

***FLORIDA KEYS NATIONAL MARINE SANCTUARY ADVISORY COUNCIL***

**MEETING NOTES**  
**Tuesday, October 18 2022**

***Isla Bella Resort***  
***1 Knights Key Boulevard MM47***  
***Marathon, FL 33050***

**Attendees:**

**Council Members:**

Citizen at Large – Upper Keys: Suzy Roebing  
Citizen at Large – Middle Keys: George Garrett  
Citizen at Large – Lower Keys: Mimi Stafford  
Boating Industry: Ken Reda  
Diving – Upper Keys: Elena Rodriguez  
Diving – Lower Keys: Joe Weatherby (absent)  
Fishing – Charter Fishing Flats Guide: Will Benson  
Fishing – Charter Sports Fishing: Michael Nealis  
Fishing – Commercial – Marine/Tropical: Ken Nedimyer  
Fishing – Commercial – Shell/Scale: Justin Bruland (absent)  
Fishing – Recreational: Karen Angle  
Tourism – Upper Keys: Lisa Mongelia  
Tourism – Lower Keys: Andy Newman (absent)  
Conservation and Environment (seat 1): Ben Daughtry  
Conservation and Environment (seat 2): Jerry Lorenz  
Research and Monitoring: Erinn Muller (absent)  
South Florida Ecosystem Restoration: Kelly Cox  
Education and Outreach: Shelly Krueger (absent)  
Submerged Cultural Resources: Diane Silvia  
Elected County Official: Holly Raschein

**Council Alternates (present):**

Citizen at Large – Upper Keys: Dave Makepeace  
Citizen at Large – Lower Keys: Stephen Patten  
Fishing – Charter Fishing Flats Guide: Bob Beighley  
Fishing – Commercial – Marine/Tropical: Jeff Turner  
Fishing – Recreational: Gary Jennings  
Tourism – Upper Keys: Ginny Oshaben  
Submerged Cultural Resources: Sara Ayers-Rigsby

**Agency Representatives (present):**

Florida DEP: Nick Parr  
FWC DLE: LT Brian Sapp  
FWC FWRI: CJ Sweetman  
US Coast Guard: LTJG Alexandra Hughes  
US Fish and Wildlife: Jen Feltner  
US Navy: Wendy Wheatley-Techmer

**Municipalities (present):**

Layton: Councilwoman Cindy Lewis

**I. CALL TO ORDER, ROLL CALL, CHAIRPERSONS COMMENTS**

The meeting was called to order with roll call at 9:05 am. Chairperson George Garrett welcomed the council and members of the public and discussed the importance of public comment in the process of the restoration blueprint. The council observed a moment of silence and shared some reflections in honor of Jessica Bibza, who passed away last month. Jessica was a new SAC member serving as an alternate to the Conservation and Environment seat.

The chair introduced the agenda for this meeting as well as the notes from the July meeting for council approval, both were motioned, seconded, and subsequently approved with no edits. Ken Nedimyer made the motion to approve the July notes, with a second from Mimi Stafford, and Ken also made the motion to adopt the agenda for this meeting with a second from Will Benson.

**II. RESTORATION BLUEPRINT PUBLIC ENGAGEMENT UPDATE**

Sanctuary superintendent Sarah Fangman reviewed previous public engagement opportunities for the restoration blueprint including virtual and in-person public comment sessions, public presentations, and presentations to state, federal, fishery management council, and non-profit partners. As of this meeting, over 3,000 comments have been submitted. Sarah gave a synopsis of public comments received thus far. State and fishery management council partner comments will be submitted by February 2023.

**III. PUBLIC COMMENT OPPORTUNITY**

Council chair opened the floor for members of the public who wish to give verbal public comment on the Restoration Blueprint proposed rule. Comment was heard from 17 people, and

will be submitted for the record at the regulations.gov docket for this proposed rule (NOAA-NOS-2019-0094-1012).

#### **IV. RESTORATION BLUEPRINT PROCESS: FINAL RULE AND FINAL ENVIRONMENTAL IMPACT STATEMENT**

Beth Dieveney, FKNMS Policy Analyst, gave an overview of the final rulemaking process, National Environmental Policy Act (NEPA), and possible timeline. NEPA requires the sanctuary to evaluate the effects of the proposed action, consider alternatives, and give the public an opportunity to comment. She reviewed the rule making and management plan process to this point, and discussed the detailed timeline following the close of public comment including coordinating with partner agencies and conducting required environmental compliance consultations (e.g., Endangered Species Act consultation). Final documents include a Final Environmental Impact Statement (FEIS), management plan, and final rule.

#### **V. SOUTH FLORIDA ECOSYSTEM CONNECTIVITY WORKING GROUP INPUT AND RECOMMENDATIONS**

Jerry Lorenz, Working Group Chair and Conservation & Environment SAC member, gave an overview of the South Florida Ecosystem Connectivity working group's recommendations, which are included as an appendix to these notes.

#### **Discussion:**

- Will Benson (Fishing: Charter Flats Guide member) commented that many fishing guides support consistent regulations between parks in the area. Will thanked Jerry for his service in working with Everglades connectivity.
- George (SAC Chair and Citizen at Large: Middle Keys member) commented that when the initial sanctuary plan was being developed, Everglades was also undergoing a transition.

#### **VI. SAC CORE GROUP: SURVEY OUTCOMES AND PROPOSED ADVICE AND RECOMMENDATION PROCESS**

Following the last council meeting, a SAC sub-committee, the SAC Core Group, was reestablished to develop the process by which the SAC will provide advice and recommendation to the Sanctuary Superintendent on the proposed rule and management plan. George Garrett discussed the results of a survey sent to SAC members on the topics covered in the draft rule and management plan. The core group faced the challenge of deciphering what to prioritize for

discussion at the December meeting in order to provide the Sanctuary Superintendent one single list of recommendations. Together, Ben and George outlined a process by which the SAC could work through issues in the December meeting. They noted that the SAC Core Group would model this process at this meeting, specifically focused on the sanctuary boundary expansion proposals.

Ben Daughtry, council vice-chair, explained a process in which members will sign up to draft statements identifying topics of support or topics of concern related to sections of the proposed rule. As an example, SAC Core Group members have provided topics of support and topics of concern on the proposed boundary expansion. It should be noted that these positions do not necessarily reflect the individual's personal feelings.

## **VII. ADVISORY COUNCIL DISCUSSION: PROPOSED SANCTUARY BOUNDARY EXPANSION**

Beth Dieveney read the statements that the SAC Core Group members had drafted related to the proposed sanctuary boundary expansion. Once these statements were read, SAC members were invited to provide additions or clarifications to the draft statements. The statements, as drafted and contributed to by SAC members, are included below. These statements may be revisited at the December meeting.

## **VIII. SAC CORE GROUP: REFLECT ON PROCESS AND PLAN FOR DECEMBER**

Ben invited SAC member reflections on the process that the SAC Core Group designed for the SAC to discuss and develop advice and recommendation for the Sanctuary Superintendent on the Restoration Blueprint proposed rule. SAC Member reflections and suggestions included:

- Provide an opportunity to clarify or ask technical questions.
- Ensure that when marine zone topics are under discussion that maps are also available and presented.
- Draft statements should be concise and each bullet point should cover only one idea each versus combining multiple points.
- Identify redundant bullet points across topics. The SAC Core Group could possibly bin these topics that may have redundant ideas to streamline the process in December.
- Acknowledge the importance of doing the work in advance of the December meeting so that all of the information is available, SAC member should do their homework before coming to the December meeting.
- Consider the use of break-out groups if that could create greater information sharing and efficiency in the process.

- Include an option to propose modifications or other suggestions rather than just Topics of Support and Topics of Concern.
- Consider a follow-up survey to further refine topics the SAC will discuss in December.

A discussion of what the final product will look like was discussed.

- Recommend that a vote to indicate SAC level of support or lack of support should be captured.
- Consider weighted voting.
- Consider voting by poll to ensure the greatest number of SAC members can participate.
- While voting by poll may allow broader participation in the voting process SAC voting needs to be done in the public meeting.

Ben noted that the SAC Core Group will consider all of this input and will work with sanctuary staff and a facilitator to design the process for the December meeting.

Ben then asked SAC members and alternates to sign up for three Issues of Support and three Topics of Concern slots to draft statements in advance of the December meeting. Their top choices should be marked with a star (\*). If topics do not get signed up for, that could be a filter to identify issues that may not need to be discussed. SAC members and alternates who are not present will have until the end of the week to sign up and statements will be due the Friday before Thanksgiving, November 18.

Will Benson noted that he has been working with Jerry Lorenz and their respective constituencies to evaluate and develop a coordinated/compromise regarding many of the Wildlife Management Area proposals. He asked how best to represent this in the process the SAC Core Group has designed. He was told to sign up for those WMA topic areas and that the SAC Core Group would consider how to incorporate that into the December meeting agenda.

A SAC member asked if the December meeting is the deadline for the SAC process and Sarah Fangman said yes, that if the SAC process were delayed that could delay the agency process and we could be in a continual loop of waiting for comments.

## **IX. CLOSING REMARKS**

Sarah Fangman's closing comments acknowledged that this is a difficult task and commended the SAC members for their time and efforts and attention to this process.

The chair thanked council members for coming and participating, and thanked the public for their comments. He reminded everyone that public comments can be made until October 26th. Meeting was adjourned at 3:30 pm.

**Florida Keys National Marine Sanctuary Advisory Council  
Restoration Blueprint Advice and Recommendation  
Draft for deliberation**

The Sanctuary Advisory Council reviewed and discussed these statements at their October 18, 2022 meeting. Additions provided at the meeting were captured by staff and are shown in blue text below. The text of these additions were not verified with the commenting council member. No votes were taken. This document and Advisory Council discussion was used as a model process and may be revisited at the December council meeting. It should be noted that these position statements do not necessarily reflect any individual member's personal feelings. The members who drafted each topic area did so as volunteers to enable this exercise, and not necessarily because they personally hold these viewpoints.

**Sanctuary Boundary Proposal**

*All descriptive statements are taken from the NOPR Preamble.*

*Existing and proposed new sanctuary-wide regulations would apply in the expanded boundary area.*

**Area to be Avoided**

*The boundary expansion to align with the ATBA would result in a consistent regulatory boundary, which is intended to provide clarity for mariners and additional ecosystem protections. The ATBA areas within the sanctuary were established through the FKNMSPA and prohibit operating any tank vessel or vessel over 50 meters length within specified areas to protect coral reef habitat from potential vessel impacts, including groundings.*

Topics in Support

SAC Core Group Drafter: Ken Reda

- There is no arguing that a FKNMS grounding such as the one that occurred in 1984 on Molasses Reef by a 400' Cypriot-registered freighter, can be catastrophic. This documented event and subsequent salvage effort wreaked havoc to the area for 12 days, and its impact continues to be felt 38 years later.
- The proposed change of marking the ATBA (Area To Be Avoided) in sync with the Sanctuary boundary delineation is a common sense move. Much the same as bringing Coral Nursery areas into SPA protection, this proposal should have strong public support.
- Vessels affected by description (tank and or 50 meters + in length) are almost exclusively commercial in nature. But for making port, vessels of this size do not have specific need to be any closer to shore than outlined. Creating a buffer serves to protect not only the reef line, but also serves to clearly guide the operator of these sizeable, bulky, and often maneuvering challenged vessels.
- Such a measure would serve to bring the area full Sanctuary protection.
- Alignment of the ATBA and FKNMS seaward boundary simplifies where not to be.
- Little, if any impact to a recreational user.

## Topics of Concern

SAC Core Group Drafter: Will Benson

- Expanding the sanctuary boundaries will result in increased law-enforcement demands, **including potential additional state enforcement demands.**
    - **The ATBA boundary proposal expands the sanctuary by 472 square miles.**
  - With regard to fisheries management issues, there is uncertain jurisdiction between NOAA (**NOS-ONMS and NMFS**) and federal fisheries councils. Further coordination will be needed.
  - The boundary expansion is potentially the first step towards eventual closure or exclusion of Fisherman
  - Boundary expansion will include all FKNMS regulations including what is defined as traditional fishing and will exclude new gear types.
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## **Tortugas Region**

*The proposal for boundary expansion in the Tortugas region takes into account recently collected and compiled mapping coverage data and remotely operated vehicle imagery in the southern portion of the existing Tortugas South Ecological Reserve which show unique and sensitive habitat features in this area.*

## Topics in Support

SAC Core Group Drafter: George Garrett & Ben Daughtry

- Maintaining no anchor zone for vessels over 50M will protect corals and reduce habitat destruction.
- Including Riley's Hump (TSCA) into the sanctuary boundary creates less confusion and better protection for that area.
- Expanding the TSCA area and the boundary to the west better protects multi-species breeding areas.

## Topics of Concern

SAC Core Group Drafter: Joe Weatherby

- Until such time as the FKNMS is prepared to fully staff and administer Law Enforcement for the entire FKNMS, no expansion, however small, is warranted
  - **With regard to fisheries management issues, there is uncertain jurisdiction between NOAA (NOS-ONMS and NMFS) and federal fisheries councils. Further coordination will be needed.**
- Specific and very large anchoring zones on appropriate bottom need to be designated and clearly marked with buoys, and electronically, in several areas, to be available no matter which direction a vessel approaches the area from
- ALL buoys should be consistently present and maintained.
- Any argument which cites concerns about setting unwanted precedents in other or future National Marine Sanctuaries and any arguments justified by a desire to "even out the

boundaries”, which was stated, should be summarily rejected along with any desire to have x percentage of ocean in a Sanctuary by y date type arguments.

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## **Pulley Ridge**

*Create a non-contiguous sanctuary area that encompasses the southern portion of Pulley Ridge to protect the deepest known photosynthetic coral reef system off the coast of the continental United States. In addition to sanctuary-wide regulations, NOAA is proposing a no anchor regulation in Pulley Ridge that would apply to all vessels to reduce the risk of damage to this fragile coral marine environment.*

### Topics in Support

SAC Core Group Drafter: Holly Raschein & Kelly Cox

- Pulley Ridge is a unique area that contains the northernmost mesophotic reef in United States waters
- These corals live at the extreme depth range of available light and are more resilient to bleaching, disease, ocean warming, and storm damage.
- Creating a no anchoring designation in this area will reduce impacts to these corals
- Will ensure that future research of these corals remains viable.
- This designation will strengthen existing protections under the Habitat Area of Particular Concern designation by the Gulf of Mexico Fishery Management Council.
- [Adding sanctuary-wide regulations at this site affords additional protections.](#)

### Topics of Concern

SAC Core Group Drafter: Kelly Cox

- The structure in this area makes Pulley Ridge a destination for commercial, charter, and recreational fishermen.
- Deep drop fishing is very popular in this area for species such as yellow edge groupers, snowy groupers, yellow eye snapper, blueline tilefish, and several other sought after deep drop species.
- This area is already designated as a Habitat Area of Particular Concern by the Gulf of Mexico Fishery Management Council and already has restrictions on fishing including prohibitions on fishing with a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring.
- This FKNMS proposal could be considered duplicative and would be difficult to enforce.
- [Additional considerations:](#)
  - [This site may serve as a safe/emergency anchorage, what would be the protocol if a boat needed to anchor?](#)
  - [Due to the remote location, consider what additional law enforcement resources are needed and how might this affect enforcement/ distribution of officers elsewhere.](#)
  - [How will this area be marked/noted for users? GPS and chart updates are a complicating factor but would enhance compliance and enforcement.](#)
  - [Consider how much of the budget/resources are devoted to these distant resources vs those close to home. Consider measuring the cost/benefit.](#)

## **APPENDIX II: AGENCY REPORTS SUBMITTED FOR COUNCIL AWARENESS**

### **NOAA Office of Law Enforcement:**

1. Targeted operations and patrols continued throughout the Sanctuary during the summer. Focus included:
  - a. Targeted spawning aggregations
  - b. Compliance within Sanctuary
  - c. Unpermitted charters and vessels to/from Bahamian EEZ
  - d. Southeast For-Fire Electronic Reporting (SEFHIER) and other Magnuson regulations
2. 2022 Mini Season
  - a. Presence in upper, mid and lower Keys
  - b. Joint operations with FWC, USCG, CBP, Monroe County Sheriff Deputies and Key West PD
  - c. Deployed 6 boat crews; 20 staff participated in operation and included officers, agents and Investigative support personnel
  - d. Despite foul weather throughout area, OLE patrolled through backcountry, SPAs and ERs and encountered almost 600 people on the water
3. Outreach
  - a. OLE Quarter 3 report previously provided to Superintendent, Quarter 4 report will be distributed when final.
  - b. OLE will be at the annual Offshore Swordfish Tournament, upcoming in Marathon. Officers will be at captains meeting to address NOAA and HMS specific questions.
  - c. Reminder to report any violations to OLE 24/7 at 800-853-1964

### **US Navy:**

- Naval Air Station Key West (NASKW) is currently undergoing response and cleanup efforts from damage incurred by Hurricane Ian. Shorelines surrounding the installation took significant erosion and damage.
- Due to shoreline damage, sea turtle nesting season came to an early end. Throughout the season, NASKW recorded 13 successfully hatched nests and 10 false crawls.