

FLORIDA KEYS NATIONAL MARINE SANCTUARY ADVISORY COUNCIL

**Islander Resort and Conference Center  
Islamorada, FL 33036**

**February 17, 2015**

**FINAL MINUTES**

The Florida Keys National Marine Sanctuary Advisory Council met on Tuesday, February 17, 2015 in Islamorada, Florida. Public Categories and government agencies were present as indicated:

**Council Members**

Conservation and Environment: Ken Nedimyer (Chair)  
Conservation and Environment: Chris Bergh (Vice Chair)  
Boating Industry: Bruce Popham (absent)  
Citizen at Large – Lower Keys: Mimi Stafford  
Citizen at Large – Middle Keys: David Vanden Bosch  
Citizen at Large – Upper Keys: David Makepeace  
Diving – Lower Keys: Don Kincaid  
Diving – Upper Keys: Rob Mitchell (absent)  
Education and Outreach: Martin Moe  
Elected County Official: George R. Neugent  
Fishing – Charter Fishing Flats Guide: Tad Burke  
Fishing – Charter Sports Fishing: Steven Leopold (absent)  
Fishing – Commercial – Marine/Tropical: Ben Daughtry  
Fishing – Commercial – Shell/Scale: Jeff Cramer  
Fishing – Recreational: Jack Curlett  
Research and Monitoring: David Vaughan  
South Florida Ecosystem Restoration: Pete Frezza  
Submerged Cultural Resources: Corey Malcom  
Tourism – Lower Keys: Clinton Barras  
Tourism – Upper Keys: Andy Newman

**Council alternates (present)**

Conservation and Environment: Jessica Dockery  
Conservation and Environment: Caroline McLaughlin  
Citizen at Large – Middle Keys: George Garrett  
Citizen at Large – Upper Keys: Suzy Roebling  
Diving – Lower Keys: Bob Smith  
Diving – Upper Keys: Elena Rodriguez  
Education and Outreach: Alex Brylske  
Fishing – Charter Sports Fishing: Rob Harris  
Fishing – Commercial – Marine/Tropical: Linda Kruszka  
Fishing – Recreational: Bruce Frerer

Research and Monitoring: Shelly Krueger  
Tourism – Lower Keys: Joe Weatherby  
Tourism – Upper Keys: Eric Handte

**Agency Representatives**

Florida Department of Environmental Protection: Joanna Walczak (absent)  
FWC Division of Law Enforcement: Capt. David Dipre  
FWC Fish and Wildlife Research Institute: Tom Matthews for John Hunt (absent)  
NOAA National Marine Fisheries Service: Heather Blough  
NOAA Office of General Counsel: Karen Raine (absent)  
NOAA Office of Law Enforcement: Kenneth Blackburn/ John O’Malley  
Dry Tortugas and Everglades National Park: Christopher Kavanagh (absent)  
U.S. Coast Guard: Phil Goodman (Auxiliary)  
U.S. EPA: Pat Bradley (absent)  
U.S. Fish and Wildlife Service, National Wildlife Refuges Florida Keys: Nancy Finley (absent)  
U.S Navy: Ed Barham

**I. CALL TO ORDER, ROLL CALL, AND MEETING MINUTES APPROVAL OF 10/21/14 DRAFT MEETING NOTES**

Chairperson Nedimyer called the meeting to order after the Pledge of Allegiance.

**MOTIONS (Passed)**

A motion was made by George Neugent to approve the minutes from October 21, 2014. It was seconded by Jack Curlett. The minutes were approved with no changes or objections.

A motion was made by George Neugent to approve the meeting agenda. It was seconded by Clinton Barras. There were no additions, changes or deletions to the agenda and the motion passed.

Chairperson Nedimyer welcomed everyone and announced that there are three new SAC members: Tad Burke, Charter Fishing Flats Guide; Mimi Stafford, Citizen at Large – Lower Keys; and Caroline McLaughlin, Conservation and Environment alternate. Seven people were reappointed: Jessica Dockery, Bob Smith, Don Kincaid and Ben Daughtry. Ken Nedimyer was also reappointed. Pete Frezza is now the representative for South Florida Ecosystem Restoration and Jerry Lorenz is the alternate.

The alternate for the Charter Flats Fishing Guide position is currently being advertised.

Public comment will be held at 3:30 pm today. For any items that the council might take action on, comments will be heard before any action is taken. People are always welcome to make their comments in the form of emails or other ways as well.

**II. DANIEL J. BASTA, DIRECTOR, OFFICE OF NATIONAL MARINE SANCTUARIES**

Superintendent Morton introduced Daniel J. Basta, who took over leadership of the sanctuary program in 2000.

Director Basta emphasized the importance of partnerships to the National Marine Sanctuary program, particularly those with advisory councils and local communities. Highlights include:

- He noted that the National Marine Sanctuary’s Maritime Heritage program approach of navigating the future best by knowing the past is relevant and could be applied to the process the sanctuary and advisory council are going through now.
- This advisory council, the first of its kind, was created twenty years ago by Congress to ensure community engagement in Florida Keys National Marine Sanctuary management.
- He noted that the Florida Keys were a place to test the concept of place-based management. The first sanctuary advisory council in the Florida Keys showed how a community place-based management could work.
- In the 1990s, the FKNMS, with input from the community and council, developed one of the most comprehensive management plans and still has one of the most comprehensive plans.
- This initial process was followed by the Tortugas 2000 process, which created the Tortugas Ecological Reserve, the largest marine reserve in the United States.
- Based on the success of the Florida Keys advisory council, each of the other sanctuary sites established advisory councils. The advisory council process has become a trademark of the sanctuary program and represents a fundamentally different way of working in which top down government allows for bottom up input.
- He noted that the true test of a citizen based advisory council is how it sustains and remains engaged through time.
- The discussions today are about the importance of adaptation to change. Old ideas might not fit or work today or in the future and everyone must adapt to meet the changing conditions of the world. People are looking to the Keys for leadership on marine management issues because of the long-history of experience in the Keys and because the Keys are experiencing change. The question becomes how to sustain this already degraded ecosystem in view of increasing pressures while also maintaining the economy of the Keys.
- The FKNMS council has existed for over 20 years. Today, it is important to be more proactive and have a sense of urgency to face the changes that are coming at a rapid rate. Decisions are becoming more difficult because the problems are progressively growing to levels that make them hard to address.
- In the 1990s, the SAC took the role to move forward and the government agencies followed. The agencies would not have done so if the community had not demanded that areas be set aside as zones. He urged the council to go through the zoning process more quickly and take risks that are needed. He also urged the council to find the common ground to help move things forward.
- There are 450 members total on the councils of the national marine sanctuaries. All councils are struggling to a degree with different issues. They are looking to the Keys for leadership.
- Under Governor Jeb Bush, the State of Florida had to approve this designation of the Tortugas Ecological Reserve because the reserve included state waters. In Tallahassee, the federal officials were present, but it was the commercial and recreational fishers, local community members, and young students that addressed the Cabinet. The Cabinet really listened to the student presentations. This attention to young people is one reason why the council should consider creating a youth seat, but it must be maintained and sustained.
- The Keys are one of those places that are iconic, similar to Hawaii and Cape Hatteras, and people show their support for the Florida Keys by choosing to visit and spend their money in the Keys.
- People can see what a local community is capable of when visiting and learning from existing advisory councils. The FKNMS is the “model” home for the sanctuary program.

### **III. MARINE ZONING AND REGULATORY REVIEW INTRODUCTION: ARTIFICIAL HABITATS**

Superintendent Morton welcomed everyone and recognized the hard work done so far by the working groups. The following main points were covered in his presentation:

- Almost every part of the marine zoning and regulatory review work plan adopted in 2012 has been addressed.
- Over 220 different ideas came forward during the marine zoning and regulatory review process. FKNMS staff are working through the different ideas and developing alternatives to be analyzed in the draft Environmental Impact Statement (EIS). Some concepts were specific; some were broad and some involved working with the other agencies.
- An update on this EIS development process will be given at the April advisory council meeting. The target goal for release of the draft EIS for public review and comment is late fall 2015.
- Once the Draft EIS is released, there will be a three-month public review that crosses over two council meetings. The council will be making their recommendations as well.
- The final item from the advisory council work-plan that needs further discussion is the topic of artificial habitats. The goal of this meeting is to understand the authorities, oversight and permitting role of the various regulatory agencies and how they work together on this issue. At the October meeting, the council passed a motion to create an Artificial Habitat working group. This meeting provides the opportunity to define the goals, objectives, and membership of that working group.

### **IV. FLORIDA KEYS NATIONAL MARINE SANCTUARY ARTIFICIAL HABITAT OVERVIEW**

Joanne Delaney, FKNMS permit coordinator, provided a presentation that may be viewed by visiting: <http://floridakeys.noaa.gov/sac/othermaterials/20150217ahfknms.pdf>.

The presentation covered the following topics: FKNMS authority & regulation, permitting overview, standard permit requirements, management plan activities, consultations & agency coordination, public input, current artificial habitats in FKNMS and challenges & opportunities for artificial habitat permitting in FKNMS. Certain sanctuary regulations pertain to artificial habitats. Regulations also guide the conditions under which permits are issued and the criteria that must be met in order to receive one. Under the National Marine Sanctuaries Act, the FKNMS has the ability to authorize or use other agency's permits.

Three strategies from the sanctuary's 2007 management plan apply to artificial habitats:

- Strategy W.36 (3) – Monitor use patterns on existing artificial and natural reefs surrounding sites for sinking new artificial reefs.
- Strategy F.7 (1) – Investigate impacts of artificial reefs on fish and invertebrate populations for long-term management including location, size, and materials.
- Strategy F.7 (2) – Monitor and evaluate habitat modification caused by the installation of artificial reefs.

Ms. Delaney also provided an overview of what is known about artificial habitats and noted that research questions still remain. She provided the following the key management questions that the sanctuary would like to see answered through research on artificial habitats:

1. Are effects of reduced pressure on natural reefs consistent over space and time?

2. Do visitors value artificial reefs more than natural reefs? An economic model is needed to estimate value based on reef attributes, controlling for user characteristics (Leeworthy). The newness in and of itself may be an attribute that is over-represented in data.
3. What are effects of artificial reefs on fish communities, and do fish immigrate from natural reefs or emigrate from artificial reefs/habitats? (\*need fish tagging studies and fish biomass monitoring)
4. What are effects of artificial reefs/habitats on invertebrate populations, including invasive invertebrates?
5. What habitat modifications occur as a result of artificial reef/habitat placement?
6. What are the effects of habitat transfer, e.g., sand plain to high relief, on ecosystem services?

### **Discussion** (council members)

The following points were made during the discussion:

- Many different structures were permitted by the state of Florida prior to the creation of the sanctuary in 1990.
- A salvage operation was in place that helped to right the *Spiegel Grove*, which sank on its side. The ship was eventually righted when a storm surge passed through.
- The idea of exploring whether it is possible and/or desirable to enhance the recruitment of certain species to artificial habitats was suggested. This would entail active restoration following the placement of an artificial reef and then comparing those results with how recruitment takes place naturally on the structure.
- In response to a question about whether reef balls have been approved or not, Ms. Delaney explained that there have been several instances where reef balls have been approved. When the projects did not meet the regulatory review criteria, they were denied. Some of the projects have not provided monitoring results.
- Projects such as the *Vandenberg* have garnered a lot of media attention because they have received awards and still continue to do so.
- Artificial reefs or habitats are not defined in the sanctuary regulations and there is no permit category for artificial habitats. If a scientist wants to place something on or near the reef as part of a research project, it is considered in that project. A permit is required for anything placed on the seafloor.

### **Break**

### **V. Artificial Habitats – Army Corps of Engineers**

Gletys Guardia-Montoya, Project Manager, provided a presentation on the permitting of artificial habitats by Army Corps. Ms. Guardia-Montoya is based in the Miami office, Jacksonville District and her office reviews permits for Monroe County. The presentation included the following main points:

- The US Army Corps authority for permitting artificial reefs and similar structures is derived mainly from Section 10 of the Rivers and Harbors Act, Section 404 of the Clean Water Act and Section 103 of the Marine Protection, Research and Sanctuaries Act.
- The US Army Corps regulatory authority covers review and permitting of “any structure placed in a river or within waters of the US”. Section 10 of the Rivers and Harbors Act authority begins at mean high water line on land and extends to the outer continental shelf 200 nautical miles. Section 404 covers from the high tide mark on land to 3 nautical miles. Section 103 is concerned with mostly ocean dumping at sea (and not with artificial reefs).

- The US Army Corps does review coral nurseries because they alter the seafloor, but does not review them as artificial reefs. They are temporary structures for research purposes with a different scope of work. At this time, a general permit for coral nurseries is being developed to expedite this process.
- The US Army Corps has regulations that guide the permitting process of artificial reefs under Section 322.5(b) Artificial Reefs. The district engineer reviews provisions for siting, construction, operating, maintaining such structures.
- The US Army Corps highly recommends a pre-application meeting because it allows them to explain the extent of the regulations and will save time and effort. FWC is often brought into this pre-application meeting. Most artificial reefs she has processed so far have been in Miami-Dade and have involved a wide variety of structures such as culverts, reef balls, vessels, construction material. Every material has to meet certain quality standards.
- The applicants are usually government entities, but anyone may apply. In the formal project review process, financial insurance and liability are evaluated and the entity has to have the insurance to cover this type of project.
- Artificial reefs require long term monitoring. If the ship or structure washes up on shore in a storm, the applicant is responsible.
- Artificial habitat projects would not be permitted in an area that has benthic resources (other than sandy bottom) and a benthic survey of the area is required.
- The US Army Corps coordinates with NOAA Charts and the U.S. Coast Guard to ensure navigation safety and coordinates with the NOAA National Marine Fisheries Service, Fish and Wildlife Service and the FKNMS on Endangered Species Act (ESA) consultations. These consultations typically take about 6 months. In general, the US Army Corps must coordinate with other agencies and incorporate their comments and that takes time.

**Discussion** (council members)

The following points were made during the discussion and question period:

- One challenging aspect of this type of project is funding, which involves coordinating and managing grant writing cycles and finding sponsorship to pay for the project.
- Input from people who have experience with the ESA process could be helpful. The best way to provide input is to comment online when this general permit for ESA consultations is posted to the US Army Corps website. It will be publically noticed.
- The need to provide complete information at the time of application was emphasized to expedite the process as much as possible.
- Other than the permitting agencies, the agencies that are consulted, but don't issue a permit themselves are usually FWC, Fish and Wildlife Service, FKNMS, US Coast Guard, NOAA Fisheries, NOAA Charts. It varies somewhat depending on the project.
- Letters of authorization from other agencies might be required for some projects to be permitted.
- The funding became a challenge in the sinking of the *Vandenberg*. The funding source and plan for funding should be part of the project from the pre-application process. The US Army Corps looks at funding issues as part of its review.
- Many of the artificial reefs in Miami-Dade have been sponsored by FWC.
- The general permit for coral nurseries is still being examined by NOAA Fisheries and Fish and Wildlife Service. This permit will also have to go through the state public comment period.

## **VI. ARTIFICIAL HABITATS—FLORIDA DEPARTMENT OF ENVIRONMENTAL HABITATS**

Bruce Franck, Environment Specialist III, provided a presentation summarizing the FDEP's role in the permitting process with regards to artificial habitats. This presentation may be viewed at <http://floridakeys.noaa.gov/sac/othermaterials/20150217ahdep.pdf>.

The following main points were made in his presentation:

- Any construction activity in wetlands or surface waters requires a permit or authorization from FDEP. FDEP seeks to make certain that the activity is done with minimal impacts to wetlands and water quality.
- In October 2013, the state implemented a statewide Environmental Resource Permitting (ERP) program that has the same rules for FDEP and the Water Management District. All rules are under Chapter 62.330 in Florida Administrative Codes.
- Work in artificial canals can be exempt and a letter of authorization can be obtained in such cases. Proprietary review is done on state lands or public property. Projects in state waters require proprietary consent. If conditions of the project are not met, an individual permit may be required.
- For proprietary review, if the letter of consent is not issued, a lease may be required.
- The last permit issued for an artificial reef in state waters was for the *Vandenberg*.
- Certain criteria must be met in order to receive a general permit. When the project doesn't meet the general criteria, an individual permit may be applied for. FDEP conducts reviews with other agencies as part of the coastal zone consistency review for individual permits.
- Applicants seeking individual permits may or may not be required to notice the permit for public comments. In some cases, the applicant will be required to seek public comment. Projects that are on state lands require a proprietary review that takes place concurrently with the regulatory permit.
- A letter of consent is issued if the project meets the criteria, including that it must be for public use. State Parks is allowed to comment on the application when the project takes place in a state park.
- FDEP encourages people to consult with FWC's artificial reef program prior to applying.
- Once a general permit is complete, FDEP has 30 days in which to issue that permit and for individual permits, the timeline is 60 days.

### **Discussion** (council members)

The following points were made during the discussion:

- The US Army Corps clarified that Florida's joint applications, specifically the Notice of Intent to Use an Environmental Resource General Permit and Request for Verification of an Exemption, do not constitute applications for the US Army Corps. The US Army Corps does accept the longer 47 page application.
- FDEP is in the process of revising the permitting application forms. They were revised once in 2013 with the implementation of the new rules, but because the new forms didn't provide enough information for the US Army Corps, they are being revised again under the FAC 62.330 rule.
- The US Army Corps also stated that receipt of a FDEP permit does not constitute federal authorization from the US Army Corps.
- FDEP stated that under the coastal zone consistency review, they cannot issue the permit if they receive a letter of objection from any one of the agencies that they are required to work with in this consistency.

- FDEP permits are issued with a five year construction phase. Once the construction phase is done, it transfers over to an operation phase (and no further permit is needed).

## **VII. ARTIFICIAL HABITATS – U.S. ENVIRONMENTAL PROTECTION AGENCY**

Ms. Laura Johnson, Oceans and Coastal Protection Division EPA Office of Water, provided a presentation on EPA’s oversight role for artificial habitats. The presentation included the following main points:

- EPA’s involvement is dependent on where the structure is being placed and what it is composed of.
- EPA has a role in implementing Section 103 of the Marine Protection, Research and Sanctuaries Act (MPRSA, also called the Ocean Dumping Act).” EPA’s ocean management dumping program regulates “ocean dumping to protect the environment from any material that will degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities”.
- The MPRSA implements the requirements of an international treaty that governs ocean dumping known as the London Convention. Reefing is defined as “the placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the London Convention”. EPA evaluates the projects for consistency with the London protocol. If the purpose is disposal, it is not considered reefing. The placement of structures as reefs is governed by other U.S. laws and the actual placement of reef materials doesn’t fall under the MPRSA.
- EPA views artificial reef as being placed where they can “enhance native marine resources and benefit the natural marine environment”. When using suitable materials that are properly prepared and properly sited, EPA feels that such structures could “enhance aquatic habitat, but also provide an additional option for conserving, managing, and/or developing fishery resources”.
- The United Nations has been concerned about how certain countries have been masking dumping for reefing. In 2009, they put forth a new definition of artificial reefs, which is given below and may be found online at [http://www.imo.org/blast/blastDataHelper.asp?data\\_id=25688&filename=London\\_convention\\_UNEP\\_Low-res-ArtificialReefs.pdf](http://www.imo.org/blast/blastDataHelper.asp?data_id=25688&filename=London_convention_UNEP_Low-res-ArtificialReefs.pdf).

“An artificial reef is a submerged structure deliberately constructed or placed on the seabed to emulate some functions of a natural reef such as protecting, regenerating, concentrating, and/or enhancing populations of living marine resources. Objectives of an artificial reef may also include the protection, restoration and regeneration of aquatic habitats and the promotion of research, recreational opportunities, and educational use of the area. The term does not include submerged structures deliberately placed to perform functions not related to those of a natural reef - such as breakwaters, mooring, cables, pipelines, marine research devices or platforms - even if they incidentally imitate some functions of a natural reef.”

- EPA and the US Army Corps share the responsibility of administering and enforcing section 404 of the Clean Water Act, which regulates the placement of fill and dredge material. In terms of artificial reefs, the US Army Corps does the day-to-day management. EPA has an opportunity for an oversight role and sets the environmental criteria in conjunction with the US Army Corps.

- EPA also reviews and comments on individual applications during the public comment period. If EPA has concerns, the agency can elevate certain projects for more information and has the authority to restrict or limit the use of any area as a disposal site under 404 (c),
- All discharges of fill material or structures must comply with the EPA guidelines. Enforcement of section 404 is shared by EPA and US Army Corps and they have a memorandum of agreement that describes their respective roles.
- In some cases, the jurisdiction of the Rivers and Harbors Act, required for construction of reefs on the outer continental shelf, overlaps with section 404 of the Clean Water Act. Regardless of which permit is issued, there is an opportunity for public comment.
- The US Army Corps general permits are issued in lieu of individual permits when the criteria are met. EPA doesn't have the authority to comment on individual general permit projects, but can comment on the development of the general permit guidelines itself.
- The Toxic Substance Control Act regulates polychlorinated biphenyls (PCBs) and other substances that may be in materials used for artificial reefs. Violations of this act can stop a project, regardless of the permits issued by other agencies.
- For the sinking of MARAD (Maritime Administration, US Department of Transportation) vessels, which must meet water quality and other environmental standards, a Liberty Ship Act certificate from EPA is required.
- Under the National Fishing Enhancement Act, NOAA and EPA have provided siting and design criteria for artificial reef plans (<http://www.nmfs.noaa.gov/sfa/PartnershipsCommunications/NARPwCover3.pdf>).
- When vessels are being prepared to be reefed, they must follow the BMP Guidance found in the Joint EPA/MARAD document, *National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs, May 2006*. It is very important to meet the criteria set forth in the Toxic Substance Control Act and the National Guidance document regarding whether the ship has any PCBs as part of its structure.
- It is the burden of the applicant to provide the necessary information and meet the criteria, including the PCB standards.
- Sometimes people choose a vessel for historical relevance, but this may not always be the best choice. The chance of having certain contaminants varies depending on the date the vessel was built.
- EPA does require a lot of documentation regarding the clean-up process for preparing a vessel. EPA encourages people to get in touch with EPA before acquiring a vessel if there is a question about whether or not it contains PCBs.

Ms. Johnson addressed a question about whether EPA had improved their permitting process to help projects move more quickly. She thinks that EPA has been able to improve the process of preparing and permitting these projects. The most difficult challenge is related to the PCB issue on ships because until more recently, it wasn't known how prevalent these chemicals are on ships. If the PCB data are not available for a ship, the burden will be on the applicant to verify that it is free of these chemicals.

## **Break**

### **VIII. ARTIFICIAL HABITAT PROCESSES – PERMITEE EXPERIENCE**

George Garrett, City of Marathon Planning Director, gave a presentation on his experience as a permittee for the county on the sinking of the *Adolphus Busch* and the *Spiegel Grove*. At the time, he was director of Monroe County's Marine Resources. As the project lead, he was the permittee in

conjunction with the county for sinking the two ships. The presentation can be viewed by visiting <http://floridakeys.noaa.gov/sac/othermaterials/20150217ahpermittee.pdf>.

In this presentation, Mr. Garrett made the following main points:

- The advisory council members, including George Barley, played a big role in getting the first sanctuary management plan with the zones in place in the Keys. The process was so successful that George Barley used it as a model for everglades restoration.
- In the early 1990s, people from the Keys traveled to Rockville Maryland to work with NOAA in developing the plan. At that time, discussions were held about artificial reefs in the sanctuary. Three of the four projects that were discussed have occurred and the sanctuary has been part of that along the way.
- The agencies that presented earlier outlined the steps that he took for the ships and that will be needed for any future artificial habitats. The sinking of the *Adolphus Busch* and the *Spiegel Grove* were described, including the selection of site, preparation, stability analysis, mooring buoy plan and more. The cleaning of the *Spiegel Grove* was very time consuming and it was a complicated ship to sink because it was so compartmentalized. Dozens of inspections were done on this vessel before it was sunk.
- Monitoring of fish on the *Spiegel Grove* was done by Reef Environmental Education Foundation (REEF).
- The total cost for the *Spiegel Grove* project was approximately 1.25 million dollars. Most of the cost was born by the Key Largo Chamber of Commerce. Since the ship “turtled” when it sank, there were added costs with the righting the ship. (It was thought to be stable, though, even though it went down incorrectly.)
- The ship was “uprighted” during the passage of Tropical Storm Dennis in 2005. The ship didn’t settle properly because its compartments didn’t fill with seawater exactly as planned. A patch in an engine compartment broke, allowing it to fill more quickly than expected and that destabilized the vessel.

#### **Discussion** (council members)

During the discussion, the following points were made:

- The fact that the sinking didn’t go perfectly was world-wide news in the Florida Keys, an iconic place.
- Safety was the biggest concern with the *Spiegel Grove* and the safety plan in place worked.
- The Key Largo community was dedicated to the recovery operation of getting the ship placed correctly and worked hard toward that end until the storm righted the vessel.
- Andy Newman publically recognized the efforts of George Garrett and former Superintendent Dave Score regarding the *Spiegel Grove*.
- A socio-economic study was done by Bob Leeworthy, NOAA, but it wasn’t long-term.
- It was noted that studying the organisms that grow on a ship and how long colonization takes to occur is a need and would be interesting.
- The permitting process can be navigated, but it takes ownership and commitment.
- It is important to consider more than the process, but also think about other objectives associated with artificial habitats.
- FKNMS considers artificial habitat projects on a case by case basis based on the goals, objectives, and compatibility with natural resource protection for artificial habitat placement in the sanctuary.

Superintendent Morton stated that the next step to set up a working group or workshop is to identify goals, objectives and individuals who should participate in the process.

## **IX. PANEL DISCUSSION: ARTIFICIAL HABITATS: OPPORTUNITIES, NEEDS, AND CHALLENGES FOR SANCTUARY AND MARINE ZONE MANAGEMENT**

Facilitator: *Beth Dieveney, Florida Keys National Marine Sanctuary*

Panelists:

*Joanne Delaney, Florida Keys National Marine Sanctuary*

*Megan Clouser, U.S. Army Corps of Engineers*

*Bruce Franck, Florida Department of Environmental Protection*

*Laura Johnson, U.S. Environmental Protection Agency*

*George Garrett, City of Marathon*

Beth Dieveney, FKNMS Deputy Superintendent of Science and Policy, facilitated the panel discussion regarding the next steps for building on the artificial habitats resolution passed by the council in October 2014. A copy of this resolution has been provided and is available for the public. The resolution may be viewed by visiting <http://floridakeys.noaa.gov/sac/othermaterials/20141021ahsacmotion.pdf>.

Three items were identified in the resolution: to clarify the definition of artificial habitats, create a working group to provide guidance and to evaluate the alternatives in the management plan. Ms. Dieveney asked the panelists to provide input to help guide the working group regarding what issues each agency wants or needs input on related to the permitting or oversight process.

Joanne Delaney

- The sanctuary would like input from the public on the scope of artificial habitat projects that people are interested in and how any given project's purpose is aligned with sanctuary goals and objectives. FKNMS would also like to hear what kinds of information that the sanctuary should be gathering from artificial habitats—including both user and scientific information.

Megan Clouser

- The US Army Corps needs to know the entire footprint of the project, any potential impacts to marine resources and who is accepting financial liability. It might be that the state will have to be a co-permittee and that would be helpful to know in advance.

Bruce Franck

- FDEP's main concerns are impacts to resources and water quality. A benthic survey of the area is needed to make sure no corals or seagrass will be impacted. The structure being placed needs to be clean and can't violate water quality standards.

Laura Johnson

- EPA is concerned with the kinds of materials that are being placed. In the past, they have had projects that have added structures at the last minute and such modification has caused concerns and delayed things. Monitoring is very important and helps track the diversity and amount of recruitment, but it is also important to know the health of the organisms living on the substrate to see whether or not the structures are leaching toxins.

George Garrett

- The idea of large artificial reefs was discussed early in the planning process of the sanctuary. Discussions will need to revolve around how many such structures are desired, if they are desired and the size of the vessels/habitats. The model for the process of obtaining and

placing an artificial habitat is the *Vandenberg*, not the *Spiegel Grove*. Other kinds of habitats exist and haven't been discussed so far, including reef balls, fish attracting devices.

Panelists also provided input as to the research needs of each agency.

George Garrett

- Many of the research needs were identified in Joanne's research questions presented earlier. More information is needed on the long term effects of these structures in terms of colonization and how they affect the surrounding environment. The scientific monitoring has sometimes been overlooked, but is very important to pursue.

Laura Johnson

- In addition to monitoring, an examination of the sediments and water column surrounding the structure for toxicity would be important, along with a better understanding the relationship, if any, between certain materials and invasive species. From a somewhat personal standpoint, she would also like to see climate change and sea level rise and the significance of artificial reefs as "stepping stones" for creating habitats in areas that are going to be inundated.

Bruce Franck

- FDEP looks to the federal agencies to monitor of the marine growth on these structures and associated fish populations. No monitoring of marine life growth was required for the *Vandenberg* project. If there is going to be a big increase in artificial habitats, FDEP would like to see some work done on the long-term cumulative impacts on fish and other species.

Megan Clouser

- The US Army Corps really wants to make certain that there are no benthic impacts to the sea bottom or anything outside of the authorized footprint. A control site might be needed to see in advance if there are any natural changes or deviations in that area that are going to affect the sinking and vice versa.

Joanne Delaney

- The sanctuary's input on this topic was provided earlier in the meeting. The goal for some artificial habitats in the past has been to increase tourism and remove pressure on natural reefs. It would be helpful to know if that has actually occurred. Data exist from the two most recent ships, but they do not show long-term trends (studies were not long-term).

### **Discussion** (council members)

Chairperson Nedimyer led the discussion with the council. He pointed out that there are things other than ships—memorials and sculptures by artists.

Director Basta explained that so far the discussion has focused as what can be done and how to go about doing it at the project level. At the national level, the sanctuary program needs to know the working group's vision of the use of artificial habitats in the Florida Keys. The advisory council and working group should outline the strategic vision of the goals of artificial habitats and what the working group is trying to ensure with the use of artificial habitats.

The sanctuary program also needs to know the role of the working group on this topic. The three strategies discussed earlier are to monitor, investigate and evaluate, but these steps don't involve moving forward. The working group should be decisive for their purposes and provide clarity on their strategic view on the value and use of artificial habitats and how, as citizens of the community, that process would work.

Director Basta stated that artificial reefs have a role. The sanctuary program doesn't have an aversion to artificial habitats as long as they "fit". As with everything, the project would have to meet the requirements of the National Marine Sanctuaries Act. It is all about what the project is trying to accomplish and how it will be done—whether it helps sustain the ecosystem, economy and way of life.

The three strategies pertaining to artificial habitats that are found in the sanctuary's 2007 management plan were projected onto the screen during the discussion

The following points were also made by advisory council members during the discussion:

- Not much has been heard today about the long term impacts of such underwater structures and the impacts that go beyond the immediate desired effect. These long term impacts should be considered. These items are on the bottom for decades or more and should be examined to see how they have affected the environment and how they have survived over time. In one hundred or two hundred years, the ships that have been sunk in recent times are going to decay and shift.
- In the Keys, there are many resources already that can and should be looked at to see how they have performed as artificial habitats over time. There are ballast piles from 1733, lighthouses from the 1850s, 19<sup>th</sup> century steam ships, wooden schooners, and more. This information can guide the placement of future structures.
- Artificial habitats are not just for people, but are for marine life that the sanctuary is obligated to steward. Concern was expressed about shifting attention from natural habitats to artificial ones. The coral reef habitat is in particularly poor shape and recommendations were made by the coral reef restoration working group as to how to improve this habitat.
- This process of forming a working group for artificial habitats seems as if it might culminate in a standing artificial habitat program in the sanctuary. While this may be the right thing to do, it doesn't come without costs as what might not be addressed because of the limited resources of time and money. A sanctuary-led artificial habitats program could mean new and costly work.
- Support for artificial reefs was expressed, but top quality execution must be done and the project shouldn't trash the ocean.
- Monitoring of artificial habitats, both for biological and economic results, is important. The monitoring that is being generated across the world is compelling and gives the reasons needed to get people to put in artificial habitats.
- The research needs to be prioritized and spread across many projects. The cost to monitor should be spread out to avoid winding up with disproportionate costs on one project.
- Maybe people should think of an artificial habitat as a place to fish. There are some clear examples of effective artificial reefs. These could be helpful in a landscape where the community is struggling to hold onto what is here-- in view of the many people that inhabit South Florida.
- This is an opportunity to look into the future and to say that something was done. These structures may not be a cure for the problem, but are part of a suite of things.
- The working group should have members other than council members and needs to determine the definition of artificial reefs for the purposes of a marine sanctuary and that includes consideration of aesthetically pleasing qualities.
- In this environment today, in which the natural habitats are in trouble, there are clear examples of what properly planned and executed reefs can do.

- There are two ways that artificial habitats can be beneficial in restoration.
  - 1) They can be placed where it makes ecological sense, where currents can carry “products” of marine life into other areas that are natural and will support them. This is essentially using artificial habitats as part of reef restoration on a broad scale.
  - 2) The second way concerns funding. If it is possible to marry artificial habitats with revenue producing operations, then that would be a “win-win” situation. For example, there are underwater ecological trails that help educate people and they could have the artificial habitats as part of these trails. Structures could be designed to be more part integral part of the ecology.
- Support was expressed for field testing ideas to avoid spending money on something that doesn’t work.
- One of the needs this working group can do is to answer some of the research and management questions, including whether artificial reefs detract from the natural environment or not. Money is a consideration on getting the answers to the important questions, but the group would be well advised to close the gap between questions and answers and then move forward with what is known.
- A very large old brain coral is located near the Statue in Key Largo and the visitation to this site probably contributed to the total loss of living tissue on this coral head. Today, that site would probably not be selected because of such impacts.
- Sustainability is an important consideration in terms of going forward with more projects, including how the structure is enhancing or protecting natural ecosystem. Things should be used to enhance the natural environment, not in a way that is disturbing to it.
- If the project is designed to attract tourism, sustainability needs to be considered as well. How the item will decay over time is important so that hazards are not being created.
- Support for the working group going forward with putting artificial habitats in the sanctuary in a deliberative fashion, based on Dan Basta’s advice on developing clear objectives and goals. What is being placed, why it is being placed and whether it is consistent with sanctuary strategies should be considered and minimal is probably better than maximal. Everything should be based on good solid reasoning.
- The need for monitoring both the invertebrates and the reef fish, even when resources are limited, was emphasized. More information should be gathered before moving forward with a lot of new reefs. The use of citizen science data could be a way to obtain the needed information in view of limited resources. At least that kind of approach would give general information of the situation before more wrecks, sculptures and other things are put down.
- Some of the science on the topic is a little thin with regards to some of the wrecks in the sanctuary. But, studies conducted by scientists on artificial reefs do exist. Because of this, the working group should expand the area in which information is being sourced.
- Even though the discussion often revolves around diving on artificial reefs, the greatest economic benefits and greatest users of artificial reefs is the recreational fishing community. It is more difficult to evaluate their use of wrecks.

Megan Clouser added that US Army Corps has to evaluate every project that is brought before it and is not for or against any project. The working group might want to consider pre-selecting sites for possible consideration of artificial habitat sites. EPA selected advanced identification sites for wetland projects. The group might consider what kinds of structures would be suitable for the different habitats. This might help get through the entire process more quickly.

Joanne Delaney answered a question about socioeconomic studies of artificial reefs. The results from the *Spiegel Grove* monitoring showed that local dive charter businesses did experience an increase in revenue after ship deployment and that pressure was taken off the nearby reefs. The results from the study on the *Vandenberg* showed that the dive charters experienced an increase in revenue, but that no pressure was taken off the natural reef. These studies were fairly short term. According to NOAA's socio-economist Bob Leeworthy, one of the questions that remained was whether these results were long-term or resulted from the newness of the wreck. Results for these studies are available online

<http://sanctuaries.noaa.gov/science/socioeconomic/floridakeys/pdfs/bms.pdf>

<http://sanctuaries.noaa.gov/science/socioeconomic/floridakeys/pdfs/vandenbergreport.pdf>.

Director Basta made the following points.

- The idea of artificial reefs is only one of the issues this advisory body has to figure out how to balance amongst many things.
- People should not be “prisoners” to only what is known here. The world has changed and is changing in terms of what people are trying to do and what is happening to systems everywhere. There is a lot of information on this topic.
- The ecosystem was a different place today. It is important to think about the long term picture. Thirty years ago it would have been hard to know that the ecosystem would deteriorate so much even when it was being managed. This is why it is so important to think differently in this program in the Florida Keys.
- It is more about how natural habitats can be enhanced by artificial structures and to adapt to what works and what doesn't.

Chairperson Nedimyer agreed with Director Basta regarding the state of the environment. Artificial habitats can be a beneficial thing and hopes that the permitting agencies are supportive of these efforts.

## **X. Public Comment Items Not on the Agenda**

Gary Burris, Captain and Fisherman

- Mr. Burris stated that he fished in the area throughout the 1970s and into the 1980s. . Through a miraculous meeting, he met Mr. Basta one time and that led to other meetings. In 1979, he met Ted Turner on the dock in 1979. At his direction in the mid-1980s, he worked on a very successful CNN documentary on the ocean and the value of what the ocean means to people. It was a first step in opening people's eyes to the ocean. He has seen that fishermen can be effective by becoming teachers. He added, “Instead of saying, I am just a fishermen because of the bad rep in some places, we need to say that we are food providers that help the economy.” When people come to the dock, fishermen should teach them about the fish and the value of wild harvest and the contribution to the economy. He has seen this approach change public attitudes in Louisiana. It gives people the idea that the ocean and wild harvest are in need of protection by everyone and could be important in feeding people in the future, especially in light of weather changes. When the public becomes aware of the importance of wild harvest, there is tremendous value. He thinks this approach would work well down here, too. He has been an activist on this issue for a long time. When he started, NOAA had just started mapping the oyster beds. They did a story years ago of one fishermen who was forced to fish for oysters in front of a sewage outfall in Long Island Sound and that made a big difference when it aired. When people saw this documentary that showed so

many closed places, people understood what fishermen were talking about. NOAA has gone a lot further now with mapping. If people see how much is gone, that gets their attention. He is teaching the value to America of a wild harvest and he has seen it work to change people minds and give reasons for hope. When people understand everyone is one step closer to winning. He thanked everyone.

Dottie Moses, President of the Island of Key Largo Federation of Home Owners Associations

- Ms. Moses stated that she lives in Key Largo. An issue came up recently that federation members were quite concerned about. There was an offshore high performance powerboat club that was going to bring an event to the bayside of Key Largo. This would involve a raft-up, some races and shoot-outs. These boats go up to 180 miles per hour and have noise levels over 90 db. The bayside of Key Largo in Florida Bay is only a small area on the shore side of the Intracoastal Waterway, next to Everglades National Park. This club does events down here. They held one in Key West in November and at the time ended up 150 boats in refuge, all anchored up on the shore, which is against refuge rules. They were told not to go there without a permit process, which they ignored. The Tourist Development Council originally funded the Key Largo event, but the Board of County Commissioners did not approve that funding, so it was removed. She has since found out that there are no rules or regulations in place to prevent such an event. There is no permitting that she is aware of that is required to have this event, which they could probably fund themselves and have anyway. This is a professional, organized event. How many boats will show up is not known. They are big, they are fast and they are loud. She asks if this kind of thing should be allowed to take place so close to Everglades National Park wilderness area, with the noise, damage, impacts and raft-ups. She has heard this group talk about raft ups in the past and they are becoming more and more of a problem. This event was supposed to take place on Columbus Day weekend. Most people are aware of the Columbus Day event that takes place in Biscayne National Park. If this event becomes established in Florida Bay, will it become many boats and their impacts? Where is law enforcement and who will be paying for this kind of thing? If there are going to be on the water entertainment events promoted and advertised and people are going to come from all of the country to participate, who would be the organization or agency to provide oversight to this kind of thing? She will send to Ken Nedimyer the application for the event. She has heard through the grapevine that they are not going to have it now, but that remains to be seen.
- Ms. Moses stated that she has another matter of concern. A few years ago, she came before the council to talk about a dredging project off of Little Conch Key. That project did not move forward, but another application is being processed by the Army Corps right now to put a 21 slip marina in that area. The Army Corps is accepting public comments on this project right now. She will send the application and if anyone on this board is familiar with the area or sees concerns in the area, they can provide comment. Ms. Moses doesn't think there have been any new marinas for quite some time in the Keys. This marina is something new and maybe should be looked at more closely to make sure it is appropriate for the location and design of the area.

Chairperson Nedimyer thanked Ms. Moses and added that he believes there are permits required to do any kind of boat race and the sanctuary does manage those events. He suggested contacting

Superintendent Morton's office on that matter and then sending him the information and he can pass it on.

Lee Starling Commercial Diver/fisherman

- Mr. Starling stated that he is a commercial diver and fisherman. He hasn't really thought about the powerboat thing, but he doesn't really see anything wrong with it. People come down here enjoying themselves on their boats. After all, the community promotes mini-season (lobster sport season) and no one seems to have a problem with that. Today, he is here advocating for the use of more artificial reefs and to have that extended to casitas, if possible. That way, casitas would help prevent user conflict between the recreational and commercial sector-diving. He has seen personally the boon, the economic growth and the benefits of having the *Vandenberg* wreck in the area. It has just been tremendous and has greatly benefited the dive industry and the charter industry. He doesn't see any negative drawbacks to it at all. Even though the *Tilly* wasn't sunk intentionally, it is a great source of fish. He has gotten grouper and cobia off of it and it is very convenient. Obviously, that is not the way to sink a boat. He supports Joe Weatherby and all the people who want to see reef balls or things that they bury people in. He would be happy with that himself. Artificial reefs are a positive thing and he would like to see them go forward and be advanced.

#### **Discussion** (council members)

Chairperson Nedimyer reminded everyone that the task before them is to form a work group with goals and objectives. The council voted to do this in October 2014.

The council engaged in a discussion about forming a working group to address artificial reefs. The following points were made:

- The working group should entertain and seek novel approaches to this issue.
- A mixture of people with different backgrounds/expertise is important for the working group.
- Some people have extensive experience diving on wrecks and can contribute to the discussions.
- There is an interest in finding out artificial reef "success" stories --what factors have contributed to those successful projects and who is conducting them.
- The goal of creating artificial reefs should be to enhance the natural environment, specifically the natural reefs.
- The socioeconomic contribution is a factor to be considered and the degree to which it is important needs to be addressed.
- There is a need to know what science has already learned about this topic and to hear from experts.
- Artificial reefs can be monitored and studied to learn more about what substrates work best and other details to improve success.
- The science based questions described by Joanne Delaney are important considerations.
- Creating better efficiencies in the process may be needed and considered.
- Good information has been forthcoming from the discussion so far and will help to formulate goals and objectives for the group.
- The Keys would not be a world class diving destination if it were not for its artificial reefs, which serve as important attractions for people (and fish). Some experienced divers are not engaged by natural reefs, partially because of their deteriorated condition.

- The Keys have only one road in and one road out and creating attractions such as artificial reefs will bring more people down and that could hinder the coral and other restoration efforts.
- In some cases, artificial reefs have brought disease to natural reefs.
- The purpose of the artificial habitat, whether for economic or for ecosystem enhancement, should be determined.

The council decided that Joe Weatherby will serve as chair of the working group. Chairperson Nedimyer and Joe will collaborate with Beth Dieveney to develop goals and objectives and a timeline. The working group will be launched at the next council meeting. Goals and objectives can be discussed by email before the next meeting where they will be presented before the council for discussion and finalization. The following people were suggested as members or volunteered during the discussion: David Vanden Bosch, Mimi Stafford, Elena Rodriguez, Tad Burke, Bob Smith and George Garrett. Richard Grathwohl had also conveyed an interest.

Director Basta pointed out that this working group will be the only one of its type in the sanctuary system. The group will be wrestling with important questions that everyone will be wrestling with at some point.

**X. SUPERINTENDENT'S REPORT, REGIONAL DIRECTOR'S REPORT AND AGENCY REPORT HIGHLIGHTS:** DEP, FWC, NOAA NMFS Southeast Region, NOAA OGCES, NOAA OLE, NPS, USCG, USEPA, USFWS, and U.S. Navy

**NOAA Florida Keys National Marine Sanctuary Report, Sean Morton**

- Southeast Regional Director Billy Causey is attending the U.S. Coral Reef Task Force meeting in DC. Joanna Walczak is also participating as a representative for Florida through the Department of Environmental Protection. The task force is discussing its priorities such as watershed initiatives, coral bleaching and endangered corals.
- Joanna Walczak asked Superintendent Morton to report that Governor Scott requested nearly 1.6 billion dollars in funding to be dedicated to preservation of Florida's natural and water resources. The Governor's Keep Florida Working budget includes the following: \$150 million for Everglades restoration, \$50 million for spring protection and improvements, \$150 million for acquisition and management of conservation lands and \$50 million for water supply and development projects.
- The FKNMS has added three new staff to the buoy team. The buoy team is working as hard as possible to maintain buoys and replace missing one. People should report missing buoys, markers and other things like that to the sanctuary. The work can then become part of the repair schedule.
- A resolution was passed by the Key West Chamber of Commerce basically saying that there should be no more SPAs or marine zones. This resolution is not supported by the Marathon or Key Largo Chambers of Commerce. Superintendent Morton is scheduled to present to the Key West City Commission about the sanctuary's two year marine zoning public input process.
- At this time, NOAA has not recommended any new zones. Many ideas were proposed by the working groups and advisory council and are being studied, but no decisions have been made. Later in the year, the recommendations will be brought before the council for further discussion and consideration.

Clinton Barras added that his company is a member of all five chambers of commerce in the Keys. The Key West Chamber never asked them their position on this matter, so the Chamber is not adequately surveying their membership before passing resolutions.

**National Marine Sanctuaries/Southeast Region Report, Billy Causey**

- See Superintendent's report on U.S. Coral Reef Task Force meeting

**Florida Department of Environmental Protection (FDEP) Report, Joanna Walczak**

- See Superintendent Morton's report.

**NOAA OLE (Office of Law Enforcement) Report, Kenny Blackburn and John O'Malley**

- NOAA officers have been wrapping up some cases in the past few months. In December, as a spinoff of Operation Rock Bottom, marine life collector Curtis Waters pled guilty to one count of a Lacey Act violation—harvesting and not reporting and illegally shipping marine life (including *Ricordea* corals and invertebrates) out of state. The sentencing is set for March 2015.
- The next case is the last phase of an investigation that began in 2009 regarding harvesting lobsters from illegal casitas. In 2009, three brothers Charles, Ryan and Tyson Veach and Dennis Dallmeyer were arrested for Lacey Act violations for illegal commercial lobster harvest and sales. The case was delayed and recently the same people were caught illegally harvesting lobsters again. This past month, they changed their pleas to guilty of a Lacey Act violation. Sentencing is scheduled for May 2015. Mr. Dallmeyer may not be at the sentencing because he was reported missing at sea off Key West. He went out fishing, but did not return. The boat was found without him. The 2000 or so casitas will be removed at the violators' expense.
- A change of plea deal was made for marine life collectors Bob Kelton and Bruce Brande charged as part of Operation Rock Bottom, a 15 phase operation dealing with the illegal export of marine life species from the Florida Keys National Marine Sanctuary. This case involved either not reporting the species being harvesting or reporting them as originating somewhere else (Haiti or Dominican Republic). Over the past 15 years, a huge amount of live rock was exported and sold for a total of well over \$1.5 million dollars. (This total is based on only 8 months of data.) Mr. Brande and Mr. Kelton had large quantities of rocks and are facing terms of confinement, \$250,000 per count and loss of the business as well. Officer Blackburn provided photographs of the mislabeled live rock taken to the council. This operation involved countless hours of investigations. He would be happy to provide a presentation before the council at some point. This operation sought people who were unlicensed and not reporting. Mr. Waters was also charged; he had no licenses and did not report his exports.

**FWC Fish and Wildlife Research Institute (Tom Matthews for John Hunt)**

- Mr. Matthews explained that John Hunt was unable to attend, but plans to return.
- The FWC recently passed a resolution reinstating licensing for commercial diving for spiny lobster in the Florida Keys. There has been a moratorium on commercial licenses for the past 10 years. The harvest by commercial divers is 3% of the total lobster harvest. With this change, there will be a limit of 255 transferable licenses. People who have held onto their licenses can now sell them and their value is expected to increase greatly in the

next few years. FWC expects to see an increase in fishing effort from that community. Commercial diving for lobster expected to become more of a full time occupation rather than a part time one. When the license becomes more profitable, people will either sell them or use them full time.

- Bully netting is a new issue that is being addressed by FWC. Restrictions on commercial diving may have driven the use of bully nets. Today, there are about 300 bully netters when there used to be only 50 and bully netting now accounts for about 3% of the total harvest. FWC will be holding workshops throughout the Keys to take public comment on this issue (Feb 23 in Key West; Feb. 24 in Key Colony; Feb. 26 in Key Largo).
- Barracudas are an unregulated fish right now. Barracuda workshops will be held in Key Colony Beach on February 25.
- FWC rules had a loophole that allowed one fishermen to sell a vessel to another and the buyer became a fisherman right away. Now, this loophole is being exploited by people who are selling surfboards or things like that to people who are becoming commercial fishers within 48 hours. At one time, this loophole in the Restricted Species qualifications was desirable. Public comments are still being taken and no new rules have been put into effect.

#### **FWC Division of Law Enforcement, Captain Dipre**

- Captain Dipre wanted to expound on some of the issues Tom Matthews touched on in his report. Some bully netters are new to the field and are getting people to sign off on their harvest reports. There have been concerns about trespassing, trap robbing and issues with some bully netters blasting stereos late at night near shore. In recent meetings with FWC, the bully netters themselves have realized that they need to regulate themselves.
- In terms of barracuda, most people didn't know until recently that barracuda were being commercially sold. While FWC is not against commercial harvest, there have been concerns as to where the barracuda are going. There is a large cultural element to fishing for barracuda that will be part of the discussion. Juvenile fish are part of the harvest.
- The Peter Gladding vessel is out of the water for repair right now, but prior to that made some trap robbing cases and over the limit (lobster) cases in the Tortugas. They made another case in the Tortugas for undersized lobster. FWC also assisted the Turtle Hospital with a sea turtle release.
- Recently, officers have been working with the sheriff's office on cases and this has been successful. At a car stop, people were caught with a dead loggerhead sea turtle's tail. FWC was not able to determine where the meat went; they will probably do jail time for that. FWC officers have been finding plenty of illegal marine life, fish, etc. going in and out of the Keys.
- Officers made a few cases on over the limit for Spanish mackerel.
- FWC has been looking into livery violations.
- FWC has a new commander, Curtis Brown. He has an extensive investigative background. The commission is working right now to get another investigator here in the Keys.
- FWC is starting to change their investigative approach in view of the connections between people in Monroe, Miami-Dade and Collier counties.
- FWC has a number of task forces put together. They recently found illegally imported lobster. They have been finding more and more illegal imports, including filets of fish

and lobster. Imported fish and lobster have to meet state regulations (size requirement). When illegal products are sold in large amounts, this makes it harder for local providers to sell their products.

- Monroe County Sheriff's Department was thanked and recognized for turning over to FWC radar for search and rescue equipment, video cams and other items that can be used in investigations. This equipment will be turned over in an official ceremony.
- Two FWC officers will be stationed in the Keys who actually originally came from the Keys.

## **NOAA Fisheries Service Report, Heather Blough**

### ESA Update

- Fisheries has made a determination that queen conch doesn't warrant listing under the ESA.
- Fisheries has requested information to help determine whether to establish protective regulations for the newly listed coral species; the deadline for responding to the coral announcement is March 16.
- Fisheries expects to publish a final recovery plan for elkhorn and staghorn coral within the next several weeks
- Fisheries is close to finalizing their determination about whether available information warrants a status review of the yellowtail damselfish

### Fishery Update

- The guidelines interpreting NOAA Fisheries statutory requirements to implement annual catch limits and accountability measures for most managed fisheries was published; the comment period is open through the end of June.
- A draft operational strategy for expanding the use of electronic monitoring and reporting in the Southeast Region was released. The final draft plan should be released today.
- South Atlantic Council continues to make steady progress developing new actions that would essentially turn the management of black snapper, dog snapper, mahogany snapper, and schoolmaster snapper over to the state of Florida, and could establish new seasonal and/or area closures to protect snapper grouper spawning aggregations
- Joint South Florida Committee continues to evaluate options to resolve regulatory inconsistencies in South Florida (draft amendment currently addresses yellowtail snapper, mutton snapper, black grouper, shallow-water grouper closures, bag limits and size limits, and circle hook requirements).
- Joint Gulf and South Atlantic review panel met last Monday to evaluate the cause of last season's spiny lobster catch limit overage and to determine whether corrective action is needed. No decisions as to how to respond to that overage have been made, but they don't expect the fishery to exceed the catch limit again this year.
- Both the South Atlantic and Gulf Councils will be considering how best to respond to a new assessment identifying a separate hogfish stock in South Florida, which is determined to be overfished and experiencing overfishing.
- There will be an opportunity to provide input on most if not all of these issues when the Councils meet in Key West this June.
- Gulf Council has produced an outreach brochure identifying the coordinates of the areas closed to spiny lobster trap fishing to protect listed corals. Brochure is available on the council website.

### Habitat Update

- Biscayne Bay has been identified by Fisheries as a new Habitat Focus Area, and they are currently soliciting applications for cooperative agreement funds to support habitat conservation projects in that area. The application deadline closes the end of March.
- NOAA Fisheries has been taking steps to improve their efficiency in the processing of permits with the goal of reducing the back log in processing.

**United States Coast Guard (USCG) Report, Phil Goodman, Auxiliary**

- In the past 6 weeks, the U.S. Coast Guard responded to 15 call-outs on pollution. Most were mystery sheens that were resolved. Three cases were federalized and went to the oil spill liability trust fund for \$15,000. Two of these cases involved chugs; the pollution was cleaned up. A vessel in the Key Largo area was also cleaned up.
- A new initiative is starting tomorrow that involves several agencies working together to assess the derelict vessels that have been pre-identified. This group will be looking at whether or not the vessels are polluting and may be able to use oil spill pollution funds to remove them. More will be said on this topic in future meetings.

**USFWS Report, Nancy Finley, Florida Keys National Wildlife Complex Refuge Manager**

- No report.

**US Navy (USN) Report, Ed Barham, USN**

- No report.

**NOAA Office of General Council Report, Karen Raine**

- No report.

**National Park Service (NPS) Report, Christopher Kavanaugh, NPS**

- No report.

**US EPA Report, Pat Bradley, EPA Office of Research and Development**

- No report.

**XI. UPCOMING MEETING AND CLOSING REMARKS**

Chairperson Nedimyer announced that the next SAC meeting (April 21, 2015) at the Westin in Key West will be interesting and stimulating because Dr. Jeremy Jackson will be presenting on the status and management of coral reefs and marine protected areas.

Council members received an invitation to the National Marine Sanctuary Foundation board reception on February 23rd at the Florida Keys Eco-Discovery Center. The foundation is a national non-profit organization that works closely with the FKNMS and other sanctuaries.

**XII. ADJOURN**