrate species. Overall effects of actions in Alternative 4 on targeted (fished) invertebrate species would likely lead to slight increases for the foreseeable future in mean density (# per unit area) or mean size of individuals of invertebrate populations and therefore would not cause impairment.

Non-targeted fish and invertebrates. Overall effects of actions in Alternative 4 on non-targeted fish and invertebrate species would likely lead to minimal changes in mean density (# per unit area) of populations of non-targeted organisms, and minimal changes in community composition due to ecological cascades. Thus, these changes are concluded to be neutral and not causing impairment.

Benthic Habitats and Communities.

Coral Reef. The coral reef and the benthic organisms that comprise the reef can be affected both directly and indirectly by actions proposed under the FMP. Direct impacts include damage from five factors: (1) stone crab and lobster traps and trap debris, (2) hook-and-line debris, (3) snorkelers and divers, including lobster harvesters and spearfishers, (4) boat groundings on shallow reefs, and (5) anchor damage to reefs. Indirect impacts result from the harvest of targeted species from park waters, which in turn may affect reef community structure due to ecological cascades and phase shifts caused by removal of predators, prey, or competitors in the food web by fishing. In most cases, the effects of fishing via ecological cascades on coral reef

communities are very difficult to separate from the effects of other environmental factors, particularly if there are no comparable control sites for comparison where fishing is not allowed. Under Alternative 4, damage to coral reefs from traps, trap debris, and hook-and-line debris initially would be maintained at or below current levels (although damage could be reduced slightly if the number of commercial fishers decreased), and for factor 1 could be further reduced due to the establishment of CRPAs. Over a period of years, damage would likely decrease due to a decrease in the number of commercial fishers as a result of the permanently non-transferable commercial permit system. Ecological impacts in the form of ecological cascades due to the harvest of components of the marine food web would likely decrease moderately from current levels, as the abundance and population density of fished populations would be increased by 20% under the Preferred Alternative. Overall effects of actions on coral reefs would likely lead to an appreciable decrease in impacts for the foreseeable future and thus would not cause impairment of coral reefs.

The Bay. The benthic habitats of the bay and associated benthic organisms are affected by three main factors that may be altered in intensity through actions proposed in the alternatives. These factors are damage associated with: (1) roller-frame shrimp trawls, (2) blue crab and stone crab traps and trap debris, and (3) vessel groundings. Under Alternative 4, damage to benthic habitats of the bay from roller frame trawling would be reduced if the proposed no-trawl zone was created. Damage to benthic habitats from crab traps and trap debris would decrease over time due to the eventual phase-out of commercial fishing. The non-trap-deployment zone around park headquarters at Convoy Point would potentially decrease habitat damage associated with traps within the zone, but any traps that would have been in the zone would likely be re-deployed outside the zone, causing habitat damage there and balancing the decrease of habitat damage in the zone. Overall effects of actions in Alternative 4 on benthic habitats and associated benthic organisms of the bay would likely lead to a slight decrease in impacts to these habitats and associated organisms for the foreseeable future. Thus, implementation of Alternative 4 would not cause impairment on benthic habitats and associated benthic organisms of the bay.

Mangroves. Mangrove habitats would not be directly affected by actions in any of the alternatives. None of the actions proposed under Alternative 4 would affect the structure or function of mangrove habitats, and therefore would not result in impairment of mangrove resources.

Threatened and Endangered Species.

Florida Manatee. Manatees may be affected in two ways by actions occurring under one or more of the alternatives. First, manatees may be injured or killed from being hit by boats. A large proportion of manatees observed in the park have propeller scars on their “backs”. Second, behavior (*e.g.*, feeding or mating) of manatees may be affected by noise from combustion-powered boats, which may directly or indirectly affect individual or population health. However, most manatee sightings within the park occur during the winter months, which coincides with reduced recreational and guide fishing activity. Thus, this plan would have only minor effects on manatees. Under Alternative 4, manatees would continue to be negatively affected by boat traffic (via collision and disturbance) in the park. The number of commercial fishers would decline over time, due to the “forever non-transferable” commercial permit. This reduction in number of commercial fishers could likely result in a decrease in interactions between commercial vessels and manatees, although the effects of commercial fishers on manatees will be negligible since there are only a few commercial fishers operating in the park. The establishment of the permit system for commercial guides could result in minor decreases in the number of guides (if guides decided to fish elsewhere), and related decreases in manatee impacts via collision or disturbance. However, this effect could be offset if the remaining permitted guides increased their guiding activity, which would not be prohibited under the permit system or if the reduction in guides was equal to or less than increases in fishing activity related to area population growth. The discontinuation of the two-day spiny lobster recreational season would result in a decrease in numbers of boaters in park waters during those two days, and thus result in likely decreases in boat-manatee collisions and potential alterations of manatee behavior that directly affect individual or group population health. Overall, the effects of actions under Alternative 4 are likely to have a slight positive effect on manatee populations in the park for the foreseeable future. Thus, Alternative 4 would not cause impairment of manatees.

Sea Turtles. Sea turtles may be affected in three ways by actions managed under one or more of the alternatives. First, sea turtles may be injured or killed from being hit by boats. Second, feeding, mating and nesting behavior of sea turtles may be affected by noise from combustion-powered boats, directly or indirectly affecting individual or population health. Third, sea turtles may be injured or killed from fouling with fishing gear. For example, sea turtles may become tangled in the buoy lines of crab and lobsters traps, and subsequently drown. The effects of these

actions on sea turtles were reviewed by NMFS as part of their Threatened and Endangered Species Section 7 formal consultation. NMFS issued a Biological Opinion in which it was determined that the nature and extent of activities carried out in the park will result in “take” (which is broadly defined as the act of harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting, or attempting to engage in any such conduct) of sea turtles and that this take will occur under all alternatives. However, anticipated impacts will be at a level that will not jeopardize the continued existence of sea turtles. Implementation of the Terms and Conditions set forth in NMFS’ Biological Opinion (Attachment 2) will minimize the extent of take. Implementation of Alternative 4 (the Preferred Alternative) is expected to result in a reduction in impacts to sea turtles when compared to the environmental baseline. Under Alternative 4, sea turtles would continue to be negatively affected by boat traffic (via collision and disturbance) in the park. The number of commercial fishers would decline over time, due to the “forever non-transferable” commercial permit, resulting in reductions in interactions between commercial vessels and sea turtles, and in turtle-trap fouling interactions. The establishment of the permit system for commercial guides could result in minor decreases in the number of guides (if guides decided to fish elsewhere), and related decreases in boat-turtle interactions. However, this effect could be offset if the remaining permitted guides increased their guiding activity, which would not be prohibited under the permit system, or if park visitation increased, as it is likely to do. The discontinuation of the two-day spiny lobster recreational season and the plan to take action to maintain fishing gear-associated debris at or below current levels would have at worst a neutral effect on the frequency of turtle-trap fouling interactions, and possibly a positive effect (if debris densities were reduced below current levels). The creation of a no-trawl zone in the bay, as proposed in this alternative, could be beneficial to sea turtles by improving forage grounds within the zone. Because Leatherback and Kemp’s Ridley sea turtles are rarely seen in the park, these species would be less likely to be affected than Loggerhead, Hawksbill and Green sea turtles. Overall, the effects of actions under Alternative 4 are likely to have a slight beneficial effect on sea turtle populations in the park for the foreseeable future and thus would not cause impairment of sea turtle populations in the park.

American crocodile. Interactions with boats may alter the behavior (*e.g.*, feeding, mating, and nesting) of crocodiles, potentially resulting in negative impacts on the individual or population. Actions considered under the Preferred Alternative thus may affect populations of crocodiles in

the park by altering the numbers of boaters in park waters. Under Alternative 4, crocodiles may be affected by boat traffic (disturbance) in the park. The number of commercial fishers would decline over time, due to the “forever non-transferable” commercial permit. This reduction in number of commercial fishers would likely result in a decrease in interactions between commercial vessels and crocodiles, and thus a decrease in the potential alteration of behaviors affecting individual or population health. The establishment of the permit system for commercial guides could result in minor decreases in the number of guides (if guides decided to fish elsewhere), and related decreases in boat-crocodile interactions. However, this effect could be offset if the remaining permitted guides increased their guiding activity, which would not be prohibited under the permit system, or if park visitation increased, as it is likely to do. The discontinuation of the two-day spiny lobster recreational season would result in a decrease in numbers of boaters in park waters during those two days, and thus result in potential decreases in boat-crocodile collisions and alterations of crocodile behavior that directly affect individual or group population health. Overall, the effects of actions under Alternative 4 are likely to have a slight beneficial effect on crocodile populations in the park for the foreseeable future and would not cause impairment.

American alligator. None of the actions proposed under Alternative 4 would be expected to affect alligator populations in the park and therefore would not result in impairment of alligators.

Smalltooth sawfish. The primary factors affecting smalltooth sawfish within the park is bycatch from various fishing gear including hook-and-line and trawls. Gill nets have historically contributed to sawfish bycatch as well, but have been prohibited throughout state waters since 1995. Since smalltooth sawfish can be caught on hook-and-line, this species could be negatively affected if commercial and/or recreational hook-and-line fishing effort increased. Smalltooth sawfish can easily become entangled in netting gear directed at other commercial species, often resulting in serious injury or death. Since smalltooth sawfish can be entangled in netting gear, this species could be negatively affected by commercial trawling efforts. Assuming sawfish would be released following an accidental catch, the fish could still suffer stress and injury associated with being caught. Sawfish sightings and catch-and-release events in BISC are both very rare, although up to 30 catch-and-release events are reported annually in nearby Everglades National Park. An additional threat to smalltooth sawfish is habitat degradation, particularly with respect to changes in salinity, temperature and nutrient regimes resulting from

modifications of natural freshwater flows into estuarine and marine waters through construction of canals and other controlled devices. Under Alternative 4, the number of commercial fishers would decline over time, due to the “forever non-transferable” commercial permit. This reduction in number of commercial fishers would likely result in a decrease in commercial fishing activity, and therefore, a reduction in smalltooth sawfish bycatch. The establishment of the permit system for commercial guides could result in minor decreases in the number of guides (if guides decided to fish elsewhere), and related decreases in accidental catch of smalltooth sawfish. However, this effect could be offset if the remaining permitted guides increased their guiding activity, which would not be prohibited under the permit system, or if park visitation increased, as it is likely to do. Overall, the effects of actions under Alternative 4 are likely to have a slight beneficial effect on sawfish populations in the park and would not cause impairment of sawfish.

Acroporid corals and other stony corals proposed for listing. Because of their similar life-histories, habitat requirements, and threat susceptibility, *Acropora cervicornis* (staghorn coral), *A. palmata* (elkhorn coral), and all proposed stony corals are considered as a single group (termed “listed and proposed stony corals”) for analysis of environmental consequences of the alternatives. Listed and proposed stony corals can be affected both directly and indirectly by actions proposed under the FMP. Direct impacts include damage from five factors: (1) stone crab and lobster traps and trap debris, (2) hook-and-line debris, (3) snorkelers and divers, including lobster harvesters and spearfishers, (4) boat groundings on shallow reefs, and (5) anchor damage to reefs. 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. In most cases, the effects of fishing via ecological cascades on coral reef communities (and specific species) are very difficult to separate from the effects of other environmental factors, particularly if there are no comparable control sites for comparison where fishing is not allowed. Under Alternative 4, damage to listed and proposed stony corals from traps, trap debris, and hook-and-line debris initially would be maintained at or below current levels (although damage could be reduced slightly if the number of commercial fishers decreased), and for factor 1 could be further reduced due to the establishment of Coral Reef Protection Areas (CRPAs). Over a period of several years, damage would likely decrease due to a decrease in the number of commercial fishers as a

result of the permanently non-transferable commercial permit system. A reduction in spearfishing-related habitat damage could also be expected to result from the proposed restrictions on spearfishing, although this might be offset by a possible increase in snorkeling and diving activities in a no-take marine protected area, should one be created. Ecological impacts in the form of ecological cascades due to the harvest of components of the marine food web would likely decrease moderately from current levels, as the abundances and sizes of fished populations would be increased by 20% under this alternative. Overall effects of actions in Alternative 4 on listed and proposed stony corals would likely lead to a slight decrease in impacts for the foreseeable future. Thus, Alternative 4 would not cause impairment to listed and proposed stony corals.

Bottlenose dolphin. Individual and group behavior (including feeding) of bottlenose dolphins (*Tursiops truncatus*) can be negatively affected by combustion-powered boats. Thus, actions that would affect the number of combustion-powered boats have the potential to affect dolphins in the park. Under Alternative 4, the number of combustion-powered boats would be reduced through three possible mechanisms. First, the discontinuation of the two-day recreational lobster sport season would result in a marked decrease in boats in the park during that two-day period. Thus, considerably fewer boat-dolphin interactions would be expected on those two days. Second, the commercial fishing permit could lead to a decrease in the number of commercial fishers over time, reducing the amount of boat-dolphin interactions. This effect could be offset if the remaining commercial fishers increased their commercial fishing efforts. Third, the establishment of the permit system for commercial guides could result in minor decreases in the number of guides (if guides decided to fish elsewhere), and related decreases in boat-dolphin interactions. However, this effect could be offset if the remaining permitted guides increased their guiding activity, which would not be prohibited under the permit system, or if park visitation increased, as it is likely to do. Overall, the effects of the actions under Alternative 4 would likely result in a slight decrease for the foreseeable future in human activities likely to alter behaviors affecting individual or population health of bottlenose dolphins. Thus, Alternative 4 would not cause impairment of dolphin populations in the park.

Avifauna. Park avifauna may be affected in three ways by actions occurring under one or more of the alternatives. First, birds are often fouled by fishing gear (typically hook-and-line), which can impede feeding and movement and cause injury and death. Second, human activities may

alter avian behavior that directly affects individual or group population health. For example, combustion-driven boats may disturb bird nesting, roosting or feeding habitats. Third, many birds in the park utilize fish for food, and would be affected if actions in the alternatives affected target food populations. Although most fish species that are targeted by birds for prey are not also targeted by recreational or commercial fishers, it is possible that fishing efforts could indirectly affect populations of species that are preyed on by birds through ecological cascades. For non-fishery-targeted prey species, it is effectively impossible to predict how changes in fishing effort would be manifest via ecological cascades; thus this potential mechanism is not discussed in the analysis below. Recreationally and commercially targeted fish and invertebrate species that may be preyed on by birds are most likely targeted by birds during their juvenile stages; thus, if the abundance of adults of these fish and invertebrate species were reduced to such an extent that the number of their offspring (juveniles) was reduced, then bird species could be negatively affected. Additionally, roller-frame trawlers could reduce densities of prey species through harvest as bycatch, and ballyhoo fishers could reduce prey availability through direct harvest of available prey. The Preferred Alternative (along with all other alternatives) would not result in actions governed by the Migratory Bird Treaty Act [*i.e.*, the taking, (intentional) killing, possession, transportation, and importation of migratory birds, their eggs, parts and nests]. Under Alternative 4, the number of commercial fishers would decline over time, due to the “forever non-transferable” commercial permit. This reduction in number of commercial fishers would likely result in a decrease in roller-frame trawl-related bycatch and in a decrease in baitfish commercial harvest, potentially increasing the abundance of avifaunal prey. Similarly, the creation of a no-trawl zone in the bay, as proposed in this alternative, could improve avifaunal prey within that zone, although if trawling efforts were increased outside that zone, these beneficial impacts would be negated. The establishment of the permit system for commercial guides could result in minor decreases in the number of guides (if guides decided to fish elsewhere), and related decreases in disturbances of birds by boats. However, this effect could be offset if the remaining permitted guides increased their guiding activity, which would not be prohibited under the permit system, or if park visitation increased, as it is likely to do. The discontinuation of the two-day spiny lobster recreational season would result in a decrease (during those two days) of numbers of boaters in the park waters, and thus a likely decrease in alterations of avian behavior that directly affect individual or group population health. Overall,

the effects of actions under Alternative 4 are likely to lead to a slight beneficial effect for the foreseeable future on the avifauna of the park. Thus, Alternative 4 would not cause impairment of avifaunal populations in the park.

Ecologically Critical Areas. The function of habitats within the park as Essential Fish Habitat (EFH) or Habitat Areas of Particular Concern (HAPC) would not be considerably or significantly affected by the actions under any of the alternatives. While actions (or lack of actions) under each alternative could affect habitat quality or quantity, effects would be insignificant given the spatial coverage and quality of habitats within the park. The no-trawl zone, as proposed under the Preferred Alternative could lead to enhanced EFH for shrimp and many finfish. Therefore, no impairment would be anticipated.

ATTACHMENT 2

**TERMS AND CONDITIONS FOR EXEMPTION FROM LIABILITY FOR
TAKE PROHIBITED BY SECTION 9 OF THE ENDANGERED SPECIES
ACT**

**AS SET BY THE NATIONAL MARINE FISHERY SERVICE IN THEIR BIOLOGICAL
OPINION FOR THE BISCAYNE NATIONAL PARK FISHERY MANAGEMENT PLAN**

11.4 Terms and Conditions

In order to be exempt from liability for take prohibited by Section 9 of the ESA, BNP must comply with the following terms and conditions, which implement the RPMs described above. These terms and conditions are non-discretionary.

The following terms and conditions implement RPM No. 1.

BNP must require compliance with the most current careful release protocols including any updates to these requirements. BNP must include information specifying handling and/or resuscitation requirements that fishers must implement for any sea turtles taken, as stated in 50 CFR 223.206(d)(1-3), as mandatory conditions of the NPS Special Use Permits issued to commercial fishermen and recreational boaters. The conditions in the recreational boating permits are applicable only if the permittees engage in fishing activities in the Park.

BNP must also require as mandatory conditions of the NPS Special Use Permits that all fishermen take the following actions to safely handle and release an incidentally caught smalltooth sawfish:

- Leave the sawfish, especially the gills, in the water as much as possible.
- Do not remove the saw (rostrum) or injure the animal in any way.
- Remove as much fishing gear as safely possible, from the body of the animal.
- If it can be done safely, untangle any line wrapped around the saw.

BNP will display educational signage regarding smalltooth sawfish (<http://www.flmnh.ufl.edu/fish/education/sawfishsign.pdf>) wherever practical on BNP property, including along the jetty/boardwalk areas of Convoy Point and Black Point, explaining the possibility of their capture by hook-and-line and spiny lobster traps, and what to do in the event of a hooking or entanglement within BNP.

BNP will also suggest to Miami-Dade County officials that they install similar signage at all marinas and vessel entry points that are owned/operated by the county. This signage must identify the telephone and e-mail contact information where an individual may report a sawfish incidental capture or sighting to the National Sawfish Encounter Database.

BNP will also display educational signage regarding sea turtles ([http://sero.nmfs.noaa.gov/sf/pdfs/Sea Turtle Release Protocols April2011.pdf](http://sero.nmfs.noaa.gov/sf/pdfs/Sea_Turtle_Release_Protocols_April2011.pdf)) wherever practical on BNP property, including along the jetty/boardwalk areas of Convoy Point and Black Point, explaining the possibility of their capture by hook-and-line and spiny lobster traps, and what to do in the event of a hooking or entanglement within BNP.

BNP will also suggest to Miami-Dade County officials that they install similar signage at all marinas and vessel entry points that are owned/operated by the county.

The signs must warn anglers to avoid casting in the direction of sighted sea turtles, to avoid the possibility of their capture.

Signs must clearly display the 24-hour phone number for the Florida Sea Turtle Strandings Hotline [1-888-404-3922] and e-mail (Allen.Foley@MyFWC.com). Signs should clearly direct anglers to immediately call the Florida Sea Turtle Strandings Hotline to report any turtle catch and request assistance if necessary.

BNP will install monofilament recycling bins and educational signage wherever practical on BNP property, including along the jetty/boardwalk areas of Convoy Point and Black Point to reduce the risk of turtle or sawfish entanglement in or ingestion of marine debris within BNP.

BNP will also suggest to Miami-Dade County officials that they install similar bins and signage at all marinas and vessel entry points that are owned/operated by the county.

Monofilament recycling bins must:

Be constructed and labeled according to the instructions provided at:

<http://mrrp.myfwc.com/media/1517/MRRPProtocol.pdf>.

Be maintained in working order and emptied frequently so that they do not overflow.

The following terms and conditions implement RPM No. 2

BNP will coordinate with the STSSN and State of Florida to monitor sea turtle strandings. If stranding trends show a significant increase in spiny lobster trap gear and/or hook-and-line related strandings, this may represent new information that would require reinitiation of Section 7 consultation.

BNP, in collaboration with the SEFSC, must submit STSSN stranding reports (which will be forwarded to NMFS by the STSSN), including the information below, that show evidence of trap and/or hook-and-line gear entanglements of sea turtles to NMFS by May 1 of each year.

The STSSN report must include information on: species, sex, date (day, month, and year), location where the take occurred (latitude and longitude, if possible) the animal condition and disposition, and the curved and/or straight carapace length (when available).

These reports must be forwarded to the Assistant Regional Administrator for Protected Resources, Southeast Regional Office, Protected Resources Division (PRD), 263 13th Avenue South, St. Petersburg, Florida 33701.

BNP will include, as mandatory conditions of its Special Use Permits for commercial fishing and boating, that permit holders report any accidental hooking or other incidental fishing interaction with sea turtles or sawfish, or any accidental vessel strike of a sea turtle, resulting from their permitted activity.

The following terms and conditions implement RPM No. 3

BNP will enforce the slow speed zones and will attach the Vessel Strike Avoidance Measures (enclosed) to the NPS Special Use Permits.

BNP will display educational materials wherever practical on BNP property, including along the jetty/boardwalk areas of Convoy Point and Black Point, alerting boaters to the presence of sea turtles and educating them regarding the effects of vessel strikes.