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Florida Keys Commercial Fishermen's Association

Joint Committee on Natural Resources and Committee on Small Business

Oversight Hearing on:

"Restricted Access to Biscayne National Park and Implications for Fishermen, Small Businesses, the Local Economy and Environment"

Monday, August 3, 2015 at 10:00 AM

Chairman Bishop and members of the committee, my name is Ernie Piton and I am a second generation commercial fishermen residing in Key Largo, Florida. I have lived in the Florida Keys most of my life and began commercial fishing part-time at age 17 prior to my graduation from Coral Shores High School in Tavernier. I am proud to say I have been a commercial fisherman for 32 years with my sons Ernest, III now following in the family tradition and my youngest, Travis looking forward to full-time work in the fishery following his graduation next year. I am also president of the Florida Keys Commercial Fishermen's Association representing more than 150 members from Miami to Key West engaged in the harvest of spiny lobster, stone crab and finfish of all types.

As written, the General Management Plan (GMP) and the Fisheries Management Plan (FMP) advocated by Biscayne National Park (BNP) managers would result in profound, negative, socio-economic impacts and job loss in South Florida and the Upper Keys. The damage would be widespread impacting recreational, for-hire and commercial fishermen, bait and tackle shops, restaurants, fuel companies, marinas, consumers of domestically produced seafood and others.

During the 14 years the plan has been under development, changes in park management and personnel have disrupted the continuity of the process and provided little in the way of transparency to stakeholders from all user groups. Much of the science used to support the park's position on management changes is ancient history and working groups formed to advise park managers, have not met for more than 12 years. As a result, the majority of the management recommendations being made would severely restrict fishing of all types, while taking little or no action to address the root causes of park problems or activities that have the most negative impacts on water quality, fish populations, corals and benthic habitat.

CORE ISSUES

Water quality, education and law enforcement are the core issues not fishing. While our regulatory agencies are great at promulgating new rules and regulations, monies to address water quality, educate the public and provide for reasonable law enforcement are often not appropriated. Millions of gallons of only marginally treated effluent are being discharged daily into the marine environment including Biscayne Bay and adjacent waters. Over the past five years, an aging infrastructure in Miami-Dade County has resulted in several pipeline breaks with spills of more than 20 million gallons each of raw sewage into Biscayne Bay. Other factors affecting water quality are climate change and ocean acidification.

Educating park users is a major component of protecting park resources and important for all user groups. Tourists and locals alike are most likely not familiar with the intricacies and fragile nature of corals, sea-grasses and benthic habitat and for many this may constitute their first on-the-water or underwater experience. Strategic placement of signage and staffing to inform park visitors of rules and regulations and the fact they are entering a national park where more stringent rules and regulations apply should have a higher priority.

The lack of law enforcement in BNP and the greater Florida Keys National Marine Sanctuary is even more ominous. It is my understanding there are approximately 3-5 on-the-water law enforcement officers for all of BNP's 174,000 acres, most of which are water and accommodating 496,000 visitors annually or as many 1,348 per day (BNP). The park is located within the larger framework of the 2900 square mile Florida Keys National Marine

Sanctuary (FKNMS) which employs a total of 2 on-the-water enforcement officers. In turn, FKNMS contracts with the Florida Fish and Wildlife Commission (FWC) to provide additional law enforcement support. However, FKNMS just recently cut their funding to FWC from \$700,000 to \$400,000 annually thus reducing law enforcement assistance by nearly one-half.

A brief examination of the 2365 citations/warnings issued within BNP from 1998-2011 (BNP) indicates 51.2% were for possession of undersized fish and 29.7% were fishing with no license. Others in minimal percentages were: fishing in closed areas; over the bag limit; out of season harvest and harvest of ornamental or prohibited species. These types of citations/warnings are most commonly associated with recreational anglers and demonstrate the need for better education and law enforcement personnel – not closed areas to all fishing.

ECONOMIC IMPACTS

Park managers have characterized the commercial fishing industry as having a diminishing presence in South Florida and the Keys; however, this is completely false. The number of Saltwater Products License (SPL) holders in Monroe County alone has increased by 20% since 2011 (Source: FWC). Phasing out commercial fishing in Biscayne National Park would have a direct impact on approximately 150 permit holders engaged in the spiny lobster, stone crab and shrimping industries from the Miami River area, Florida City and the Upper Keys, plus an additional two crew members on average per permit holder. Economic impact based on ex-vessel turnover alone in the spiny lobster and stone crab fisheries would amount to more than \$40 million dollars annually in the affected area.

As yet uncalculated economic impacts would befall boat manufacturers, marinas, bait and tackle shops, fish houses, fishing tournaments and other related activity.

The FMP does not provide for transfer of commercial fishing permits and proposes a phase out of commercial fishing, other than ballyhoo harvest by lampara nets, by attrition or within 10 years. Many stakeholders with more than 30 years of fishing history would be prevented from passing their businesses on to their children or even continue in their own businesses if they were incapacitated due to illness or other complications and had no recorded landings in any given year.

SECONDARY IMPACTS OF THE PROPOSED ACTIONS

A commercial closure would force relocation of more than 50,000 spiny lobster and stone crab traps into the Upper Keys and the Florida Keys National Marine Sanctuary which is also looking to reduce and restrict fishing effort. Relocation of this gear would result in forced over-capitalization of both the spiny lobster and stone crab programs instituted by State and Federal agencies through the Trap Reduction Program initiated in 1998. Fishermen spent millions of dollars buying into the program that included fishing territory in Biscayne National Park. Phasing out commercial fishing will also have profound social and cultural impacts on small coastal communities from the Miami River to Key West. It will ultimately eliminate fishermen that have plied their trade for four or more generations. Forced relocation for employment purposes will impact schools, churches, businesses, mortgage companies, banks and ripple through fragile, local economies.

There are currently 18 Special Preservation Areas (SPAs) within the Florida Keys National Marine Sanctuary (FKNMS). The only restricted activity in those SPAs is fishing of any type. Yet, those 18 areas have suffered the greatest impacts to corals and benthic habitat; more than any other area within the sanctuary due to diver impacts. Yet, BNP plans advocate for more mooring buoys to accommodate divers even though studies done in 2010 (Camp) and 2013 (Krieger/Chadwick) documented a direct correlation between the number of mooring buoys and the amount of damage in the SPAs located in the Florida Keys National Marine Sanctuary. They also documented an average of 18 interactions per diver per dive in spite of pre-diving briefings not to interact with corals.

Under the proposed GMP, Biscayne National Park managers are also considering eliminating the two-day recreational lobster mini-season. This would most likely result in an estimated 15-20,000 divers annually taking their harvesting efforts into the Upper Keys in addition to the estimated 30,000 that already invade the area wreaking environmental havoc on corals and hard bottom habitat. These inexperienced divers, arguably, cause more coral damage in a two day period than occurs in a year from all other activities.

We are not aware of any carrying capacity studies done by the park to limit the number of site visitations by vessels or by divers/snorkelers. And to the best of our knowledge there has never been a study to measure juvenile lobster mortality associated with the two-day mini season. Divers pay no user fees to mitigate damage inflicted by their activities or other compensation such as park entrance fees.

SCIENCE

Regrettably, the data bases used to begin the development of the GMP more than a decade ago are no longer germane to current stock levels or the condition of sea grasses, corals and other benthic habitat. Park managers find it far too convenient to blame fishing for all of the ills facing the park because it is the easiest to regulate.

NOAA Southeast Data Assessment Reviews (SEDAR), stock assessments, conducted within the past 3-5 years on key indicator species such as yellowtail and mutton snapper, black, gag and red grouper and spiny lobster have rated all of them as being in good to excellent condition. Stock assessments measure the health of a fishery throughout its range and a high extraction rate in one area does not mean a stock is undergoing overfishing or overfished. Existing fishing rules and regulations including size and bag limits, spawning closures and Annual Catch Limits (ACLs) have proven to be effective measures in preventing and eliminating overfishing on all of these stocks, so much so that, NOAA declared an end to overfishing with their implantation in January of 2011.

The primary issues affecting corals and several species such as spiny lobster and stone crab occur naturally. An El Nino in 1997-98 and a severe cold snap in 2010 account for a significant portion of the damage done to Acroporid corals (staghorn and elkhorn). The Panulirus-Argus Virus (PaV1) in spiny lobster and the Hematodinium blood virus triggered by red tides in stone crabs are largely responsible for fluctuations in recruitment of these two species -- not fishing.

An analysis of a recently released study on marine debris has been largely debunked citing data accumulated in 2006 by the researchers in a post-hurricane season that included Wilma, Katrina and Rita and the worst storm surge seen in the Florida Keys in 46 years. In addition a limited number of stakeholder surveys included in the report on the amounts of lost fishing gear were also taken in post-hurricane years and found to be 13 to 21 years old and most likely inflated in hopes of procuring FEMA funding.

Genetic studies conducted on spiny lobster by Tringali/Hunt found that Florida's spiny lobster population is almost exclusively externally recruited and harvest of all legal lobsters in South Florida would have little or no bearing on the subsequent year's recruitment. Lobsters in a closed area might achieve a larger size in a year following the closure but would soon be harvested outside of the closed area due to their high mobility, spawning habits and social nature of the animals.

Both U.S. Rep. Joe Garcia and BNP Superintendent Brian Carlstrom were invited and on board commercial spiny lobster and shrimping vessels for fishing trips in BNP within the past two years to observe first-hand the methods of harvest and analyze by-catch. On the shrimping trip there was only minimal by-catch and all of it was released alive. On the lobster harvesting trip there was zero by-catch. Several studies have been conducted on by-catch in both fisheries by the University of Miami Rosenstiel School of Science and found that virtually all of it is returned to the marine environment alive and in a healthy condition.

The commercial fishing industry in South Florida and the Florida Keys has engaged in numerous Cooperative Research Programs with the FFWCC and NOAA to protect the environment and enhance and improve the fisheries. I know of no other fishing organization that has been as pro-active in that regard in this region.

DEVELOPMENT OF THE FMP, GMP & THE PUBLIC SCOPING PROCESS

The development of the GMP is now 14 years old and again, working groups assembled to help in the formulation of the plan have not met for at least 12 years. A number of scheduling conflicts occurred between scoping meetings for BNP taking place on the same dates as scoping or Sanctuary Advisory Council meetings addressing their own GMP. In one instance in Florida City, the meeting facility was double-booked and a note was placed on the door at the last minute directing participants to another location.

Little or no notice was given to interested parties on meeting dates or locations though local venues such as radio and newspaper announcements. BNP may have met legal requirements by posting the meetings in the Federal Register but stakeholders do not as a rule, read that publication on a regular basis.

Working Group meetings utilized facilitators and 'steering' proved to be a typical to achieve pre-planned outcomes and consensus. Facilitators routinely stated that Preferred Alternative #1 – No Action was not an option and selection of one of the other recommended alternatives was the objective. The meetings were routinely broken into smaller roundtables for discussion. The intent is to diffuse public opinion because each smaller group is not privy to the discussions taking place at the other tables. A spokesperson is selected for each roundtable that may or may not convey the consensus of the group as a whole because of dissimilar positions on issues.

BNP further complicated the process by developing two management plans: a Fisheries Management Plan and a General Management Plan. Simply digesting that amount of information was a task in and of itself for most stakeholders. By and large, fishermen had little say in the Fisheries Management Plan with much of it developed to their exclusion by the NPS with other agencies. Accessing details of both management plans was also an exercise in patience and perseverance. One individual described it this way, "I consider myself computer savvy but felt I needed to be a computer hacker to locate the management plans on the park website."

Continually adding various alternatives to the management plans further complicated matters and Alternatives 6,7 and 8 were never presented for public scoping meetings.

SOCIAL AND CULTURAL IMPACTS

Next to tourism, commercial fishing is the second largest economic engine and employer in the Florida Keys. During the recent recession, Monroe County maintained one of the lowest unemployment rates in the State/Nation due to a vibrant and robust commercial fishing industry. We also represent enormous economic value to the State as its largest commercial seaport. Not all of our communities are interested in or capable of shifting to a tourist based economy and both the Miami River Area and the Florida Keys have a heritage of commercial fishing dating back well over 100 years.

In areas like the Miami River or Key West, the commercial fishing industry is more than 51% Hispanic and a phase-out would severely impact a specific ethnic group. It would devastate fishermen, fish houses and restaurants in those areas, popular as meeting places for their respective communities, where strong social ties are developed.

The plan affords no buy-outs for commercial fishermen; no funding for job relocation or job training. It would render established businesses worthless despite life-times of investment by stakeholders.

RECOMMENDATIONS

- Re-initiate and re-convene the working groups for additional discussions to find common ground. If a facilitator is used, the person selected should be an independent third party. Based on previous experience, a representative from the Inspector General's Office should also be present.
- In 2011 under the South Atlantic Council's Spiny Lobster Amendment 11 the commercial fishing industry was the lead in developing 60 new coral protection sites from Key Biscayne to the Dry Tortugas. We are more than willing to work with BNP to develop appropriate closed areas beneficial to habitat without significant negative impacts to user groups.
- Provide for additional input from stakeholders and give greater weight to anecdotal information provided by this sector. Many of the fishermen in the affected area have been in business for 30 years or more and have extensive knowledge of the fishery and the marine habitat.
- Call for an independent peer-reviewed Environmental and Socio-Economic Impact Statement.
- Provide for an independent cultural anthropologist, experienced in marine issues and communities, to conduct a thorough evaluation and assessment of the impacts on these small coastal communities.
- Insist on up to date, peer-reviewed science to support any management changes.
- Be consistent and non-discriminatory in applying any new rules and regulations to all user groups.
- Analyze law enforcement records of citations and marine violations to identify trends that have developed over the years to assist in pinpointing problem areas.
- Develop stronger relationships with industry through Cooperative Research Programs.

Chairman Bishop and members of the committee, thank you for your interest and assistance in addressing both the Fisheries Management Plan and the General Management Plan for Biscayne National Park. Actions initiated by these plans will affect all of us for 20 years or more. A thorough and transparent analysis will show that issues affecting BNP are not driven by fishing activity and simply reflect the mind-set that closing areas is simply the most expeditious method to achieve results. Unfortunately, it fails to address the real causes of problems affecting the park which we have identified as water quality, education and law-enforcement.

Bordering the 8th largest metropolis in the United States and allowing for consumptive uses can have balance. The process to achieve such a result needs a major overhaul and to that end we are committed to working with park and fisheries managers to identify and implement acceptable solutions without causing irreparable harm to our fishing communities or the environment.

Sincerely,

s/Ernest M. Piton, Jr.

Ernest M. Piton, Jr.