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April 15, 2005

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

VIA E-Mail [fknms5yearreview@noaa.gov]

RE: FKNMS 5 Year Review

Dear Mr. Causey:

The National Marine Manufacturers Association (NMMA) appreciates the opportunity to present the National Marine Sanctuary Program (NMSP) with the following comments on the Florida Keys National Marine Sanctuary Draft Revised Management Plan (Feb. 2005). This management plan details the implemented strategies initiated pursuant to the 1997 Final Management Plan and Environmental Impact Statement, and it charts the Sanctuary's upcoming management strategies, including scientific research, community involvement, education, and vessel regulations. The management plan's objective is to evaluate ongoing activities utilized in the protection of Sanctuary resources and refocus future actions based on previous experiences and outcomes.

NMMA is the nation's largest recreational marine industry association, representing more than 1,500 boat builders, engine manufacturers, and marine accessory manufacturers. NMMA members collectively produce 80 percent of all recreational marine products made in the United States, including boats, engines, and marine accessories and components. With 13 million registered boats and almost 72 million boaters nationwide, the recreational boating industry contributes \$30 billion and 400,000 jobs annually to our nation's economy.

The Florida Keys National Marine Sanctuary (FKNMS) provides a premier national recreational boating destination and NMMA supports the efforts of the National Marine Sanctuary Program to preserve the resources in the Sanctuary for use by future generations of recreational boaters. NMMA supports marine environment preservation and understands that vibrant natural ecosystems greatly enhance FKNMS enjoyment. Our members, however, want to ensure that the National Marine Sanctuary Program gives recreational boating and fishing activities due consideration and does not unduly restrict such activities. To that end NMMA offers the following comments on the FKNMS Draft Revised Management Plan:

The Florida Keys Marine Sanctuary Supports a Thriving and Important Boating Community

Floridians and tourists are drawn to the Florida Keys and the Marine Sanctuary largely because of the beauty and recreational activities that the Sanctuary provides. The marine industry that serves these boaters is also a vital component of Florida's economy, representing 180,000 jobs and approximately 900,000 registered boats. Florida ranks first in the nation in sales of new powerboat, motor, trailer and boat accessory purchases totaling \$1.5 million for 2003.

NMMA is principally concerned with management options that directly impact FKNMS boating access and enjoyment. Pursuant to the plan's principal goal of maximizing sustainable public use and enjoyment, Sanctuary managers should avoid severe boating impediments such as zones that significantly limit or prohibit recreational boating, idle-speed only zones, and bait-fishing prohibitions, unless scientific data unequivocally indicates the necessity of such measures. Sanctuary regulations should never unduly limit boating activities. NMMA thus supports intensified scientific research in the Sanctuary and believes that sound science should guide management decisions. NMMA additionally supports FKNMS community involvement and education as means to facilitate voluntary public regulatory compliance and respect for Sanctuary resources. NMMA also believes that effective enforcement of existing regulations should precede more onerous regulations.

Regulations Concerning Vessel Access, Allowed Activities, and Speed Should Maximize Sustainable Public Use and Enjoyment

The FKNMS Draft Revised Management Plan provides that the existing boundaries of marine zones that variously prohibit or impede public access will be scientifically evaluated and boundary lines will be adjusted as dictated by these assessments.¹ NMMA commends Sanctuary managers for prioritizing this activity. NMMA is concerned, however, that shifting protected zone boundaries and establishing new zones may significantly impede boating access and recreation. NMMA requests that Sanctuary managers properly consider the impact shifted boundaries will have on boating operations and safety prior to any modifications. NMMA additionally finds some of the language concerning particular protected area assessments troubling. Two of the strategies provide that "[b]oundary changes may also be appropriate in areas where use conflicts occur or enforcement is problematic."² NMMA requests that the Sanctuary managers further elucidate the rationale for this inquiry and how "use conflicts" or "enforcement" impact zone boundaries.

In addition to inquiring into boundary demarcations, the Management Plan provides for comprehensive evaluation of allowed activities in existing zones and responsive regulatory

¹ Strategy Z.1 Sanctuary Preservation Areas, Activity 3, (p. 152); Strategy Z.2 Ecological Reserves, Activity 3, (p. 156); Strategy Z.3 Special-Use Areas, Activity 3, (p. 160); Strategy Z.4 Wildlife Management Areas, Activity 2, (p. 162).

² Strategy Z.1 Sanctuary Preservation Areas, Activity 3; Strategy Z.3 Special-Use Areas, Activity 3.

action.³ NMMA encourages such scientific evaluations and requests that these studies include comparative data to ensure that protective zones do not include recreationally prohibitive measures without adequate justification. NMMA emphasizes that these studies should further distinguish consumptive recreational activities, such as fishing, from non-consumptive travel through zones. Sound science should guide management decisions regarding allowed activities and decisions should strive to achieve the goal of optimum sustainable use.

Current regulations prohibit “vessel speeds greater than idle speed in areas designated as idle-speed only / no-wake, and within 100 yards of navigational aids indicating emergent or shallow reefs.”⁴ NMMA requests thorough scientific review of the effectiveness and necessity of this regulation. Specifically, NMMA requests that the Sanctuary consider such modifications as allowing moderate boat speeds in combination with more clearly demarcated channel and reef markings.

The Management Plan provides that Sanctuary managers will consider regulatory alternatives concerning personal watercraft vehicles over the next two years.⁵ These regulatory alternatives, however, reference the operation of *all vessels* in the Sanctuary.⁶ The Management Plan provides five options. The first option is the status quo – no action beyond activities implemented in other action plans.⁷ The second option establishes “a 400-yard, point-to-point travel corridor from shorelines where repeated high-speed maneuvers for *all vessels* would be restricted.”⁸ The managers would implement this option in addition to the existing idle-speed requirements for activities within 100 yards of residential shorelines, and boaters would then operate vessels beyond the 400 yards in a “reasonable and prudent manner.”⁹ The third option establishes No-motor Zones in shallow water areas to “manage natural-resource impacts from *all vessels*.”¹⁰ The fourth option is similar to option two in that it establishes “a 400-yard, point-to-point travel corridor from shorelines where repeated high-speed maneuvers for *all vessels* would be restricted.”¹¹ This corridor would again be implemented in addition to the existing idle-speed requirements for activities within 100 yards of residential shorelines; however, the option does not refer to a requirement that vessels be operated in a reasonable and prudent manner beyond the 400 yards.¹² The option may further be distinguished from option two in that it proposes the placement of regulatory markers offshore from particular residential areas. The fifth option and final option proposes the prohibition of all personal watercraft vehicles within the FKNMS.¹³

³ Strategy Z.1 Sanctuary Preservation Areas, Activity 4, 7 (p. 152, 153); Strategy Z.2 Ecological Reserves, Activity 4, 7 (p. 157, 157-58); Strategy Z.3 Special-Use Areas, Activity 4, (p. 160); Strategy Z.4 Wildlife Management Areas, Activity 3, 6 (p. 163).

⁴ Strategy R.2, Regulatory Review and Development, Activity 1 (p. 98).

⁵ Appendix G – Vessel Operations / PWC Management Regulatory Alternatives (p. 361), referenced by Strategy R.2, Regulatory Review and Development, Activity 5 (p. 100).

⁶ See *id.*

⁷ *Id.*

⁸ *Id.* (emphasis added).

⁹ *Id.*

¹⁰ *Id.* (emphasis added).

¹¹ *Id.* (emphasis added).

¹² See *Id.*

¹³ *Id.*

This final option further mentions that the Sanctuary managers are likely to propose the prohibition of “all vessels in less than two feet of water in the Sanctuary” during the upcoming NEPA process.¹⁴

NMMA supports the “status quo” option regarding Sanctuary vessel operation, and we specifically oppose three of the listed options. NMMA opposes options two and four, which restrict vessel travel to a 400-yard, point-to-point travel corridor between shorelines, because such restrictions are unnecessary additions to the existing residential shoreline regulations. NMMA requests detailed and credible scientific justifications for these alternatives, and requests information regarding the precise placement of such proposed corridors. NMMA further opposes option three’s comprehensive establishment of “No-motor Zones” in shallow Sanctuary waters. Such measures have the potential to significantly impede boating access and recreation in the FKNMS. NMMA requests that sound and transparent scientific research precede any shallow water restrictions (including the likely forthcoming vessel prohibition in areas of less than two feet of water) and that the Sanctuary managers give recreational boating and fishing activities due consideration prior to the enactment of further restrictions.

The Sanctuary Should Continue its Support of Sustainable Bait-Fishing Activities

The FKNMS Draft Revised Management Plan provides that current assessments are underway to determine whether regulations should be amended to eliminate the provision that allows bait fishing in Sanctuary Preservation Areas.¹⁵ The following alternatives will be considered after the assessment is completed: “(1) Status quo, no changes to Sanctuary regulations, (2) promulgate regulations to prohibit bait fishing in all zoned areas except for the Sanctuary Preservation Areas where catch and release trolling is currently allowed..., or (3) promulgate regulations to eliminate bait fishing in all Sanctuary Preservation Areas.”¹⁶ NMMA supports the status quo option with respect to Sanctuary bait-fishing and ardently opposes the recommended blanket bait-fishing prohibition. If the Sanctuary managers choose to restrict bait-fishing, then these regulatory revisions must stem from sound scientific research. Given the importance of bait fishing to the local economy, the Sanctuary managers should only use transparent and peer-reviewed science to justify bait-fishing restrictions. The public must have access to the parameters, assumptions, and conclusions of any such research, and independent third parties should review this data. Studies should additionally be of sufficient length and depth to isolate fishing impacts from the natural variability of marine ecosystems and other human-based impacts, such as pollution.

¹⁴ Id.

¹⁵ Strategy R.2 Regulatory Review and Development, Activity 13, (p. 102).

¹⁶ Id.

Clearly Demarcated Boundaries Facilitate Voluntary Regulatory Compliance

The FKNMS Draft Revised Management Plan provides for the evaluation of boundary demarcations and buoy positions may be altered to more clearly delineate zones.¹⁷ NMMA supports these evaluations and believes that clearly demarcating channel boundaries is a strategy that will facilitate voluntary regulatory compliance.

The Management Plan also proposes surveying the damage from propeller scarring and vessel groundings to design and improve waterway marking schemes and assessing the effectiveness of the channel marking master plan.¹⁸ NMMA supports these proposed evaluations.

Additional Sanctuary Mooring Fields Enhance Public Enjoyment

The FKNMS Draft Revised Management Plan proposes new mooring fields at Blackwater Sound, Community Harbor, Pine Channel, and other areas determined to be feasible.¹⁹ NMMA strongly encourages the establishment of these mooring fields, as they will enhance public enjoyment of the Sanctuary.

Intensified Research and Zone Monitoring Spawns Scientifically Sound Regulations

The FKNMS Draft Revised Management Plan proposes intensified scientific research and monitoring in the FKNMS. These activities include research permitting with nongovernmental entities;²⁰ funding public research;²¹ supporting publication in peer-reviewed journals;²² and baseline monitoring.²³ NMMA supports these measures. NMMA recognizes that sound science resulting from rigorous investigation begets more informed and transparent management decisions. Similarly, baseline monitoring makes management more responsive to Sanctuary needs and allows informed evaluation of management strategies.

The Management Plan also proposes increased studies regarding the environmental impacts of pesticides, wastewater, and other pollutants.²⁴ NMMA supports these research activities and coordinating them with pollution discharge monitoring and rehabilitation strategies.²⁵ NMMA requests that these studies be utilized to flesh out the impacts of particular inputs from the “background noise” of natural variability. As scientists isolate the culprits responsible for

¹⁷ Strategy Z.1 Sanctuary Preservation Areas, Activity 1, (p. 151); Strategy Z.2, Ecological Reserves, Activity 1 (p. 155-56); Strategy Z.3, Special-use Areas, Activity 1, 3 (p. 159); Strategy Z.4, Activity 1 (p. 162).

¹⁸ Strategy B.4 Waterway Management / Marking, Activity 2, 4, 5, 6 (p. 177).

¹⁹ Strategy L.1, Elimination of Wastewater Discharge from Vessels, Activity 4 (p. 202).

²⁰ Strategy B.11 Issuance of Sanctuary Research Permits, Activity 1 (p. 27).

²¹ Strategy Z.4 Wildlife Management Areas, Activity 5 (p. 163).

²² Strategy W.29 Dissemination of Findings, Activity 5 (p. 29).

²³ 3.1.2 Research and Monitoring Action Plan (p. 34).

²⁴ Strategy W.18 Conducting Pesticide Research (p. 52); W.22 Assessing Wastewater Pollutants Impacts (p. 53); Strategy W.23 Researching Other Pollutants and Water Quality Issues (p. 54).

²⁵ See Strategy W.3, Addressing Wastewater Management Systems, (p. 190); Strategy W.5 Developing and Implementing Water Quality Standards (p. 193); Strategy W.7 Resource Monitoring of Surface Discharges (p. 194); Strategy W.11 Stormwater Retrofitting (p. 196).

identified ecosystem degradations, management schemes should be modified in a manner that allows maximum levels of sustainable use. For instance, if pesticides are identified as the primary contributor to a particular area's environmental decay, then restricting boating access would not be a scientifically valid response to the problem.

The Management Plan proposes activities that monitor, evaluate, and report on the effectiveness of various marine zones.²⁶ These evaluations will determine the effectiveness of the varying levels of protection as means to achieve conservation and the sustainable use of marine resources. NMMA supports the marine zone monitoring activities and particularly supports the goal of determining the effectiveness of varyingly protected marine zones. NMMA cautions, however, that such studies should not be improperly used to justify unduly FKNMS boating restrictions. Regulations such as uniform public prohibition from marine zones may ensure a measure of wildlife protection; however, the Management Plan repeatedly provides that a primary management goal is *maximizing sustainable public use and appreciation* of the Sanctuary's beautiful vistas.²⁷ Marine Zone Monitoring data should thus be complemented by intense socioeconomic research, such as those provided in Strategy W.36.²⁸ NMMA implores the Sanctuary managers to consider the economic impact of disallowing various public uses in given zones and compare the quantitative environmental benefits with the potential harm inflicted by various recreational activities. NMMA requests that the Sanctuary managers comment on whether Marine Zone Monitoring and Socioeconomic Research carry the genuine possibility of increasing boating access in restrictive zones (i.e. will the Sanctuary Program react in a pro-access manner if the data dictates that response).

Community Involvement Facilitates a Healthier Sanctuary

The FKNMS Draft Revised Management Plan proposes various initiatives to involve the community in Sanctuary preservation efforts. These initiatives include distributing information regarding Sanctuary health and involving the public in Sanctuary rehabilitation. The NMMA supports the community involvement proposals, because such activities facilitate a healthier Sanctuary. Recreational boaters appreciate the Sanctuary's unique environment and maintain heightened interest in the status of sensitive habitats and the effectiveness of marine zoning. Greater public awareness of the particular issues facing the Sanctuary will spawn interest and alert the boating community to ways it can aid the Sanctuary's protection.

A handful of the proposals appear especially promising. NMMA strongly support public dissemination of "State of the Sanctuary" reports, which would provide current information regarding "water quality, critical habitats, and species of particular interest."²⁹ NMMA also supports the continuance of volunteer monitoring programs so those with shared interests can be

²⁶ Strategy Z.6 Marine Zone Monitoring (p. 42); Strategy Z.1 Sanctuary Preservation Areas, Activity 6 (p. 153); Strategy Z.2 Ecological Reserves, Activity 6, (p. 157); Strategy Z.3 Special-Use Areas, Activity 7 (p. 161); Strategy Z.4 Wildlife Management Areas, Activity 5 (p. 163).

²⁷ The Draft Sanctuary Management plan repeatedly lists "sustainable use" as a primary goal. See pp. 42, 44, 61, 147, and 242.

²⁸ Strategy W.36 (p. 44-45).

²⁹ Strategy W.29, Dissemination of Findings, Activity 1, (p. 28).

brought together.³⁰ The Reef Medics program particularly provides a unique opportunity for boating enthusiasts and environmental groups to work together towards the preservation and restoration of unique Sanctuary resources.³¹ NMMA likewise supports the Adopt-A-Reef and habitat restoration programs and desires heightened involvement.³² NMMA requests that it be made aware of these activities so that its members may disseminate information regarding the program.

Education Increases Voluntary Regulatory Compliance

The FKNMS Draft Revised Management Plan proposes several education initiatives. The Management Plan provides for the publication of information regarding “valid and emerging resource concerns to the public.”³³ It proposes for making educational materials available at marinas, including approved clean-up methods, locations of pump-out facilities, and trash receptacles.³⁴ The Management Plan also provides for the development and implementation of a public education program regarding minimizing pollution discharges from vessels.³⁵ NMMA supports these Sanctuary education programs, because education significantly increases voluntary regulatory compliance.

Effective Enforcement of Existing Regulations Should Precede More Onerous Regulations

The FKNMS Draft Revised Management Plan proposes various efforts to require and train new enforcement personnel.³⁶ NMAA believes that the effective enforcement of existing laws must precede the implementation of more onerous regulations. NMMA thus applauds efforts to acquire additional well-trained enforcement officers and enhance enforcement agency coordination.

Again, NMMA appreciates the opportunity to comment on the Draft Revised Management Plan. Please do not hesitate to contact Cindy Squires, Esq. (csquires@nmma.org; 202-737-9766) if you have any questions.

Respectfully submitted,



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³⁰ Strategy W.33 Ecological Research and Monitoring, Activity 2 (p. 39); Strategy W.10, Addressing Canal Water Quality, Activity 5 (p. 215).

³¹ Strategy V.1, Maintaining Volunteer Programs, Activity 1 (p. 82).

³² Strategy V.1, Maintaining Volunteer Programs, Activity 1, 6 (p. 83); Strategy B.22 Habitat Restoration, Activity 8 (p. 127).

³³ Strategy OP.2, Addressing Resource Policy Issues, Activity 2 (p. 230).

³⁴ Strategy L.3 Reducing Pollution from Marina Operations, Activity 2 (p. 203).

³⁵ Strategy B.7, Reducing Pollution Discharges, Activity 3 (p. 199).

³⁶ Strategy B.6, Acquiring Additional Enforcement Personnel (p. 109).