

The Florida Coastal and Ocean Coalition

Caribbean Conservation Corporation & Sea Turtle Survival League •
Environmental Defense • Natural Resources Defense Council • Reef Relief •
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August 23, 2007

Via Electronic Transmission/Original by US Mail

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

Re: Expiration of Biscayne National Park Memorandum of Understanding

Dear Ken,

On behalf of the Florida Coastal and Ocean Coalition¹, we are writing to follow up on our recent meeting with your staff on coastal issues and ecosystem-based management of Florida's marine resources. Specifically, we would like to get your assessment of the FWC's accomplishments related to the Memorandum of Understanding (MOU) between the FWC and the National Park Service pertaining to managing marine species and other aquatic resources within Biscayne National Park (BNP). As you know, the referenced MOU is due to expire in October 2007, and we understand that it will be a topic for discussion at the next FWC Commission meeting in September. Consequently, in order to prepare for that discussion, and any subsequent decision on whether it will be renewed, we would like to have a better understanding of the progress and accomplishments that have been made pursuant to the MOU over the past five years.

The stated purpose of the MOU is to "facilitate the management, protection and scientific study of fish and aquatic resources" within BNP by improving communication, cooperation and coordination between FWC and BNP. The MOU acknowledges that BNP was created by Congress "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," and where "excellent opportunities are provided for fishing, snorkeling, scuba diving, boating, canoeing, kayaking, windsurfing and swimming." MOU, Article I.

¹ The Florida Coastal and Ocean Coalition (Coalition) is a group of environmental, civic and outdoor organizations working together to conserve, protect and restore Florida's coastal and marine environment. The Coalition promotes state and federal action to curb unwise coastal development and protect coastal and marine habitats, implement and enforce coastal and ocean pollution laws, protect marine ecosystems, ensure robust and plentiful fisheries and marine species, reduce global warming pollution, and strengthen coastal and ocean governance in Florida. The Coalition emphasizes the implementation of an ecosystem-based approach to coastal and ocean management, as well as recognition of the important linkage between the health of Florida's economy and the health of its beaches and dunes, coral reefs, mangroves, sea grasses, wetlands and other natural resources.

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In 2001, scientists at the University of Miami and the NOAA Southeast Fisheries Science Center published the report “*Site Characterization for Biscayne National Park: Assessment of Fisheries Resources and Habitats*,” (hereinafter, “BNP Report”), pursuant to a contract with BNP. The findings of the BNP Report revealed, *inter alia*, that: the average size of black grouper is now 40% of what it was in 1940 and the spawning stock is less than 5% of its historical unfished maximum; many reef fish species (snapper, grouper and grunt) in BNP are overfished; the current level of fishing mortality for grouper stocks range from 3 to 10 times the exploitation level that would achieve MSY; and, exceptionally high and sustained exploitation pressures have precipitated “serial overfishing” of key fishery resources. In addition, as much as 70% of yellowtail and mutton snapper catches observed during creel studies in the Park were below the minimum size set for legal harvest. See, BNP Report, pp. 78-80.

The 2001 Study concluded: “Inadequate enforcement and knowledge of fishery regulations . . . and the extremely poor status of reef fish resources (BNP is the worst situation in the entire Keys) signals eminent (*sic.*) resource collapses. . . . The qualities that make BNP and the Florida Keys such venerable tourism and fishing destinations are eroding. Clearly, without some type of immediate proactive fishery management in BNP, collapse of many important fisheries resources is imminent.” Id., at pp. iv-v.

The condition of the marine resources in BNP were described by the Park’s Science Research Coordinator, Richard Curry, in a 2004 Washington Post article, *Limits of Ocean Preservation Being Tested*: “The whole system is in jeopardy - there’s no question.”

In light of the dire assessment of marine resources in BNP, the FWC and BNP developed the MOU to “facilitate the management, protection and scientific study of fish and aquatic resources” within the Park, which has now been in effect for five years. In the MOU, the FWC and BNP agreed to (among other things):

- Jointly evaluate the commercial and recreational harvest of fishery resources within the Park, including a full review of all commercial and recreational fishery practices, harvest data, permitting requirements, techniques and other pertinent information for the purpose of determining to what extent mutually agreed upon fishery goals are being met within the park and to determine what additional management actions, if any, are necessary to achieve stated management goals.
- Review and coordinate, on an annual basis, proposals for fisheries and aquatic resources management, research, inventory and monitoring within the Park and

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Biscayne Bay. 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.

- 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.
- Develop a comprehensive fisheries management plan for the long-term management of fish and aquatic resources in 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.
- The FWC will assign staff, including those from the [FWRI], 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.

In anticipation of what we expect will be a significant discussion about the ultimate decision over the future direction of the MOU in managing the marine resources in BNP², we would like to get a public accounting of what the FWC has accomplished over the past five years to address the situation at Biscayne National Park. While we understand that managing marine resources in BNP is a joint effort with the NPS, we are also aware that the state of Florida has retained authority for managing these public trust resources in a significant portion of the Park. Consequently, we expect the FWC to fulfill its legal duty to address the chronic overfishing situation in the entire area around BNP, including the Biscayne Bay State Aquatic Preserve, which is immediately adjacent and contiguous to BNP to the north and south. As you may know, Biscayne Bay State Aquatic Preserve was designated by the Florida Legislature to protect state lands that have “exceptional biological, aesthetical and scientific value . . . [to] be set aside forever as aquatic preserves or sanctuaries for the benefit of future generations” and “maintained essentially in its natural or existing condition.” Fla. Stat. § 258.36 (2007); Fla. Admin. Code Ann.18-20.001 (2007).

² We look forward to this discussion about the future direction of the MOU and, as part of that discussion, anticipate providing comments about changes we would like to see in MOU.

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It would be especially helpful to get a summary, overview, or description of results of the specific bullet points listed above that were specified in the MOU as being the responsibility of the FWC. This information would be useful in allowing us to inform our members, constituents and colleagues about the progress the FWC has made over the past five years under the MOU, and the results that we can expect if it is contemplated to be extended into the future.

Thank you in advance for your anticipated cooperation.

Sincerely,

Gary Appelson – Caribbean Conservation Corp.

Sarah Chasis, J.D. – Natural Resources Defense Council

Ericka D'Avanzo – Surfrider Foundation

Michelle Duval, Ph.D. – Environmental Defense

Paul Johnson – Reef Relief

David White, J.D. – The Ocean Conservancy

cc: FWC Commissioners
Mark Robson, FWC
Mark Lewis, NPS
Mike Sole, DEP
Distribution