

Florida Keys National Marine Sanctuary Update



Staff Report
December 1, 2022



Florida Fish and Wildlife Conservation Commission

This is staff report for an update on the Florida Keys National Marine Sanctuary's (FKNMS) Restoration Blueprint, the FWC's role in managing the fisheries resources within the FKNMS, proposed regulatory actions, and next steps.

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Unless otherwise noted, images throughout the presentation are by FWC or NOAA.

Florida Keys National Marine Sanctuary

- 3,800 square miles
- Shared trusteeship of marine resources with state
 - 60% within state waters
- Encompasses multiple habitat types

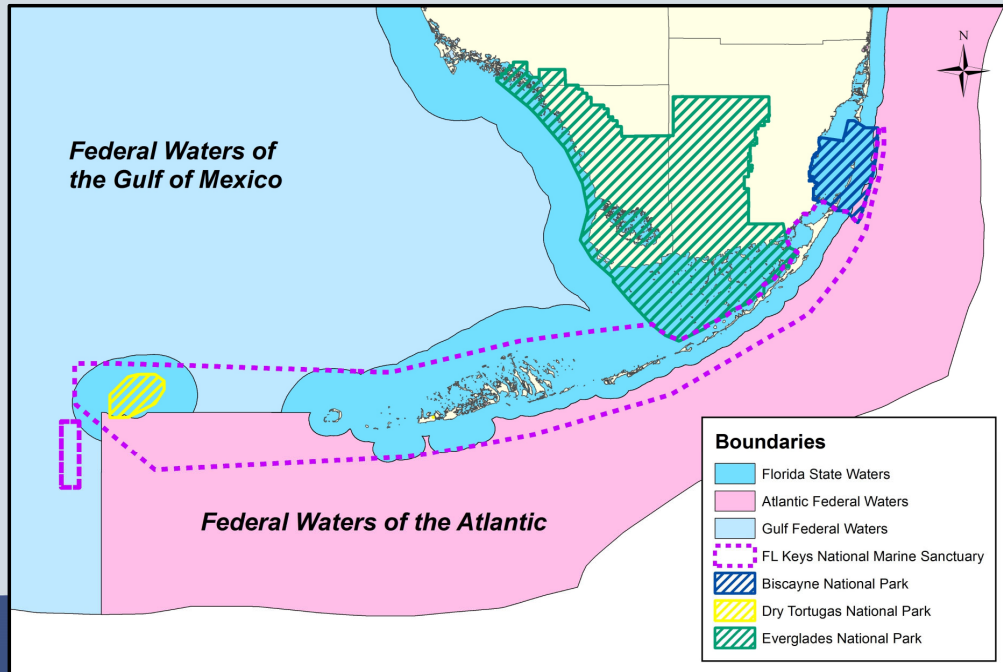


The Florida Keys National Marine Sanctuary is currently 3,800 square miles in area. It spans the length of the chain of islands that make up the Florida Keys and includes waters of both the Atlantic Ocean and Gulf of Mexico.

NOAA's Office of National Marine Sanctuaries shares trusteeship of marine resources with the State of Florida, as 60% of the FKNMS falls within state waters.

The FKNMS encompasses numerous habitat types, including nursery and essential fish habitat as well as spawning aggregation locations for many fishes and invertebrates. These habitats support a high number of diverse species and the largest documented contiguous seagrass community in the northern hemisphere and the largest barrier reef in the continental United States. Furthermore, the connectivity between these habitat types is critical to supporting the diversity and abundance of fishes and invertebrates observed in the Florida Keys ecosystem. For example, many fishes and invertebrates use mangroves and seagrass habitats as juveniles for refuge from predators. As they grow, many species transition from these habitats to hardbottom and to offshore reefs for feeding and reproduction.

Multiple Management Authorities in South Florida



Conservation of the Florida Keys marine ecosystem involves a variety of state and federal partners, including NOAA's Office of National Marine Sanctuaries. Many of Florida's important fisheries occur in both state and federally-managed waters and are jointly managed by the Councils and the FWC. Grouper and spiny lobster are two examples of such fisheries. Within the FKNMS, marine fisheries regulations within state waters and those fisheries for which we have extended our authority into federal waters (e.g., stone crab, blackfin tuna, etc.) are implemented by FWC. However, within federal waters of the FKNMS, marine fisheries regulations are generally implemented by the Councils or NOAA Office of National Marine Sanctuaries. When federal management plans address significant regulatory changes for species that occur in both federal and state waters, consistency in regulations becomes an important consideration for the FWC.

The FKNMS includes all of the reef track that occurs in the Monroe County portion of the Keys, including a portion within John Pennekamp Coral Reef State Park. The FKNMS borders Everglades National Park and Biscayne National Park to the north and surrounds Dry Tortugas National Park in the southwestern part of the FKNMS.

FWC Authority in FKNMS

- Authority to implement fisheries regulations in state waters of the FKNMS
- Limited authority to implement regulations for:
 - Boating
 - Habitat and wildlife



As co-managers of the Florida Keys National Marine Sanctuary, FWC has authority to implement fisheries regulations within state waters.

Additionally, FWC has limited authority to implement boating, habitat, and wildlife regulations within state waters when such regulations are linked to our statutory authority of directly managing fish and wildlife.

FWC Guiding Principles for Evaluating FKNMS Plan

1. Addressing ecosystem-level change a high priority
 - Water quality, water flow, coral loss
2. Fisheries management reserved to FWC in state waters
3. Consider closures and access restrictions on a case-by-case basis
4. Need to clearly define rationale for proposed actions
 - What issue is being addressed?
 - What has past experience taught us?
 - What are likely outcomes?
 - Evaluate relative to expected stakeholder impacts
5. Must be fair to all stakeholders



Here, we present the principles that the FWC is continuing to use to guide the development of our response to the updated FKNMS Restoration Blueprint. First, we acknowledge that it is important to address ecosystem-level changes that inherently have an impact on the marine resources of the Florida Keys, from the habitats to the fishes and invertebrates. Water quality, water flow, and coral loss are all factors that are influenced by conditions within and outside of the Florida Keys ecosystem. Addressing these factors are a high priority for the FWC and should be considered as the FKNMS proposals are evaluated. A second guiding principle is that fisheries management is reserved to the FWC in state waters. Third, area closures and access restrictions should be considered on a case-by-case basis after evaluating the science and potential ramifications of such actions. Fourth, as each proposal is discussed, the rationale behind the proposed actions should be clearly defined. This includes a clear description of the issues that are being addressed, what has been learned from past experiences, what the likely outcomes are, and an evaluation of the proposed actions relative to the expected stakeholder impacts. Finally, proposed actions must be fair to all stakeholders.

FWC Involvement in FKNMS Process

2019

- FKNMS DEIS released
- FWC stakeholder engagement
- FWC internal evaluation

2020

- FWC submitted comment letter

2022

- Updated FKNMS Restoration Blueprint released
- Meetings with diverse stakeholder organizations
- FWC internal evaluation



FWC has been heavily involved in the FKNMS Restoration Blueprint federal rulemaking process. The first version of the Restoration Blueprint, termed the Draft Environmental Impact Statement (DEIS) and its associated draft management plan, was released in 2019 and FWC staff quickly engaged with a diverse group of stakeholders to understand their perspectives on a variety of proposed actions and topics. Concurrently, FWC staff formed internal groups to evaluate each proposed action within the Restoration Blueprint with representatives from Marine Fisheries Management, Florida Fish and Wildlife Research Institute, Law Enforcement, Habitat and Species Conservation, Hunting and Game Management, and Legal.

Following a thorough and comprehensive evaluation of the DEIS and its associated management plan, FWC submitted a comment letter to the FKNMS in April 2020. FWC staff utilized the most relevant available science and stakeholder perspectives to inform the agency's comment letter.

In July 2022, FKNMS released an updated Restoration Blueprint following their past public comment period. FWC staff are heavily engaged in the process to evaluate the updated Restoration Blueprint using a similar process as was done for the DEIS. To this point, FWC staff have attended multiple FKNMS public information sessions, met with stakeholders and various organizations in the Florida Keys to understand their opinions, and are internally evaluating all components of the updated FKNMS Restoration Blueprint.

FKNMS Topics for FWC to Consider

1. Overarching FKNMS Topics

- Water quality
- Education
- Law enforcement
- Artificial reefs

2. Enhancing Coral Reef Restoration and Recovery

- Coral nurseries and restoration site protections

3. Western Dry Rocks

- Support for FWC rule



This presentation will focus on topics proposed in the Restoration Blueprint and how FWC staff recommends addressing them. First, overarching FKNMS issues will be discussed, including water quality, education, law enforcement, and the need for a well-designed artificial reef system throughout the Florida Keys. Based on an extensive review of science and stakeholder comments, FWC staff will highlight an approach aimed to enhance coral reef restoration and recovery throughout the Florida Keys ecosystem. The presentation will then review several FKNMS proposed actions at specific locations, including a proposal to seasonally prohibit anchoring at Western Dry Rocks in support of rules that FWC implemented last year.

FKNMS Topics for FWC to Consider

4. Habitat and Wildlife Conservation

- Wildlife Management Areas (WMA)

5. Other FKNMS Topics

- Boundary expansion
- Deeper water expansion of four Sanctuary Preservation Areas
- Catch and release fishing by trolling
- Baitfish permits
- Fish feeding
- Updating Management Agreements



The presentation will then cover another large component of the Restoration Blueprint that focuses on shallow water habitat and wildlife conservation, which is addressed through the creation and/or modification of regulations in various Wildlife Management Areas (WMAs). Finally, FWC staff will review several proposals that address management across the FKNMS, including sanctuary boundary expansion, deeper water expansion of Sanctuary Preservation Areas, catch and release fishing by trolling, baitfish permits, fish feeding, and updating our outdated management agreements with FKNMS and other state and federal partners.

Overarching FKNMS Topics - Water Quality

Issue to be addressed

- Poor water quality negatively impacts fisheries productivity and habitat restoration and recovery

Considerations

- Major public concern
- Largely addressed in FKNMS Management Plan

Preliminary Staff Thoughts

- Encourage FKNMS to take a leadership role locally and regionally to ensure water quality is addressed



As discussed in previous presentations about FKNMS, there are several overarching issues affecting the Florida Keys that need to be addressed. Water quality is a key element that connects all sanctuary resources and is essential in maintaining the richness and diversity of the Florida Keys ecosystem. It is a major public concern and is largely discussed within the FKNMS Management Plan. The environmental conditions of the FKNMS are impacted not only by local factors, but also by perturbations that originate from outside of sanctuary waters. The sanctuary is influenced by the Florida Current, the Gulf of Mexico Loop Current, inshore currents of the Southwest Florida Shelf, discharge from the Everglades through the Shark River Slough, and by tidal exchange with both Florida Bay and Biscayne Bay. Flood control modifications to the drainage of fresh water in the south Florida region have resulted in serious environmental effects due to altered water flow into the surrounding estuarine system, specifically Florida Bay. Large, persistent cyanobacteria blooms originating in Florida Bay have been associated with sponge die-offs and the associated community dependent on them. As these phenomena have been correlated with fish kills and seagrass die-offs, their increasing influence could put resources at risk that have not been so previously. Given the connectivity of the Florida Keys ecosystem with other areas, an increase in actions at a regional-scale and across multiple agencies is needed to address water quality issues. FWC believes FKNMS can play a key leadership role in ensuring water quality issues are addressed. The diverse habitats of the Florida Keys, ranging from seagrass beds to coral reefs, serve as critical components of the ecosystem and their health influences the productivity of numerous marine resources. Without addressing poor water quality, any restoration or habitat protection efforts will be limited in terms of success and scope.

Overarching FKNMS Topics - Education

Issue to be addressed

- Habitat impacts from vessels mainly due to lack of knowledge of operating within the Florida Keys

Considerations

- Major public concern
- Education is a critical element of any management action

Preliminary Staff Thoughts

- Encourage FKNMS to work with FWC and other relevant entities to promote education on issues impacting the Florida Keys ecosystem



Another overarching topic that has been routinely discussed during public comment is the need for improved boater education. In fact, some public comment have been in support of a boater educational course, similar to the course required for operating a vessel within Everglades National Park. Many negative impacts to benthic habitat in the Florida Keys is the result of a lack of knowledge of visiting vessel operators. The Florida Keys is a complex system to navigate with its many shallow banks, seagrass, and shallow hardbottom habitat. Although damage to this type of habitat is accidental, it can often take years for any damage that has occurred to recover. FWC believes that education and outreach are an integral component of any regulation or management plan. Ensuring the general public understand the problems, what is being done to address the problems, and active engagement within the community will generate support for restoration efforts and spread awareness on issues that impact all of user groups. We encourage the FKNMS to work with FWC and other agencies to promote education of issues impacting the Florida Keys ecosystem.

Overarching FKNMS Topics - Law Enforcement

Issue to be addressed

- Not enough FWC LE officers monitoring and enforcing the regulations of the current FKNMS zones

Considerations

- Major public concern
- No additional funds or resources to increase FWC officers

Preliminary Staff Thoughts

- Additional or zone changes will make regulations more challenging to enforce
- Additional LE patrol officers and equipment needed



Law enforcement issues are a source of major public concern that need to be addressed in concert with the proposed sanctuary expansion and any additional regulations. Presently, there are not enough FWC law enforcement officers to monitor and enforce the regulations of the current FKNMS zones. Currently, there are 56 law enforcement positions assigned to Monroe County as a whole to patrol the 3,800 square miles within the FKNMS, including 1 captain, 7 lieutenants, 1 pilot, 4 investigators, and 43 officers. Historically, FWC had as many as 17 dedicated FKNMS positions funded by NOAA. However, some of the positions were cut due to budget cuts from NOAA and others were absorbed. Consistently, at FKNMS stakeholder meetings, the issue of a lack of law enforcement has been a major concern. At this time, there is no mention of additional funds or resources to be allocated to law enforcement to increase their presence throughout the FKNMS. With the FKNMS proposed to be expanded by more than 1,000 square miles and many new areas and zones being added or modified, there will be a significant lack of staffing to provide sufficient patrols. Without additional support to increase law enforcement staff and equipment, the FWC will be unable to complete the necessary enforcement.

Overarching FKNMS Topics - Artificial Reefs

Issue to be addressed

- Important role in reducing impacts from fishing and diving activities

Considerations

- Can help offset lost fishing and diving opportunities due to area closures
- Public support

Preliminary Staff Thoughts

- Encourage FKNMS to work with FWC on developing a well-designed suite of artificial reefs

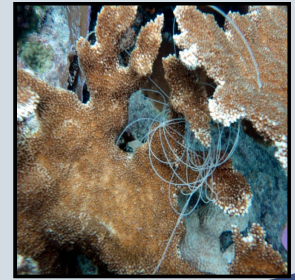


Artificial reefs could play an important role in coral reef restoration and recovery in the FKNMS. A well-designed suite of artificial reefs placed within the FKNMS and nearby areas, ranging in size from small to large, will help natural resource management in the FKNMS. These artificial reefs would offer new diving and fishing opportunities and would likely draw a portion of that activity now centered at natural reef habitat. Further, artificial reefs could help offset fishing and diving opportunities lost due to the area closures proposed in the Restoration Blueprint. FWC staff have met with groups who would like to see artificial reefs of various sizes throughout waters of the FKNMS. We are supportive of exploring this idea and think it can offer many benefits to the coral reefs as well as to the economy of the Florida Keys. FWC staff will continue to work with the FKNMS and stakeholders to discuss these ideas and to develop and implement a robust strategy for artificial reef deployments and management within the FKNMS to support coral reef restoration and recovery and enhance diving and fishing opportunities.

Enhance Coral Reef Restoration and Recovery

Background

- Degradation of coral reef habitat is one of most important ecosystem management challenges
- Large-scale efforts by coral practitioners to restore Florida's Coral Reef
- Current FKNMS marine zoning does not offer protections for coral nursery or restoration sites



The degradation of coral reef habitat is one of the most important ecosystem management challenges for the FKNMS. More frequent coral bleaching events; Stony Coral Tissue Loss Disease (SCTLD); degraded water quality; and direct human impacts, such as anchoring, trapping, fishing, and diver contact with reefs; have all negatively impacted the health of coral reef communities in the Florida Keys. Recently, the Coral Reef Evaluation and Monitoring Project, which has monitored the condition of coral reefs in the Florida Keys since 1996, determined that only 2% coral cover remains at their monitoring sites. To put this in a historical context, healthy Florida Keys reefs typically averaged approximately 30% coral cover.

FWC is an active participant in the ever-growing effort to restore reefs. FWC has significantly elevated our effort and attention toward coral reefs and has established coral reef restoration and recovery as one of our highest priorities which entails, among other things, increased coral reef science and conservation actions, and outreach and education through our Coral Crew program. Robust coral nurseries are an essential component of a large, coordinated coral reef restoration strategy. At present, coral nurseries are the source for nearly all the corals used for coral reef restoration within FKNMS. FWC's comments to the Restoration Blueprint highlighted several coral nursery locations that are not currently protected. Our previous recommendations emphasized the importance of protecting both coral nurseries and coral restoration sites through effective and standardized marking and establishing protective management actions to help ensure that coral restoration will be successful. Currently, FKNMS zoning does not offer protections for coral nursery and restoration sites.

FKNMS Coral Nursery and Restoration Zones

FKNMS Proposed Actions

- Create new transit-only and no-take/no-anchor regulations at coral nursery and restoration sites, respectively

Considerations

- FWC previously advocated for creation of such zones

Preliminary Staff Thoughts

- Proposed zones would greatly benefit efforts to restore Florida's Coral Reef

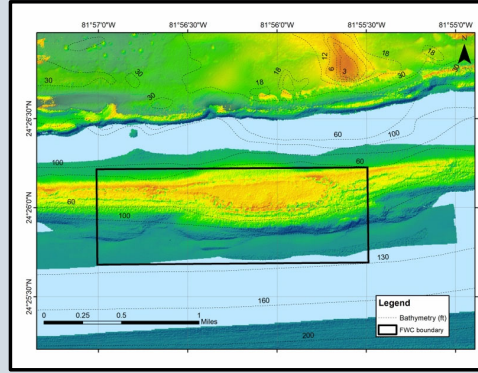


FKNMS is proposing to create two new marine zone types, called Coral Nursery Restoration Areas and Habitat Restoration Areas. For all coral nurseries that are permitted by FKNMS, the proposed action would make the area a transit-only zone. For all coral areas that are actively being restored, FKNMS is proposing to create no-anchor and no-fishing regulations associated with each location. There have been many occurrences where anglers, fishers, or boaters accidentally cause damage to these locations by their activities (e.g., fishing, anchoring, etc.). The proposed actions are aimed at providing protections to site locations that are actively being used to restore Florida's Coral Reef. During the 2019 DEIS, FWC recommended FKNMS provide direct protections to locations being used by coral practitioners for coral restoration. FKNMS clearly agreed with the recommendation and have proposed a suite of regulations for each known coral nursery and coral restoration location. FWC remains in favor of such proposed actions and view them as greatly beneficial to efforts to restore Florida's Coral Reef.

Western Dry Rocks (WDR)

Background

- In 2021, FWC approved regulations that seasonally closed fishing WDR
 - Important multi-species spawning aggregation site
- FWC has limited or no authority to implement anchoring and transit regulations at WDR



In 2021, FWC approved a seasonal fishing closure from April – July at Western Dry Rocks (WDR), an important multi-species spawning aggregation site about 10 miles from Key West. The months of April – July represent the peak spawning periods for recreationally and commercially important species such as mutton snapper, mangrove snapper, yellowtail snapper, and permit. FWC staff and other research partners are actively engaged in conducting research at WDR, which will be highlighted at a future meeting, to evaluate the impact of the regulations and whether they are achieving their desired effect.

While FWC has authority to make fishing regulations at WDR, as previously discussed, FWC has limited authority to implement anchoring or transit regulations. At present, divers are allowed to dive at WDR during the closed fishing season, potentially impacting the behavior of the spawning fish FWC's regulations are aimed at protecting.

Western Dry Rocks (WDR)

FKNMS Proposed Action

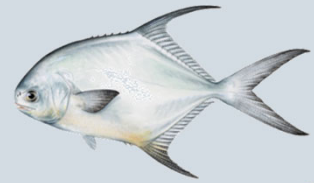
- Create a seasonal no-anchoring and transit-only zone at WDR
 - Regulations removed post-seasonal closure

Considerations

- FKNMS has authority to implement anchoring and transit regulations

Preliminary Staff Thoughts

- Proposal would support FWC efforts to protect an important multi-species spawning aggregation site
- Fishing regulations promulgated by FWC should not be included in FKNMS rule



FKNMS is proposing to create a new marine zone called Western Dry Rocks (WDR) Wildlife Management Area. Regulations at the new proposed WMA are no anchoring and transit only during the months of April – July, matching the location and timeframe of the FWC seasonal fishing closure. Anchoring and transit regulations proposed by FKNMS would be removed outside of the seasonal fishing closure, from August - March. FKNMS has authority to implement anchoring and transit regulations throughout their jurisdictional boundary. FWC staff view the proposed action by FKNMS as supportive to FWC efforts to seasonally protect the multi-species spawning aggregation site at WDR. However, as stated in the guiding principles for evaluating the FKNMS Restoration Blueprint, fishing regulations in state waters should only be included in the Florida Administrative Code and not within the FKNMS federal rule.

Habitat and Species Conservation

Background

- Changes to 47 Wildlife Management Areas, 23 proposed new



Throughout the next several slides, another set of proposals focuses on protections in Wildlife Management Areas (WMAs) throughout the Florida Keys. The FKNMS proposed rule includes 47 WMAs, of which 23 are proposed new. Wildlife management areas (WMAs) are generally designed to minimize disturbances to sanctuary habitats and species dependent on those habitats—such as birds that are easily disturbed by people.

Habitat and Species Conservation

FKNMS Proposed Actions

- Varying regulations proposed at each Wildlife Management Area aimed at minimizing disturbance to FKNMS resources

Considerations

- Regulations include idle speed, no motor, no anchor, or no entry

Preliminary Staff Thoughts

- Staff will evaluate proposed actions on a case-by-case basis



FKNMS proposes to create new WMAs and modify the marine zones/regulations at some existing WMAs. Regulations for WMAs would vary by zone to protect seagrass, hardbottom, and other critical shallow water habitats and associated wildlife, including fish, birds, and sea turtles. The access restrictions proposed to be implemented in each WMA, pertain to the specific resource protection goals at each location, and would include potential regulations of idle speed/no-wake, no-motor, no-anchor, transit only, and no-entry zones. Disturbance and direct impacts (including prop scarring, groundings, turbidity, water quality degradation, disturbance, etc.) to these shallow areas by vessels are believed to be contributing factors to a decline in the Keys of birds, fish, and other animals dependent on these habitats. Wading bird populations in south Florida have significantly declined and boat traffic near rookeries can flush adult birds from nests, leaving their chicks vulnerable to predation or exposure. In a white paper, FWC avian scientists concluded “that although some species may become habituated to certain disturbances over time and not all disturbances negatively affect population growth, the potential serious effects of disturbance and the large variability in response among species and individuals warrants a conservative approach to setting buffers and setback distances.” Additionally, some of the proposed areas also protect sea turtle nesting beaches from human impact. The lower Keys backcountry WMAs are mostly located within one of the National Wildlife Refuges and are designed to assist the Fish and Wildlife Service with their management responsibilities. Many of these WMAs are similar to the goals and management in FWC Critical Wildlife Areas. However, FWC staff recommends that regulations at specific locations balance resource needs with user access as many of these areas are popular recreational and fishing locations.

Marquesas Key Turtle WMA

FKNMS Proposed Action

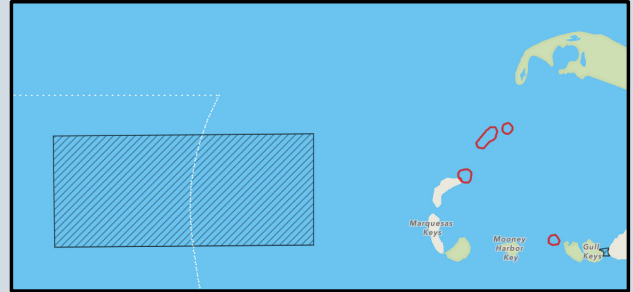
- Create a 6.4 sq. mile idle-speed zone to decrease disturbance to green sea turtles

Considerations

- Partially in state waters
- Large feeding aggregations occur in the area

Preliminary Staff Thoughts

- Proposed actions derived from recent independent research
- Would benefit protections to ESA-listed green sea turtles



One example of a proposed WMA is Marquesas Key Turtle WMA. FKNMS is proposing to create a 6.4 sq. mile idle-speed zone to protect ESA-listed green sea turtles from vessel strikes at a shallow, green sea turtle foraging site. It should be noted that part of the proposed WMA is in state waters. Research has shown this area, known as the Eastern Quicksands, to hold one of the densest feeding aggregations of green sea turtles in the world. Presumably due to the high-quality seagrass habitat in this region, large aggregations of late-juvenile and adult green sea turtles travel to this region in large numbers to feed. The current proposed action by FKNMS represents approximately a 50% reduction from the previous FKNMS Draft Environmental Impact Statement proposal. FKNMS has reduced the size of the idle-speed zone on the southern and eastern boundaries to accommodate for safe-travel of vessels transiting back from the Dry Tortugas, which was previously a concern by FWC. FWC staff have heard public concerns about this proposed action relative to access to several shipwrecks that are popular among anglers. Coordinates obtained by FWC staff indicate that two of them are outside of the proposed boundaries and one is only slightly within. Access to these fishing locations would not be unreasonably restricted by the FKNMS proposed idle-speed zone. Research conducted in this region, mainly by the Inwater Research Group, has indicated that 70% of the green sea turtle foraging aggregation would be offered some level of protection with the FKNMS proposed action. FWC staff believe that green sea turtle populations would benefit from idle-speed restrictions in this unique area.

Other FKNMS Topics

1. Boundary expansion
2. Deeper water expansion of four Sanctuary Preservation Areas
3. Catch-and-release fishing by trolling
4. Baitfish permits
5. Fish feeding
6. Updating Management Agreements



The remainder of the presentation will be focused on select topics for FWC to consider as part of the comments to the FKNMS Restoration Blueprint. Although not all topics are covered in the slide, FWC staff will be evaluating every proposed action and providing comments to FKNMS.

FKNMS Boundary Expansion

FKNMS Proposed Action

- Expansion of FKNMS boundary by 1,002 sq. miles
 - Pulley Ridge proposal to prohibit anchoring by large vessels

Considerations

- Would provide expanded protections from anchoring and vessel discharge impacts
- Fishing regulations not modified with proposed expansion

Preliminary Staff Thoughts

- Staff supportive of FKNMS boundary expansion



The next topic to be discussed is the FKNMS boundary expansion. Under FKNMS proposed action, the sanctuary boundary would be expanded by approximately 1,002 square miles. By expanding the boundary, the new boundary will align with the “Area to Be Avoided” (ATBA), plus ~1 mile westward shift around the Tortugas South Ecological Reserve. The ATBA is an existing demarcation where large vessels (over 50 m) are prohibited due to several past large ship groundings in this area. By co-locating the boundary with this existing demarcations, the complexity of the various boundaries will be reduced, and the additional protections provided in the FKNMS-wide regulations will be in effect. Fishing regulations would not be modified by the proposed FKNMS boundary expansion.

FKNMS is also proposing to add Pulley Ridge to the FKNMS and prohibit all anchoring by large vessels in this area to further protect deepwater coral reef ecosystems. At 180 – 240 feet in depth, the mesophotic reef system off Pulley Ridge is one of the deepest photosynthetic coral reefs known and research surveys have highlighted healthy and unique coral formations throughout the area. Regulations set by the Gulf of Mexico Fishery Management Council (GMFMC) and implemented by NOAA Fisheries (not FKNMS) prohibit use of bottom gear (i.e., traps, trawls, and bottom longlines) and anchoring by fishing vessels in a large area of Pulley Ridge. The U.S. Secretary of Commerce approved measures that prohibit use of bottom gears (except bottom longlines, which have historically been used in this area by commercial grouper fishermen) and anchoring by fishing vessels in part of Pulley Ridge. The GMFMC does not have authority to prohibit anchoring by other vessels as proposed by FKNMS.

Based on the above factors, staff are supportive of the proposed FKNMS boundary expansion.

Deeper water Expansion of Marine Zones

FKNMS Proposed Action

- Deepwater expansion of four current zones
 - Associated fishing prohibition

Considerations

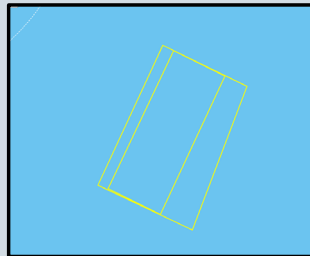
- Fishing seasonally important
- Western Sambo in state waters

Preliminary Staff Thoughts

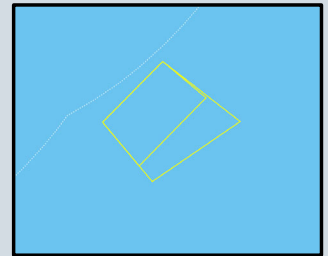
- Staff supportive of protection of deeper water corals
- Drift fishing and trolling should be allowed



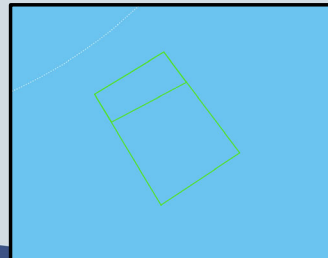
Carysfort Reef



Alligator Reef



Tennessee Reef
Special Use Area



Western Sambo
Ecological Reserve



The next set of topics proposed by FKNMS involves the expansion of protected habitat into deeper water at four locations: Carysfort Reef, Alligator Reef, Tennessee Reef, and Western Sambo Ecological Reserve. Regulations at these expanded areas would include no-fishing and no-anchoring. The goal for these types of proposals is to protect benthic habitat that is not well protected under current FKNMS marine zoning. Each area is different from one another, but the benthic habitat in these areas is important for the numerous species that rely on it. It should be noted that these locations are also seasonally important for fishing. For example, Alligator Reef is an important fishing location for sailfish during the winter months.

Of the four locations where additional protections are proposed in deeper water habitat, only Western Sambo is in state waters. Overall, there is support amongst the scientific community for broader protections of deeper water benthic habitat within FKNMS. At each location, research conducted by FWC documented the presence of Endangered Species Act (ESA)-listed coral species. Furthermore, there were coral species at each location that are considered the most highly susceptible to Stony Coral Tissue Loss Disease, which has decimated stony coral populations along the Florida Reef Tract since 2014. However, as previously highlighted in FWC's 2019 comments to FKNMS on the Draft Environmental Impact Statement, drift fishing and trolling activities are thought to have little to no impacts to the benthic habitat that FKNMS is proposing to protect. As such, FWC staff believe that these type of fishing activities should be allowed within the expanded areas to continue to allow historical access while also providing the intended benefits to sensitive, benthic habitat.

Catch and Release Fishing by Trolling in Four SPAs

FKNMS Proposed Action

- Eliminate an exemption that allows catch and release fishing by trolling at Sand Key, Alligator Reef, Sombrero Reef, and Conch Reef SPAs

Considerations

- FWC previously opposed to the proposal
- Sand Key in state waters

Preliminary Staff Thoughts

- Staff opposed to access limitations without information to support such an action



The next proposed action by FKNMS is the elimination of a current exemption that allows for catch and release fishing by trolling in Conch Reef, Alligator Reef, Sombrero Key, and Sand Key SPAs. FKNMS states that these activities are no longer consistent with their management goals and result in user group conflicts. The Restoration Blueprint also states that allowing catch and release fishing by trolling in these four SPAs affects human safety, but it is unclear what negative impacts are occurring. FWC Rule 68B-6, F.A.C. designates catch and release by trolling as an allowable practice in Sand Key SPA, which is in state waters. Modification to fishing activities in this area would constitute a fisheries management action under FWC authority, and the FWC is not supportive of access limitations without information to support such an action.

Elimination of Baitfish Permits

FKNMS Proposed Action

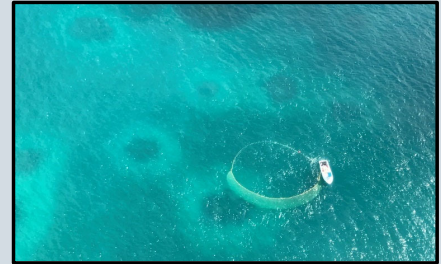
- Eliminate the issuance of baitfish permits

Considerations

- Several SPAs in state waters
- FWC also issues limited-entry lampara net endorsement
- Lampara nets unlikely to contact bottom or conflict with other user groups

Preliminary Staff Thoughts

- Fishers who are part of limited-entry fishery should be allowed to continue to fish within designated SPAs



Another FKNMS topic to be discussed is the proposed changes to recreational and commercial baitfish permits. The proposed action aims to eliminate the issuance of permits by FKNMS that allow harvest of baitfish (e.g., ballyhoo, pilchards) within 18 current Sanctuary Preservation Areas (SPA). Several of the SPAs are located within state waters. The proposed action does not impact the ability of fishers to fish for bait outside of SPAs. FKNMS indicates that baitfish permit have a high amount of attrition and that there is a decreasing trend with fewer fishers renewing their permits. The rationale for this proposal is to have consistency in regulations at all SPAs and to reduce user conflict between the commercial and recreational fishing and diving communities. The FKNMS currently issues two types of baitfish permits: cast net/lampara net and hair hook. Cast net/lampara net permit holders are currently allowed to harvest baitfish in all 18 SPAs. It should be noted that FWC also issues a limited-entry lampara net endorsement in state waters. FWC staff recommends that lampara net baitfishers should be allowed to fish within designated SPAs due to the fact that contact with the reef and other user groupers is unlikely.

Fish Feeding

FKNMS Proposed Action

- Prohibit feeding of fish, sharks, and marine species from vessels or while diving

Considerations

- No impact to ability to chum while fishing
- FWC rule only applies to divers in the water
- FWC advocated for fish feeding regulations in federal waters

Preliminary Staff Thoughts

- Staff supportive of aligning state and federal fish feeding regulations in FKNMS



Another FKNMS proposed regulation relates to fish feeding. FKNMS is proposing to implement a new regulation to clarify prohibitions specific to the practice of fish feeding. The act of fish feeding may change the behavior of fish, sharks, and other animals and has caused concern over human safety issues. To address the potential impact that the feeding of fish, sharks, or other marine species poses for human safety, the environment, and changes in behavior of such species, NOAA would update its regulations to prohibit the feeding of fish, sharks, and other marine species from any vessel AND/OR while diving within the FKNMS. Currently, there are regulations in state waters that prohibit the act of fish feeding while diving, but no such regulations exist in federal waters of FKNMS. FWC defines fish feeding as “the introduction of any food or other substance into the water by a diver for the purpose of feeding or attracting marine species, except for the purpose of harvesting such marine species as otherwise allowed by rules of the Florida Fish and Wildlife and Conservation Commission.” It should be noted that FKNMS proposal is slightly more restrictive than the current state regulations. The FWC fish feeding prohibition is only applicable with divers in the water, whereas the FKNMS rule language denotes the practice of feeding fish while diving AND/OR from a vessel. In the past, FWC has supported and advocated for federal legislation that would prohibit fish feeding in federal waters. FWC staff are supportive of the proposed FKNMS regulations and may consider updating statewide regulations to be consistent with that of the FKNMS. FWC staff also believe that current fish feeding operators should be granted a non-transferable ‘grandfather’ exemption to prevent undue economic harm.

Updating Management Agreements

Co-Trustees Agreement for Cooperative Management

- Clarifies the relative jurisdiction, authority, and conditions of the State of Florida and NOAA
- Specifies five-year review of FKNMS management plan and regulations

Protocol for Cooperative Fisheries Management

- Describes protocol and procedure for the management of fisheries resources and fishing activities in FKNMS waters
- FKNMS proposes to work with FWC, Councils, and NMFS to determine a definition of 'traditional fishing'



As part of the FKNMS rulemaking process, FWC staff are actively working with our state and federal partners to update our existing management agreements. These agreements were initially signed in 1997 when the FKNMS was created and are outdated. Two examples of such agreements are the Co-Trustees Agreement for Cooperative Management and the Protocol for Cooperative Fisheries Management.

The Co-Trustees Agreement for Cooperative Management is an agreement that clarifies the relative jurisdiction, authority, and conditions of the State of Florida and NOAA. Within this agreement, there is a clause that indicates the Secretary of Commerce would review management plan and regulations every five years to evaluate the progress made toward implementing the management plan and the effectiveness of site-specific management techniques. FWC believes this five-year review represents a critical step in adaptive marine resource management of the FKNMS. As co-trustees of Florida's marine resources, FWC is actively working with the Florida Department of Environmental Protection and FKNMS to update this existing agreement.

The Protocol for Cooperative Fisheries Management is an agreement that describes the protocol and procedures for the management of fisheries resources and fishing activities in state and federal waters of the FKNMS. The agreement involves the FWC, South Atlantic Fishery Management Council, Gulf of Mexico Fishery Management Council, National Marine Fisheries Service, and the Office of National Marine Sanctuaries. FKNMS has proposed to work with the Councils, FWC, and NMFS through updated agreements to clarify what 'traditional fishing' activities consist of and develop a process to evaluate new fishing gear or activities being allowed for use. FWC will continue to remain engaged with our federal partners on the definition of 'traditional fishing' and on updating the Protocol for Cooperative Fisheries Management.

FWC Timeline

- **2022**

- Coordinate with FKNMS and Councils on Restoration Blueprint and update agreements
- Continued engagement with FKNMS, state partners, and stakeholders throughout the federal process
- FWC internal evaluation of Restoration Blueprint



- **Feb. 2023** – Provide FWC Restoration Blueprint comments



Moving forward, FWC's timeline for evaluating the updated FKNMS Restoration Blueprint has consisted of a multi-pronged approach. As previously discussed, staff have already been coordinating with the FKNMS and the Councils to update agreements with our state and federal partners that are now outdated. The Gulf Council and South Atlantic Council have already held meetings to discuss the FKNMS Restoration Blueprint and FWC staff has presented at each of these meetings. Furthermore, the FKNMS has held several public information sessions that staff have attended to listen to public comment on the various proposed actions within the Restoration Blueprint. FWC staff have also directly engaged diverse stakeholder groups and organizations to better understand public perspectives and will continue to coordinate with our state and federal partners and stakeholders as we move through the federal rulemaking process for FKNMS. FWC staff will continue to evaluate each proposed action within the Restoration Blueprint with subject matter experts from Marine Fisheries Management, Florida Fish and Wildlife Research Institute, Law Enforcement, Habitat and Species Conservation, Hunting and Game Management, and Legal.

FWC's comment letter to FKNMS on the Restoration Blueprint is due in February 2023.

FWC Next Steps

- Input requested today on FKNMS Restoration Blueprint
- Staff work with Commissioner Spottswood on finalizing FWC comment letter by February 2023
- Use FWC rulemaking for fisheries items



Today, staff are interested in any input on the FKNMS Restoration Blueprint and the process FWC is using to evaluate the FKNMS proposed actions. Additionally, staff intend to work closely with Commissioner Spottswood during the evaluation process and to help finalize FWC's comment letter to FKNMS in February 2023. Throughout the process, FWC can utilize its rulemaking authority to implement fisheries regulations in state waters of the FKNMS.