

Florida Fish and Wildlife Conservation Commission

Minutes of the Commission Meeting

December 1 -3, 2004

Key Largo

A regular meeting of the Florida Fish and Wildlife Conservation Commission was held at the Sheraton Beach Resort, Key Largo, December 1-3, 2004, and called to order at 8:30 a.m., by Chairman Rodney Barreto, with the following members in attendance:

Mr. David K. Meehan, St. Petersburg	Mr. H.A. "Herky" Huffman, Enterprise
Ms. Sandra T. Kaupe, Palm Beach	Mr. Richard A. Corbett, Tampa
Mr. Brian S. Yablonski, Tallahassee	Ms. Kathy Barco, Jacksonville

Staff

Mr. Kenneth D. Haddad	Executive Director
Mr. Victor J. Heller	Assistant Executive Director
Mr. James V. Antista	General Counsel
Colonel Julie L. Jones	Director, Division of Law Enforcement
Mr. Nick Wiley	Director, Division of Hunting and Game Management
Mr. Timothy Breault	Director, Division of Habitat and Species Conservation
Mr. Mark S. Robson	Director, Division of Marine Fisheries Management
Mr. Gil McRae	Director, Fish and Wildlife Research Institute
Ms. Jacqueline Fauls	Director, Office of Legislative Affairs
Ms. Sandra L. Porter	Director, Office of Finance and Budget
Mr. Scott C. Ball	Director, Office of Community Relations
Mr. Gregory L. Holder	Director, Southwest Region
Mr. Rolando J. Garcia	Director, North Central Region
Mr. Charles E. Collins	Director, South Region
Mr. Dennis N. David	Director, Northeast Region
Mr. Frank Montalbano	Deputy Director, Habitat and Species Conservation

Sixty-seven people registered as guests/speakers for the three-day meeting.

Regional Director Garcia gave the invocation. Commissioner Yablonski led the assembly in the Pledge of Allegiance to the Flag.

The Honorable Lance Day, a Circuit Judge, administered the oath of office to newly appointed Commissioner Kathy Barco.

Commissioner Meehan introduced and welcomed Tim Borski, a local artist, to the meeting. Mr. Borski's fish and wildlife artwork was on display in the vestibule of the hotel during the duration of the Commission meeting.

Colonel Jones introduced Jack Beal of Shikar-Safari Club International, who presented the association's 2004 Officer of the Year Award to Regional Director Chuck Collins. Mr. Beal mentioned the many fine law enforcement attributes of Mr. Collins during his tenure with the Division of Law Enforcement, and delivered to him a special recognition plaque as a token of the club's appreciation for his outstanding efforts to protect the state's fish and wildlife resources.

Mr. Haddad introduced and welcomed Dr. C. Tom Rainey of the Board of Directors of the Wildlife Foundation of Florida, who presented the Foundation's 2004 Louise Ireland Humphrey Achievement Award to FWC employee Bob Wattendorf. Dr. Rainey briefly discussed Mr. Wattendorf's career accomplishments and presented to him a \$1,000 check and a life-sized bronze sculpture of a bobwhite quail.

Mr. Wattendorf thanked the Foundation for its recognition of his work, and mentioned that there are few awards for dedicated state employees and praised the Foundation for establishing such an award.

Mr. Haddad introduced the following FWC South Region staff to the Commission: Division of Law Enforcement—Angela Jackson and Lieutenant David Roudebush; Division of Habitat and Species Conservation—Kristin Child, Dan Castillo, Chris Harnden, and Kelly Gestring; Fish and Wildlife Research Institute—Shelli Braynard, Karen Kennedy DeMaria, and Kelly Sullivan.

Under review and approval of the July 14-16 and September 22-24, 2004 Commission meeting minutes, Chairman Barreto asked for a motion for approval. Upon motion of Commissioner Corbett, seconded and carried, both sets of minutes were approved. Upon motion of Commissioner Kaupe, seconded and carried, the meeting agenda was approved.

Chairman Barreto introduced and welcomed Carol Clark, newly selected Superintendent of Canaveral National Seashore, who has been acting superintendent at Big Cypress National Preserve (BCNP); and Pedro Ramos, who will be replacing Ms. Clark as acting superintendent at BCNP.

Rules (Marine Fisheries)

Mr. Roy Williams, Division of Marine Fisheries Management, presented the following proposed rule for Commission consideration:

(1) 68B-4.019, Trap Pullers on Vessels Used in Aquaculture Businesses—The proposed rule would modify the restriction on possession of trap pullers on vessels to allow their use on vessels harvesting from aquaculture leases or pursuant to a federal live rock permit, provided that no wild-caught regulated species are possessed aboard such vessel.

Public Comment

C. Dale Moore (FLMA) offered his support of the staff recommendation.

Marty Tanner (Florida Aquaculture Association) asked the Commission to consider an exception to the rule for live rock aquaculturists, which would allow permit holders to use their boat and puller to participate in other fisheries.

Commissioner Corbett offered a motion to accept the proposed rule as presented by staff. The motion was seconded.

Chairman Barreto suggested Mr. Tanner speak with Mr. Williams before the Commission takes a final vote on the rule. The other Commissioners agreed. Final vote on the motion was postponed until Messrs. Tanner and Williams converse regarding the rule.

Ms. Jessica McCawley, Division of Marine Fisheries Management, presented the Marine Life Management Program proposed rule:

(2) 68B-42, Marine Life Effort Management Program—The proposed rules would control effort in the commercial marine life fishery by implementing a tiered license system. The proposed rules would (1) require a marine life tiered endorsement on the saltwater products license in order to engage in commercial harvest and sale of marine life species; (2) provide specific qualifying criteria for the Marine Life Bycatch (MLB) endorsement, Marine Life Transferable Dive (MLD) endorsement and Marine Life Nontransferable Dive (MLN) endorsement; (3) prohibit conversion of endorsements from one type to another, with an exception; (4) limit participants to a single endorsement type; (5) place a moratorium on the issuance of tiered endorsements and establish an annual renewal deadline; (6) provide requalifying criteria for a marine life transferable dive (MLD) endorsement; (7) allow conversion of a MLD endorsement to a MLN endorsement after initial issuance; (8) authorize a permanent MLD endorsement for certain persons over age 62; (9) provide for appeals for persons denied an endorsement; (10) prohibit leasing of endorsements; (11) provide for transferability for MLB and MLD endorsements; and (12) provide for transferability of endorsements upon death or disability of an immediate family member.

Ms. McCawley advised that a floor amendment is proposed which would (1) clarify that people who have live rock and aquaculture permits do not need to possess this endorsement, (2) define "commercial quantities," and (3) provide corrections to other rule references.

Ms. McCawley brought to the Commission's attention a letter from Mr. Bill Causey of the Florida Keys National Sanctuary Advisory Council (SAC), which included two motions of SAC that he wished to be brought to the Commission's attention: (1) SAC requested sanctuary managers recommend approval of the draft rule to the FWC, and additionally recommends that an MLD endorsement be issued to no more than two of an applicant's SPLs in any one license year and (2) SAC requested sanctuary managers write a letter to FWC regarding their concerns with the taking of sea biscuits in large numbers within Sanctuary waters

and address any other nonregulated species such as sand dollars, shells, and starfish.

Public Comment

The following people spoke in favor of the staff recommendation; however, minor modifications to the draft rule were suggested by some speakers and are summarized below.

Ken Nedimyer, Forrest Young, Jeff Turner, and Bill Parks (Florida Marine Life Association); Don DeMaria; Roy Herndon, Mary Maxwell, and Alan Maxwell (Sea Critters, Inc.); David White (The Ocean Conservancy); Jerry Sansom and Jeff Cramer (Organized Fishermen of Florida [OFF]); Tom Stern; Grady Sullivan and Pete Kehoe.

- Raise the qualification amount for the MLB to \$1,500
- Lower the qualification amount for the MLB to \$100
- Lower the \$5,000 qualification amount for a MLD to \$1,500
- Issue one license per person for a MLB
- Additional law enforcement is needed within this program
- Clarify the "by-back" provisions of the rule
- Allow trap bycatch
- Multi licenses were never discussed at workshops
- People should not be allowed to lease their boats to others
- Eliminate prohibition that a marine life bycatch endorsement will not be issued on an individual license. (Re: MLB portion of rule).
- Do not limit bycatch and nontransferable dive endorsement holders to one Saltwater Products License that can be endorsed.

The following people spoke against the staff recommendation and some presented proposed amendments to the rule, which are summarized below: Michael Helmholtz, Ben Disdier, Wayne Disdier, and Monty Dale.

- Place a higher qualification amount for the MLB endorsement
- Allow more than one or two endorsements
- Allow applicants to qualify even if they did not have landings before 2003
- Lower the \$5,000 qualification amount for a MLD to \$1,500
- Increase law enforcement efforts and take licenses away from violators

Commission Discussion

The Commissioners questioned the need for the endorsement buy-back program.

Ms. McCawley stated that it was added to the rule as a safeguard in case there is a decline in the marine life resources.

Chairman Barreto and Commissioner Yablonski pointed out that the Commission has the authority to close down the fishery if the science indicates a substantial decline in the fishery resource.

Commissioner Barco stated that if such a buy-back provision does not exist in other licensed fisheries it should not be included in this rule.

Regarding other comments on endorsements, qualifiers, and additional reduction in effort, Commissioner Meehan pointed out that staff and stakeholders have spent many hours holding public workshops and drafting a rule; he believes the Commission should accept the staff recommendation and offered a motion to approve the staff rule proposal, with staff floor amendments. The motion was seconded.

Regarding the transferable dive endorsement, Commissioner Meehan offered an amendment to the main motion to allow holders to endorse up to two Saltwater Products Licenses, which would allow them to endorse either one vessel or one individual license or two vessel licenses. The motion was seconded and carried.

Commissioner Yablonski suggested an amendment to the main motion to eliminate the language in the rule that would establish a buy-back provision. The motion was seconded and carried.

The Chairman called the question on the amended main motion and the motion carried.

Prior to proceeding to the next rule, Chairman Barreto asked Mr. Williams if he had explained the provisions of Rule 68B-4.019 to Mr. Tanner's satisfaction. Mr. Williams conveyed that Mr. Tanner would support the rule as proposed.

The Chairman called the question on the postponed motion and the motion carried.

Mr. Williams presented the following proposed rule for Commission consideration:

(3) 68B-41.002, Dolphin/Wahoo—The proposed rules would expand the scope of this rule chapter and conform it to recent changes to federal regulations that govern the harvest of dolphin and wahoo in the Atlantic Ocean. The rule amendments and proposed rules would (1) add definitions of the terms "Atlantic Ocean" and "wahoo"; (2) expand the 20-inch fork length dolphin minimum size limit to all harvesters in the Atlantic Ocean; (3) require that dolphin and wahoo be landed in whole condition; (4) establish a maximum 60-dolphin vessel possession limit, except for for-hire vessels, which will be limited to possession of 10 dolphin per paying customer; (5) establish a two-fish daily recreational bag and possession limit for wahoo; (6) establish a 500-pound commercial daily harvest and vessel possession limit for wahoo; (7) prohibit sale of recreationally caught dolphin or wahoo except that for-hire vessels with necessary state and federal permits may sell recreationally caught dolphin; and (8) designate dolphin and wahoo as restricted species.

Public Comment

Ted Forsgren (Coastal Conservation Association [CCA]) offered his support of the proposed rule.

Commission Discussion

Upon motion of Commissioner Barco, seconded and carried, Rule 68B-41.002 was approved.

Permit—Draft Rules

Ms. McCawley stated that following the report at the June 2004 Commission meeting, concerning the targeting of large schools of permit aggregate by charter vessels (head boats), the Commission directed staff to evaluate a vessel limit on permit larger than 20 inches. Guides and recreational anglers had expressed concern that head boats operating out of Marathon and Everglades City (because of the large number of anglers aboard) were able to harvest many large fish and remain in compliance with the current regulations. The current rule allows the harvest of one permit greater than 20 inches fork length per person per day.

Current regulations are: (1) Permit are managed together with pompano since they are difficult to distinguish at smaller sizes; (2) Pompano over 20 inches are rare, whereas permit over 20 inches fork length and in the 30-pound range are not uncommon; (3) Slot limit is not less than 11 inches but not greater than 20 inches, with a bag limit of six total pompano and permit combined; (4) Harvest of one permit over 20 inches fork length per person per day; and (5) Gear is hook and line only.

There is not enough known about permit life history to conduct an assessment. However, 2002 landings total 80,003; 91% were Gulf Coast landings; average landings during the last 20 years were 120,000 pounds; recreational fishery accounts for 85% of current landings; and catch per effort is stable.

The staff recommendation to the Commission is to concur with a draft rule that would allow a maximum of two permit over 20 inches fork length per vessel and apply the rule statewide in both state and federal waters. Staff would seek final approval of a rule at the February 2005 Commission meeting.

The potential impact of the proposed rule would protect spawning aggregations and help ensure recruitment success.

Public Comment

Richard Grathwohl (Marathon Guides Association), Steveal Leopold (Islamorada Charter Boat Association), Tony Iarocci (South Atlantic Fishery Management Council), David White, and Curtis Bostick support the draft rule, with the exception of the possession of more than two permit greater than 20 inches. They suggested a daily limit of one permit 20 inches or larger per vessel per day.

Mr. Leopold expressed his personal view that he would prefer the permit fishery be designated as catch-and-release only to protect the species.

Ted Forsgren offered his support of the staff recommendation and thanked Chairman Barreto for taking a personal interest in this fishery.

Commission Discussion

Mr. Haddad stated that staff presented a draft rule, which will receive public scrutiny at workshops prior to a final public hearing. At these workshops, a one-fish proposal could be reviewed prior to final rule-making.

Commissioner Barco pointed out that the Commission has only heard one side of the issue and suggested the draft rule be left as presented.

Chairman Barreto commented that staff are prepared to monitor the permit population and may suggest modification to the rule in the future.

Commissioner Meehan offered a motion to accept the current staff recommendation. The motion was seconded.

Commissioner Corbett suggested the rule be revisited in 24 months.

The Chairman called the question and the motion carried.

Biscayne Bay Shrimp-Draft Rule

Mr. Bill Teehan, Division of Marine Fisheries Management, gave a brief history of the Biscayne Bay wingnet shrimp fishery, including general and variable closures, areal and seasonal closures, harvest pressure, and count law removal from food shrimp harvest. An interpreter was present for the Spanish-speaking guests.

In 1998, the Marine Fisheries Commission received a request from the Biscayne Bay Wingnet Shrimpers of Florida (BBWSF) to repeal the shrimp count law in Biscayne Bay and the MFC enacted an emergency rule suspending the count law in Dade County for a 90-day period to allow for continued discussion of the situation. A work group was formed, including representatives of the BBWSF, to consider options for a management plan that would allow for the permanent removal of the count law. Options were presented to the Commission, and at a final public hearing in October 1999, a rule amendment established an open harvesting season of October 15 through May 15 of the following year, with a Saturday closure. In 2000, at the request of industry, the Commission adjusted the food shrimp-harvesting season to November 1 through May 31. In addition, a harvest closure was set from 6 AM Saturday through 6 AM Sunday of each week during the open season. The weekend closure was intended to provide a certain amount of escapement of shrimp from Biscayne Bay during the open harvesting season. The Saturday closure also reduces the potential for conflict between commercial and recreational harvesters and local residents during a period of high fishing pressure. The Commission considered a two-day closure but decided after strong public testimony from the commercial wingnet participants to stay with the Saturday closure.

The BBWSF has requested that the Commission allow wingnet shrimp harvest on Saturdays during the open harvesting season. At the September 2004 Commission meeting, staff was directed to hold a public workshop in Miami to

gather public testimony regarding the issue. This workshop was held on November 10.

Meeting summary: 27 attendees, 15 speakers. Ten people spoke in favor of reopening Saturdays to wingnetting and five spoke against the reopening.

Twelve attendees did not speak. However, eleven of the 12 people appeared to support reopening Saturdays to wingnetting. One attendee presented a copy of emails received on the Florida Sportsman E-mail forum. Twelve E-mail comments were included. All spoke against allowing additional harvest opportunity for commercial wingnetters.

Mr. Teehan also provided a summary of comments received at the workshop.

Mr. Teehan continued that the issue of reopening Saturdays to food shrimp harvest has been raised several times since 1999 and remains primarily a social/political issue. Neither current harvest levels nor any changes resulting from reopening Saturdays present a clear biological problem. Staff remains concerned, however, that reopening Saturdays to food shrimp harvest may reignite a debate over commercial activities in the Bay, increase user conflicts, and increase commercial effort.

Public Comment

Ted Forsgren, Captain Bob LeMay (CCA), Brian Liem, and Carl Liederman asked the Commission to retain the status quo on the shrimp fishery because the Saturday closure allows for shrimp escapement, and expressed that escapement is the key management tool for the protection of the shrimp fishery in Biscayne Bay.

The following speakers asked the Commission to regulate shrimp harvesting equally to all shrimp fishermen. Carmelo Salgado, Idalia Gonzales, Jesus Lopez, Regina Lopez, (Biscayne Bay Wingnet Shrimpers [BBWS]); Walter Pine, and Thelma Roper.

Their additional comments on the issue are summarized below:

- Landings data for the bay are incorrect. Biscayne Bay shrimp were incorrectly coded as coming from the Keys as bait shrimp or ballyhoo.
- Shrimp escape from the bay 24 hours a day everyday
- It is a myth that shrimp escape only one day a week
- Rules are discriminatory against wingnet shrimpers because others can harvest when they can not.
- Open harvest on Saturdays
- Close harvest to everyone on June 1
- Restrictions on fishery have eliminated many fishermen; therefore, more lenient regulations should be acceptable.
- Shrimp run when they want to run, not just on Saturdays
- Saturday closure has an adverse economic impact on the fishermen and their families, and is a violation of their civil rights.
- Federal Aid dollars to fishermen are affected by poor landings data
- Shrimp fishing is based on the lunar cycle

- Commission should obtain real science not unfounded science provided by staff members.
- Commission should be concerned with health safety issues of shrimp. Where was it harvested, overseas shrimp might be tainted.
- Food fish caught in America gives greater security to its people

Commission Discussion

Commissioner Huffman recalled the issue from 1999 stating that he remembered the proposed rule was to close both Saturdays and Sundays. However, it was agreed upon by the industry that they would accept the Saturday closure if the count law was eliminated. He believes it is a user/social conflict, similar to the tarpon and dog hunting issues, and was never a discrimination issue.

Commissioner Meehan stated that he never believed the closure was discrimination but a means to solve a user conflict issue; and that the Saturday closure was a compromise.

Commissioner Corbett agreed with the staff's comments regarding reopening Saturdays to food shrimp harvest, but suggested staff continue to listen to the public, and suggested another workshop on the issue before final regulations are brought before the Commission for final action.

Commissioner Kaupe stated that she also would support one more workshop before in final rule is presented. She supports the Saturday closure because shrimp are an important resource to Biscayne Bay.

Commissioner Yablonski voiced his concern over the intent of the original rule to close Saturday because there was no biological reason to do so. He stated that it appears that shrimp move on a random schedule in and out of the bay.

Commissioner Barco commented that the biological concern is unknown. The fish move in and out at various times and she believes this was taken into consideration during rule-making. She respects the people who are trying to make a living from the bay, but believes a one-day closure is necessary for some relief to the shrimp resource. She asked if the Commission must make a decision soon on the draft rule.

Chairman Barreto replied that it is not necessary for the Commission to take immediate action on the rule. The Commission rule currently allows for a Saturday closure. Regarding the allegations of discrimination and misinformation of staff brought by the wingnet shrimping industry, the Chairman suggested the Commission table the draft rule indefinitely until the agency's Inspector General has the opportunity to fully investigate the allegations of bias and discrimination against wingnet fishers, who are primarily of Hispanic origin.

Commissioner Yablonski stated that he would like the rule determination to be made with biology regarding escapement on Saturdays.

Mr. Haddad replied that the best determination would be a consensus of scientific opinion. He suggested an independent Inspector General review of the allegations.

Through General Consent, the Commission tabled the proposed rule indefinitely until an independent investigation is completed.

FWRI Study on Mortality and Foul-hooking Rates—Boca Grande Tarpon Fishing

Mr. Gil McRae explained that the objectives of the study were to obtain current catch-and-release mortality rate estimates using ultrasonic telemetry for tarpon caught via live bait and artificial breakaway jig techniques, and evaluate rates of foul-hooked tarpon.

Biologists working on the catch-and-release mortality study accompanied guides on 42 trips with anglers using the breakaway jig method of fishing, and 41 with anglers using the live bait method of fishing. Of the 138 tarpon hooked on jig trips, 41 (30%) were landed, and 22 were tagged with acoustic transmitters and then released. On the live bait charters, 92 tarpon were hooked; 44 (48%) were landed, and 19 were tagged. Scientists using a research vessel fitted with a directional hydrophone tracked the tagged fish for up to six hours to evaluate post-release survival.

The three-year study found no significant differences in post-release survival rates of tarpon caught by either of the two predominant fishing methods used in the Pass and identified predation by sharks as the predominant source of post-release mortality. Percentages of foul-hooked tarpon were not unusually high and did not contribute negatively to the survival of tarpon. Tarpon stocks appear healthy and resilient.

Mr. Mark Robson discussed recent regulatory and educational measures enacted by the Commission regarding the tarpon fishing in Boca Grande Pass. Because the study conclusions of the catch-and release mortality study found no significant differences in post-release survival rates of tarpon caught by either of the two primary fishing techniques, Division of Marine Fisheries Management staff recommends no further action is necessary at this time to address tarpon fishing in the Pass.

Public Comment

Captain Johns Knight commented that the study proved live baiters are not foul-hooking fish. He believes an 11 percent foul-hooking rate by jiggers is not acceptable and the data is skewed.

Cappy Joiner (Boca Grande Guides Association [BGFGA]) voiced his concern for the future of tarpon fishing in the Pass. He stated that an 11 percent foul-hooking rate by jiggers is problematic. He asked the Commission to define a foul-hooked fish, and continue to study the issue for the future of the tarpon fishery in the Pass.

Joe Mercurio (Tarpon Anglers Club) provided data from recent tarpon tournaments, explaining that during six three-hour tournaments the only tarpon mortalities he was aware of were two foul-hooked fish and five lost to sharks. He added that only circle hooks are used in his tournaments. He mentioned \$2,000 was donated to Mote Marine Laboratory for snook research from the tournaments. He thanked the Commission and Florida citizens for allowing the tarpon tournaments.

Mark Futch (BGFGA) disputed the data presented by staff and expressed that 11 percent foul-hooking is not acceptable.

Capt. Frank Davis (BGFGA) stated that mortality is not an issue with the tarpon fishery. He explained that tarpon striking jigs move back and forth and are often hooked on the side of the face and live baiters catch the fish in the mouth.

Steve Futch (BGFGA) does not believe that comparing tarpon with other fisheries is correct. He pointed out that it is during peak time and slack water when the jig does its damage to tarpon. He asked the Commission to honor its agreement when it said 11 percent was an intolerable percentage of foul-hooked fish, and work to protect the resource.

Commission Discussion

Commissioner Corbett asked about Mr. Futch's comment regarding the 11 percent foul-hooking rate.

Commissioner Meehan explained that at the Amelia Island meeting he commented it was a high percentage rate; however, staff has stated that 11 percent is an acceptable rate.

Commissioner Corbett asked Mr. Robson about comparing fishes during the study and hooking in the "clipper."

Mr. Robson answered that a variety of fish species and fishing techniques was used in the study to avoid the concern that a certain type of fish or technique is setting a precedent that in a particular fishery a foul-hooking percentage may be excessive, or in other fisheries that same number is acceptable or commonly seen.

Mr. McRae commented that the upper jaw bone of a tarpon is broad and large. When a tarpon opens its mouth, it flares out, and the clipper is a big part of the tarpon mouth.

Commissioner Barco stated that you can not compare tarpon foul-hooking to other fisheries where the methodology between fishermen is different. She pointed out that no data presented indicated that either fishing method is detrimental to the fishery. She mentioned her preference for circle hooks and, if the Commission were to establish further regulation on the tarpon fishery, she would recommend the use of circle hooks.

Commissioner Kaupe commented that the issue seems to be a gear conflict in the confined area of Boca Grande Pass, and she is surprised the study indicated no tarpon caught with live bait were foul-hooked.

Commissioner Huffman stated that while he was tarpon fishing near Gasparilla Island, he saw boats chasing after tarpon causing schools to break up. He believes this practice has an adverse effect on the tarpon fishery because they are continually disturbed.

Commissioner Yablonski mentioned a recent article in *Field and Stream*, which discussed the growing prevalence of user conflicts among fishermen.

Commissioner Meehan stated that the staff has looked at the jigs versus live bait issue and added law enforcement presence at peak times. He stated that if 11 percent mortality is acceptable in this fishery, and there is no mortality or resource issue, the Commission should accept the staff recommendation of status quo.

Through General Consent, the Commission accepted the staff recommendation.

Blue Crab Effort Management Program

Chairman Barreto welcomed members of the Blue Crab Advisory Board (BCAB) to the meeting (David Capo, Frank Sewell, Walter Flores, and George Sweetman).

Mr. Bill Sharp, Division of Marine Fisheries Management, explained that following the June 2004 Commission meeting, staff was directed to return to the BCAB and ask that a trap certificate program be considered in lieu of a plan based upon capping the number of participants and issuing a fixed number of traps to each qualifying individual. The BCAB was also asked to consider the fee structure of the program. The BCAB convened in October to address the issues.

At the October meeting, the BCAB voted unanimously to endorse the effort management plan that was presented to the Commission in June. The BCAB identified trap "hotspots," i.e., confined waterways with high densities of blue crab traps that result in various user conflicts, to be the primary problem with the fishery.

The plan endorsed by the BCAB would create a limited access fishery that would limit the total number of participants in the fishery, with an equal number of traps issued to each qualifier. Once the program has been established, individuals wishing to enter the fishery would be required to purchase an existing blue crab endorsement and its associated traps from someone wishing to exit the fishery. The Board also addressed both fee structure and potential mechanisms by which nonqualifying blue crab fishers should be accommodated.

Mr. Sharp presented details of the BCAB's plan:

- Number of licenses capped
- Must buy in, license endorsement and trap tags

- Qualifying years: 2000-01, 2001-02, 2002-03
- Trap tags @ \$0.50
- Separate qualifying criteria, fee structure, and trap allocation for the hard crab fishery and soft-shell crab production.

Fee Structure and Trap Allocation (Hard Crab Fishery)

- Hard crab endorsement, \$125
- Qualifying—500 lbs. first license; 7,500 subsequent licenses
- Each qualifying endorsement may purchase: (1) up to 600 inshore traps (with 50 more for rotation), (2) 400 offshore in the Gulf of Mexico, and (3) BCAB will review after three years.
 - Peeler bycatch of 150 crabs per day; up to three shedding tanks.

(Soft Crab Fishery)

- Soft shell endorsement, \$250
- Endorsement entitles holder to operate a soft shell crab shedding facility
- Qualifying--750 crabs first license; 2,500 crabs second license-No more than two licenses per qualifying entity.
 - Each qualifying license entitle owner: (1) up to 400 traps (with 50 more for rotation) with initial endorsement, (2) up to 250 traps with a second endorsement, and (3) BCAB will review after three years.

Additional BCAB recommendations:

- No renting or leasing of licenses
- Develop an apprentice program
- Develop an appeals board to consider appeals from nonqualifying full-time commercial fishers.
 - BCAB will develop refinements to the plan based on data collected after implementation.

Mr. Sharp stated agency management considerations:

- Optimal number of traps statewide is difficult to determine
- Lack of a clear target for trap reduction will likely render an open access certificate program ineffectual at this time.
 - BCAB's recommended plan would provide management structure.

Mr. Capo commented that this is the best first step for the blue crab industry, which may be refined as necessary. The BCAB's recommendations were made in order to try to include all people who have been fishing but to ensure no growth in the fishery because that would mean a reduction in traps. BCAB's urges the Commission to go forward with the recommendations and evaluate the program in three years.

Mr. Sewell stated that once the program is implemented the Commission and industry will have more accurate data on the blue crab trap fishery. He asked the Commission to support the staff recommendations.

Public Comment

Grady Johnson asked if those in partnership with other licenses would be excluded from the blue crab trap fishery, and asked that there be an apprentice program for youngsters who might wish to enter the blue crab industry.

Mr. Sharp responded that the staff and board intend to address the partnership issue before final regulations are drafted.

Jerry Sansom distributed to the Commission OFF's Blue Crab recommendations and offered support of the BCAB recommendations because they are best for the industry.

Commissioner Huffman stated that he disagrees with limiting the number of licenses, and would like the opportunity to speak with Mr. Sansom about limited entry.

Mr. Sansom explained that the resources are fewer and limited entry would provide for a group of professional fishers to harvest the resource, which will offer added protection.

Ted Forsgren stated that blue crab fishery recommendations should incorporate protection of public interest in the blue crab resource. He believes there should be a provision to allow the state to obtain economic rent from the individuals who have this exclusive right of access, such as is in the lobster and stone crab fisheries.

Commission Discussion

Commissioner Yablonski stated that creating a sense of ownership among the fishermen will breed stewardship. He asked staff to reexamine the apprenticeship program and review the minimum landings qualification level to ensure it is not a barrier to remaining in the fishery.

Chairman Barreto asked staff and BCAB members to discuss the public comment just received during their deliberations on the draft rules.

Upon motion of Commissioner Corbett, seconded and carried, the Commission conceptually approved recommendations developed by its Blue Crab Advisory Board to implement an effort-management program for the blue crab fishery based on capping the number of licensed fishermen. Draft rules will be presented to the Commission at its February meeting.

Prior to proceeding with the next agenda item, Chairman Barreto introduced Bill Oakerson, CEO of Boat Owners Association of the United States. Mr. Oakerson asked to address the Commission out of order to allow him to catch a return flight home.

Mr. Oakerson hand-delivered a detailed statement he made at the Florida Boating Advisory Council Workshop regarding boat and marine damage from 2004 hurricanes and future hurricane preparation. He explained that BoatU.S. is an insurance program and an advocacy organization with a very active consumer protection bureau, and a government affairs group that works with regulators and legislators on behalf of boat owners. He asked the Commission to support appropriate legislative initiatives brought forward to protect both the marine industry and individual boaters.

Commissioner Barco stated that much damage occurs on other people's property from movement of mobile homes during hurricanes, and suggested they be included in legislation to protect people's property from similar damage.

Individual Transferable Quotas (ITQs) or Individual Fishing Quotas (IFQs)

Mr. Roy Williams introduced Mr. Donald R. Leal, senior associate with the Property and Environment Research Center, in Bozeman, Montana; and Mr. Michael De Alessi, director of natural resource policy for the Reason Public Policy Institute in San Francisco, California, who are experts in the field of ITQs.

Mr. De Alessi explained that New Zealand uses ITQs to manage nearly all its commercial fisheries, which has led to considerable benefits for both the fishermen and individual fisheries. ITQs look at a total allowable catch as a way to manage a fishery. Where ITQs have been tried, they have ended the race for fish (derby fishing). They have generated higher incomes for fishermen, improved product quality for consumers, reduced fleet excesses, and nearly eliminated instances in which the actual harvest exceeded the total allowable catch. People are actually involved in the future of the fishery.

Mr. Leal commented that ITQs are attractive to managers because they help managers get away from trying control inputs into the fishery. Once you control the output, divide it and allocate it to the fishermen based on their catch history, and as long as you have a strong monitoring and enforcement system, the worry of overfishing is eliminated. Additionally, fishers know their catch limit before fishing commences.

Since 1995, under IFQs in the Alaska halibut fishery, the length of the fishing season has increased and most of the halibut is sold fresh, resulting in higher prices on average for fishers.

The Commissioners asked Don and Michael various questions regarding ITQs. Commissioner Yablonski thanked them for taking the time to address the Commission on a possible future management tool for Florida.

Mr. Haddad responded that staff is prepared to investigate ITQs but it must be with the philosophical understanding and direction of the Commission to go forward.

Chairman Barreto asked the Commission to remain open-minded on ITQs and asked staff to look at ITQs for certain species commercially fished in Florida.

Public Comment

Ted Forsgren pointed out that the fish are a public resource for all to enjoy, and asked when the Commission would review what resources are needed for Florida's recreational fisheries in the future.

Commissioners Yablonski and Corbett commented that IFQs may be a new opportunity in commercial fisheries management, and suggested staff make recommendations to the Commission where IFQs might apply in Florida's commercial fisheries.

Biscayne National Park Fishery Management Plan

Mr. Robson brought the Commission up to date on the Biscayne National Park Fishery Management Plan. The stakeholders group has met six times and reviewed a series of recommendations. The most contentious issue among the group is no-take zones, wherein the group is divided. However, the Sanctuary Advisory Council has asked that the National Park Service continue to consider no-take zones in their general management planning process, which is separate from the fishery management plan. All stakeholders continue to work on the plan with Park Service staff.

Mr. Robson introduced Jack Curlett, chairman of the working group, and members Ted Forsgren and Todd Kellison.

Mr. Curlett stated that the stakeholder group has worked tirelessly to provide a blueprint for fisheries management of Biscayne National Park for the next 20 years. He mentioned that 80 percent of the group are local stakeholders anxious to bring a final plan before the Commission.

Presentations by the Public

David Grix (Fishing for Freedom) delivered to each Commissioner information pertaining to Florida Statute 370.025 and the reasoning why the Commission must adhere to that statute when implementing rules and regulations pertaining to Florida fisheries. He also presented a 1980 document forming a Saltwater Fisheries Study and Advisory Council to recommend to the Governor and Cabinet development of a comprehensive saltwater fishery conservation and management policy for the territorial saltwaters of the state, which he intends to give to Florida legislators as part of a package of information prior to the 2005 session. He believes that commercial fishermen should be allowed to use legal nets with any mesh size and not be constrained by the Commission's two-inch mesh size.

Alan Rigerman asked the Commission to be conscience of the animal rights movement that wishes people to have absolutely no activity with animals. They want all people to be vegetarians and support bans on hunting, fishing, ranching, and pet ownership; and are completely against animal research of any kind. He provided information for each Commissioner with articles from various animal protection groups and newspaper articles regarding animal rights.

Commission Exchange

All the Commissioners welcomed Commissioner Barco to her first official meeting.

The Chairman recessed the meeting at 5:15 p.m., to reconvene on Thursday, December 2, at 8:30 a.m. The first item on the agenda would be a presentation on the Commission's Boater Education Course, which could not be presented this day due to lack of time.

Chairman Barreto reconvened the meeting on December 2, at 8:40 a.m., and asked Carol Clark of the Big Cypress National Preserve to bring the Commission up to date on the opening of the Big Cypress addition lands to hunting.

Ms. Clark stated that planning and public/stakeholder input for opening the addition lands to hunting and public use is beginning, and advised that it will probably be late 2006 before the planning process is complete and the lands open to hunting. She explained that alternatives for a variety of uses of the addition lands have been presented to the director of NPS which include no action or status quo, opening it up to multiple uses, allowing low-level recreational use, and establishing managed hunts.

Ms. Clark thanked the Commission for the new cooperative efforts between the NPS and Commission staff, and for its financial support in providing a temporary biologist position to assist with surveys on the addition lands.

Commissioner Huffman congratulated Ms. Clark on her new position as Superintendent of the Canaveral National Seashore.

Chairman Barreto urged the Commissioners to take the time to visit both the Big Cypress National Preserve and Canaveral National Seashore.

Byron Maharrey (Florida Sportsmen and Conservation Association) related that he was hoping some small game hunting would be permitted on the Big Cypress addition lands during the 2005 season.

Florida's Boating Safety Course

Captain Richard Moore, Division of Law Enforcement, explained that Chapter 68D-36, Florida Administrative Code, establishes the minimum standards for Florida's mandatory boating safety courses. Proposed changes to rules are needed to (1) conform Florida's boating safety education courses to state laws and national boating course standards, (2) eliminate obsolete requirements, and (3) establish new provisions that would provide procedures for administering the FWC's temporary certificate examination program. The effect of the proposed rule changes would ensure consistency between Florida's boating safety courses and national boating safety standards, make the regulations easier to understand, and formally establish requirements for the temporary boating safety certificate program.

Captain Moore stated that the Boating and Waterways Section staff wishes to conduct public workshops around the state to gather public input regarding the proposed changes to the boating safety course rules, and request Commission authorization to conduct the workshops on the proposed rule changes prior to the final public hearing at the April 2005 Commission meeting.

Commission Discussion

Commissioner Corbett pointed out the importance of the use of life jackets by boaters and suggested more stringent regulations might be appropriate.

Captain Moore conveyed that life jacket use is a national boating issue and explained that a campaign is under way seeking the voluntary wearing of life jackets by all boaters.

Chairman Barreto pointed out the financial constraints by state government in promoting boater safety and suggested the boating industry might undertake much of the public relations work related to safe boating, and staff should seek grants for the program. He stated that legislation would be required for mandatory life jacket use.

Commissioner Meehan stated that the officers are making inroads into voluntary life jacket use with their boat inspections. He strongly encouraged making the boater safety course broad and mandatory for young boaters. He suggested the Commission consider a proctored exam and boater driving test, which could be outsourced to a private firm.

Upon motion of Commissioner Meehan, seconded and carried, staff was directed to begin the workshops on the boater safety course rules and prepare rules for final action at the April 2005 Commission meeting.

Release of Ducks on Hunting Preserves (Rule 68A-12.010)

Mr. Nick Wiley presented a brief history of the release of ducks on hunting preserves, explaining the threat to Florida's mottled duck, and provided three options to the Commission for consideration:

Options for future regulations:

1. No change (mallard release phase-out, June 30, 2008 deadline). Operations must be continually licensed, with a maximum of 9,000 mallards released annually. This option will allow the two remaining active preserves to continue until the deadline.

2. Total depreciation phase out over 25 years, with a deadline of December 31, 2028. This option would be effective for the two remaining active preserves only. They must release mallards annually and remain at their current location. There will be no vested rights for participating preserves and a maximum 9,000 mallards released annually. The provision will be transferable with title of business.

3. Allow releases indefinitely on two active preserves, who must release mallards annually, remain at current location, with a maximum 9,000 mallards released annually. There will be no vested rights for participating preserves. The provision will be transferable with title of business.

Mr. Wiley mentioned that Option 3 would be the staff recommendation to the Commission. Final Commission action on the proposed rule would take place at the February 2005 meeting.

Commission Discussion

Commissioner Huffman asked which other states have the subspecies of mottled duck and are they experiencing hybridization.

Mr. Wiley responded that Louisiana and Texas have the mottled duck and have experienced hybridization. In Louisiana, shooting preserves in the area of the state where mottled ducks occur have been phased out.

Commissioner Barco questioned the provision that the two remaining preserves must release mallards annually to stay in business. She stated that if they have 25 years, the preserves might research a way to begin releasing another type of duck. If they must release mallards annually, it does not give the preserve owners incentive to try to release another type duck; for every year they do not release mallards added protection is provided to the mottled duck population.

Chairman Barreto asked if the preserves could redesign their business to release another type of duck.

Mr. Wiley replied that staff could add acceptable species for release into the rule.

Commissioner Meehan pointed out that preserve owners are looking into the issue of protecting the mottled duck population and researching the sterilization of mallard ducks for use on the preserves.

The Commission discussed the three alternatives and Commissioner Yablonski offered a motion to accept the staff recommendation that would allow the two existing hunting preserves, who are permitted to release mallards, to continue that practice as long as they maintain an active release program each year. The motion was seconded and carried.

2005-06 Proposed Wildlife and Freshwater Fisheries Regulations

Mr. Wiley presented a review of the major proposed 2005-06 wildlife and freshwater fisheries regulations and provided public comment on the proposed rules. Staff is seeking Commission authorization to advertise these rules for final public hearing at the February 2005 Commission meeting.

1. 68A-4.0053 (New) Importation and Possession of Carcasses from Deer, Elk, and Other Wildlife Species in the Family Cervidae--The proposed rule would ban the importation of deer or elk carcasses from areas known to be infected with Chronic

Wasting Disease (CWD) and make it illegal to possess a CWD-infected carcass from any area.

2. 68A-5.005 Quota Hunt Permits and Special-Opportunity Permits-Application; Selection; Issuance--The proposed rule would limit the number of regular, special, and spring turkey quota hunt permits an individual may be issued during the third phase to no more than five permits per hunt. The proposed rule also would establish a new Family Hunt permit application.

Note: The public reviewed a proposed change that would have implemented a random drawing system for the third phase quota permit issuance with a limit of one quota permit application per individual.

In light of public input and further review, staff proposes to change the original proposal to maintain the first-come, first-served issuance of regular, special, and spring turkey quota permits for the third phase with a limit of no more than five permits per individual per hunt. This proposal will address concerns that quota permits are being hoarded for some hunts during the third phase issuance period. The above summary language reflects these changes.

3. 68A-12.002 General Methods of Taking Game: Prohibitions--The proposed rule would prohibit hunting on that portion of Lake Seminole (approximately 70 acres) adjacent to the Three Rivers State Park camping area for the purpose of public safety. Alligator trapping would continue to be allowed.

4. 68A-12.007 Hunting Dogs; Molesting Game in Closed Seasons; Training; Field Trials; Prohibited for Certain Hunting--Registration requirements for using dogs to take deer on private lands were adopted on a pilot basis for the Commission's Northwest Region during the 2004-2005 hunting season. The proposed rule would implement these requirements statewide for the 2005-2006 hunting season, only if the Commission determined that such regulations were appropriate. This rule change would require registration of any private lands where dogs are used to take deer. A registration number would be issued; individuals hunting with dogs would be required to possess a copy of the registration; and the registration number would be required on or attached to the collar of any dog used for deer hunting. Implementation of the pilot registration requirements will be evaluated, and a preliminary report will be provided to the Commission, in February 2005. Final consideration is proposed for the April 2005 meeting.

5. 68A-13.004 Open Season for Taking and Bag Limits for Non-Migratory Game and Issuance of Antlerless Deer Permits:

a. The proposed rule would allow antlerless deer permits to be issued without a minimum acreage requirement on agricultural lands that have received antlerless deer permits for crop depredation within the previous 12 months.

b. The proposed rule would open a 3-day spring turkey season in Holmes County with a season bag limit of one.

6. 68A-14.001 Establishment Orders--The proposed rule would allow taking of wild hogs during any open hunting season (except turkey) with no bag or size limit on the following WMAs: Green Swamp, Green Swamp West, Upper Hillsborough, Lake Panasoffkee and Twelve Mile Swamp WMAs.

7. 68A-15.004 General Regulations Relating to Wildlife Management Areas--The proposed rule would allow the lead managing agency or landowner of a WMA to issue access related permits for vehicles, vessels, camping, horses or other activities not related to the taking of fish and wildlife during non-hunting periods.

8. 68A-15.061 Specific Regulations for Wildlife Management Areas-Southwest Region--Proposed rule changes would revise or establish specific area regulations on WMAs as follows:

a. Green Swamp WMA--

(1) The proposed rule would prohibit horses on the area.

(2) The proposed rule would allow camping equipment to remain on the area during the period between the small game and spring turkey hunts.

b. Green Swamp West WMA--

(1) The proposed rule would shift the special-opportunity hunt dates (deer and hog) and small game hunt dates to allow for other seasonal recreational uses without impacting hunting opportunities.

c. KICCO WMA--

(1) The proposed rule would require a permit from the District (landowner) for camping during periods closed to hunting.

(2) The proposed rule would restrict camping at designated hunt campsites to tents only.

(3) The proposed rule would prohibit vehicle access at night (from 1.5 hours after sunset until 1.5 hours before sunrise).

d. Hickory Hammock WMA--

(1) The proposed rule would require a permit from the District (landowner) for camping.

(2) The proposed rule would require hunters to check all game taken.

(3) The proposed rule would change special-opportunity hog hunts to general gun hog hunts.

e. Avon Park Air Force Range WMA-- The proposed rule would change antler restrictions for legal antlered deer from five inches to at least three points on one side at the request of the landowner.

f. Croom WMA-- The proposed rule would allow horseback riding throughout the year only on named and numbered roads or on designated horse trails.

9. 68A-15.062, Specific Regulations for Wildlife Management Areas-North Central Region--Proposed rule changes would revise or establish specific area regulations on WMAs as follows:

a. Camp Blanding WMA--The proposed rule provides authority for the Camp Blanding Base Commander to set spring turkey hunt dates and locations in consideration of military training activities, provided at least two 5-day hunts continue to be offered.

b. Lochloosa WMA- The proposed rule would establish a new 56-day small game season (January 9 through March 5) and allow for nighttime hunting of raccoon and opossum during the general gun and small game seasons.

c. Big Bend WMA – Spring Creek Unit –

(1) The proposed rule would establish a new 3-day muzzleloading gun season (October 28-30) on the area.

(2) A hunter quota of 150 (no exemptions) would be established for the new muzzleloading gun season under rule 68A-15.005 F.A.C.

(3) The proposed rule would restrict the nighttime hunting of raccoon to small game season only.

(4) The proposed rule would prohibit dogs other than bird dogs or retrievers and no longer allow the use of dogs for deer hunting.

d. Jennings Forest WMA--

(1) The proposed rule would prohibit unlicensed motorcycles.

(2) The proposed rule would prohibit public access at night (from 1.5 hours after sunset until 1.5 hours before sunrise) except at designated campsites

10. 68A-15.063 Specific Regulations for Wildlife Management Areas – Northwest Region-- Proposed rule changes would revise or establish specific area regulations on WMAs as follows:

a. Apalachee-- The proposed rule would prohibit the hunting of deer with dogs in zone C (813 acres).

b. Blackwater WMA--

(1) The proposed rule would reduce the length of the deer dog hunting season from 58 to 30 days with a 13-day season during the first 13 days of the general gun season (November 24-27 and December 10-18), and a 17-day season during the last 17 days of the general gun season (January 16 through February 1). The proposed rule would reduce the size of the dog hunt area by 24,832 acres from 78,172 to 53,340 acres; would permit still hunting during the muzzleloading gun and the muzzleloading gun/archery seasons in the dog hunt area; would permit still hunting in the dog hunt area during the general gun season when hunting with dogs is not allowed; and would reduce the size of the fox hunt area from 78,172 to approximately 20,000 acres.

(2) Under rule 68A-15.005, F.A.C., the hunter quota for the dog hunting area would be reduced from 775 to 200 permits for each hunting period with no exemptions. The hunter quota for still hunting would be increased from 1,425 to 1,800 permits.

(3) The proposed rule would establish two new 4-day quail hunts (February 1-4 and 22-25) with a daily bag limit of 12 per group on the Field Trial Area.

(4) A hunter quota of three groups (per hunt) with two hunters per group (no exemptions) would be established for the new quail hunts under rule 68A-15.005, F.A.C.

(5) The proposed rule would prohibit taking quail on the Field Trial Area after 3:00 p.m.

(6) The proposed rule would expand the bird dog training season on the Field Trial Area by 17 days (November 14-30) and expand the archery season on the Field Trial Area by 13 days (November 1-13).

On November 10, FWC staff held a public meeting to discuss these proposals and secure public input. A total of 293 people attended the meeting. The vast majority expressed opposition to the proposed rule changes. A petition was submitted to FWC staff at the public meeting. The petition included 504 signatures of individuals opposing the proposed rule changes.

c. Eglin Air Force Base WMA– (all changes requested by the landowner)

(1) The proposed rule would change antler restrictions for legal antlered deer from 5 inches to three points on a side on portions of the area.

(2) The proposed rule would restrict fishing and frogging to areas and times specified by the Installation Commander.

(3) The proposed rule would authorize entry and exit in areas and at times as specified by the Installation Commander.

(4) The proposed rule would restrict fishing to catch and release only on Weekly Pond, Upper Memorial Lake, Hurlburt Lake and Jack Lake. The proposed rule would establish a daily bag limit of 10 panfish (8 inches or greater in length) and establish a daily bag limit of one black bass (24 inches or greater in length) on Duck and Indigo ponds.

(5) The proposed rule would prohibit the use of outboard motors.

d. Escambia River WMA--The proposed rule would allow raccoon and opossum hunting with dogs at night (one half hour after sunset to one-half hour before sunrise) and no longer allow the use of dogs for deer hunting.

e. Choctawhatchee WMA–

(1) The proposed rule would establish a 3-day spring turkey season in that portion of the area north of the pipeline right-of-way located north of Cedar Log Landing (Walton County) and Billy Lee Landing (Washington County) with a bag limit of one turkey per quota hunt permit.

(2) A hunter quota of 10 (no exemptions) would be established for the new spring turkey season.

f. Econfinia Creek WMA--The proposed rule change would restrict horses to designated trails.

11. 68A-15.064 Specific Regulations for Wildlife Management Areas-South Region--Proposed rule changes would revise or establish specific area regulations on WMAs as follows:

(1) Picayune Strand WMA-- The proposed rule would prohibit public access at night (from 1.5 hours after sunset until 1.5 hours before sunrise) except for the camping area.

(2) John C. and Marianna Jones/Hungryland Wildlife and Environmental Area--The proposed rule would require persons to enter and exist the area at designated entrances.

12. 68A-15.065 Specific Regulations for Wildlife Management Areas-Northeast Region--Proposed rule changes would revise or establish specific area regulations on WMAs as follows:

a. Richloam WMA-Baird Unit--The proposed rule would combine the first and second phases of small game season to reduce conflicts with general gun season on adjacent Richloam WMA.

b. Half Moon WMA-- The proposed rule would allow the District to regulate the possession of dogs during non-hunting periods on District property.

c. Lake Panasoffkee WMA-- The proposed rule would shift special-opportunity hog hunts to occur before small game season since wild hogs would become legal to take during small game season under other proposed rule changes.

d. Matanzas WMA--

(1) The proposed rule would establish the following new open seasons: (a) archery (16 days) --September 24 through October 2 and October 3-9; (b) muzzleloading gun (3 days) - October 28-30; (c) family hunt (2 days) - November 12-13; (d) general gun (7 days) - November 14-20; (e) small game (16 days) - January 9-24; (f) spring turkey (9 days) - March 18-21 and 22-26; and (g) fishing and frogging throughout the year.

(2) The proposed rule would establish the following as legal to take: all legal game, fish, frogs and furbearers. The proposed rule would establish the bag limit for turkey during the spring turkey season at one gobbler (or bearded turkey) per quota hunt permit.

(3) The following hunter quotas would be established under rule 68A-15.005, F.A.C.: archery - 30 (each hunt), no exemptions; muzzleloading gun - 30, no exemptions; family hunt - 20, no exemptions; general gun - 30, no exemptions; and spring turkey - 15 (each hunt), no exemptions.

(4) The proposed rule would: (a) prohibit camping; (b) prohibit hunting with dogs, except bird dogs and retrievers; (c) permit the operation of vehicles on named or numbered roads only; (d) prohibit airboats, tracked vehicles, unlicensed motorcycles, and all-terrain vehicles; (e) require persons to enter and exit through designated entrances; (f) allow vehicular access by persons in possession of a valid hunt permit, except during small game season a permit is not required; (g) allow for one or two youths (under 16 years of age but not under 8 years of age) per

hunt permit to hunt while under the supervision of an adult who is over 18 years of age, who may also hunt during the newly created family hunt.

13. 68A-23.005 Bag Limits, Length Limits, Open Season: Freshwater Fish--The proposed rule would eliminate the 12-inch minimum length limit on black crappie on Lake Monroe.

14. 68A-2.015 FWC Grants Program--The proposed rule would adopt, by reference, specific guidelines for the Fish and Wildlife Research Institute (FWRI) Grant Program and the State Wildlife Grants Program. These detailed guidelines will provide guidance that will assist applicants applying for FWC Grants from these two programs.

Mr. Wiley conveyed that other proposed rule changes that are minor and noncontroversial include: (1) Grouping rules regarding permits for physically disabled under one rule, (2) Allowing lead managing agencies to regulate possession of dogs outside hunting season, and (3) technical changes or corrections, i.e. hunting dates of conform with zonal and calendar dates. He asked for Commission approval to formally advertise proposed regulation changes for final consideration and action at the February Commission meeting.

Chairman Barreto asked Mr. Wiley to provide the Commission with a status report on special-opportunity hunts following this year's hunting season.

Public Comment

Mary Beth Kaminski (Northwest Florida Rural Property Owners) spoke regarding proposed regulations for the Blackwater WMA. She stated that it is the hope of the adjacent landowners that the hunting dog registration option will be strictly enforced in order to provide relief from dog trespass and protect private property owners within the Blackwater WMA. Ms. Kaminski conveyed that the only way the property owners can achieve total relief from trespassing is for the Commission to establish Blackwater as a still-hunt only area. Ms. Kaminski thanked the Commission and staff for all the work they have put into the dog trespass issue.

Wesley Orso (Blackwater Fox Hunters Association) mentioned that the majority of inholdings in Blackwater are mostly unoccupied. He suggested that to reduce dog trespass and landowner grievances the Commission should close Three Notch to Belandville only to fox hunting during the off season. Fox hunting would stay open west of Three Notch and east of Belandville year-round. Mr. Orso stated that he would provide a more detailed proposal to the Commission before the next Commission meeting.

Rick Persson (SAFER) brought to the Commission information on recreational fishing opportunities in the Everglades canals. He applauded the Commission and staff for their support for not backfilling the canals during Everglades restoration. He invited the Commission to participate in SAFER's April 24 Save Our Canals bass tournament.

Byron Maharrey conveyed the need for additional access points on the Jones/Hungryland WEA, and offered his support of the proposed regulation

changes. He applauded the efforts of Commissioners Rood and Huffman and Executive Director Haddad to secure camping for hunters on many areas.

Barbara Jean Powell (Everglades Coordinating Council) welcomed Commissioner Barco. She offered her support of the majority of proposed rules; however, she asked that wild hog populations be regulated by hunting, not trapping or no size or bag limits, in order to provide hunting opportunities and ensure the long-term viability of the hog population in Florida. She voiced her concern that hunters and fishers might not have adequate access to the Picayune Strand and Kicco WMAs, pointing out that hunters removing a harvested deer might not be able to get the carcass out by nightfall. Ms. Powell asked the Commission to be more aggressive in negotiations with landowners to open lands to hunting. Regarding the dog trespass issue, Ms. Powell stated that the dog hunters associated with the Allied Sportsmen's Association are committed to resolving the situation, and will offer their suggestions to the Blackwater proposals at a future date.

Matthew Bender (Dog Hunters of Spring Creek) stated that the dog hunters of the Spring Creek Unit of the Big Bend WMA would like the opportunity to present an alternative proposal to the Commission before February for a resolution in order to continue dog hunting in the area.

Commission Discussion

Upon motion of Commissioner Meehan, seconded and carried, staff were directed to advertise the proposed rules, as presented, for a final public hearing at the February 2005 Commission meeting.

Manatee Protection Zones—Ten Thousand Islands area, Collier County

Mr. Kipp Frohlich, Division of Habitat and Species Conservation, provided background information; summarized studies and results of the distribution, relative abundance, and movements of manatees in the area; boat traffic patterns; and manatee mortality in the area.

The study area lies east of Marco Island and Goodland, between Tripod Key east to the western border of the Everglades National Park, including Fakahatchee Bay.

FWRI staff findings concluded that the Port of the Islands and Faka Union Canal are a focal point for both manatees and boats. Speed zones are either idle or slow speed year-round. In the rest of the study area, manatee use is relatively less dense when compared to Port of the Islands. In these areas the speed zones are less restrictive. However, data confirm that the entire area is important manatee habitat year-round.

The winter peak in boating activity corresponds with the greatest number of manatee deaths in the Ten Thousand Islands. Boating destinations overlap with the offshore manatee feeding grounds. The number of known manatee deaths caused by watercraft does not show a trend over the last 25 years (increasing or decreasing).

Based on review of the data, staff concluded that the current zones are adequate and, therefore, do not recommend changes to the rule at this time. Staff recommends continued monitoring due to the importance of the area for manatees. The Commission agreed.

Public Comment

Laura Combs (Save the Manatee Club [STMC]) brought to the Commission's attention *The MADD Messenger* a publication of the Mothers Against Drunk Driving newsletter, which presented information regarding "Operation Sea Spray 2004." This effort of area law enforcement agencies was conducted as an effort in detecting and apprehending impaired boaters and providing education in boating safety. She brought with her a toy, named "Mortie—the MADD Manatee." This toy, donated by STMC, is often distributed by officers to boat driver's children who might be onboard when the driver is stopped. She thanked FWC officers for their participation in Operation Sea Spray.

Ted Forsgren offered his support of the staff conclusions and recommendation that existing zones are adequate for manatee protection.

Manatee Protection Zones—Lee County

Mr. Frohlich gave a brief history of manatee protection zones in Lee County, discussed the rule development process, including local input, and reviewed data used by staff when making its proposals. He explained that existing FWC zones in Lee County were adopted in 1999. In January 2003, a Lee County court issued an order dismissing multiple citations that had been issued for rule violations in several parts of the county. FWC appealed the order but the appeal was dismissed for procedural reasons. In April 2004, the U.S. Fish and Wildlife Service (USFWS) published an emergency rule reinstating the zones affected by the county court order on a temporary basis as emergency federal refuges. The USFWS has proposed a rule to make the emergency zones permanent as soon as April 2005.

FWC response to court ruling and federal zones was to propose to amend the state rule. The court ruling resulted in a reduction of manatee protection in these areas and significantly increases the risk to manatees. While federal zones may have temporarily reduced that risk, staff believes state zones provide better protection and are preferred by boaters. Staff recommends that the Commission establish amended state zones, thus making permanent federal zones unnecessary.

Steps to amend the state rule included:

- In April 2004, Lee County was notified that FWC was considering amendments to existing zones. Lee County formed a Local Rule Review Committee (LRRC) in June 2004.
- The LRRC met seven times through early August and submitted its final report on August 10.

- As required by statute, FWC staff reviewed the LRRC report, including minority opinions, and reassessed the zones that were provided to the LRRC in June.

- FWC staff revised its recommendations in some areas to support the LRRC majority position. In other areas, however, staff is not supporting the LRRC majority position because staff does not believe the data support the proposal.

Mr. Frohlich pointed out that, additionally, in 1999 the Lee County rule allowed permits for both commercial netters and guides. There have been no permits in Lee County since April 2004 because the USFWS has no such permit provisions. The proposed rule provided to the LRRC did not change the permit provision and the LRRC did not discuss the issue.

Based on comments from stakeholders, staff recommendations for the Manatee County rule, and subsequent Commission action, staff recommends proposing a change to Lee County rules to allow net-setting only.

Mr. Frohlich asked for Commission concurrence to publish the proposed rule amendments as presented by staff, conduct a public hearing in Lee County, and seek final Commission action on the proposed rule no later than the April 2005 Commission meeting.

Public Comment

John Kinney (Standing Watch) stated that he was a member of the LRRC and he does not believe that FWC staff adequately considered the input of the LRRC when finalizing its recommendations for the Commission. He believes FWC staff is trying to circumvent the LRRC process. He would like the final public hearing to be convened in Lee County, and asked the Commission to accept the recommendations of the LRRC for at least two years, then, if there are any areas of concern, ask the LRRC to review its recommendations.

Mr. Haddad commented that the rules involving the LRRC are new and staff will continue interaction with the LRRC during the rule-making process.

Commissioner Meehan expressed that he and Commissioner Corbett have agreed to do an on-site inspection of the proposed zones prior to the final hearing, and urged the other Commissioners to do the same.

Justin McBride (Lee County Division of Natural Resources) voiced his concern because FWC staff did not consider the LRRC's comments. Mr. McBride read a letter from John E. Albion of the Lee County Board of County Commissioners regarding the proposed zones, who requested FWC staff provide a substantive and detailed reply to the LRRC.

Laura Combs commented that FWC staff were at the LRRC meetings and responded to the LRRC's concerns. She mentioned that the mortality data provided was up to date, and urged the Commission to move forward with the staff recommendations.

Jessica Koelsch commended the staff on their report. She believes the LRRC process works well, and asked the Commission to make its decisions on science by supporting the staff recommendations.

Ted Forsgren stated that he disagrees with the staff recommendations, especially the exemption for commercial fishermen to set nets. He is concerned with the proposed slow speed regulations for the mouth of the Caloosahatchee River and South Matlacha Pass. He asked the Commission to do what is right for the protection zones because if it does not the federal government will step in with more stringent regulations.

Pat Rose (STMC) pointed out that if the Commission does not approve the rules, the federal rules will continue to apply in the area. He explained that the LRRC was to be advisors to the Commission, not a group formed to tell the Commission what to do; however, he continues to believe the LRRC process is important.

Virginia Splitt mentioned the need for state manatee protection zones. She stated her belief that the conduct of certain LRRC members during the meeting was in appropriate or contentious. She asked for adequate protection zones in Lee County.

John Sprague (Marine Industries Association of Florida) expressed his belief that LRRCs should not be disbanded until all rules of the area in question are finalized. He asked that public safety and boating safety always be considered along with manatee protection during the rule-making process.

Commission Discussion

Commissioner Meehan expressed that he continues to support the LRRC process.

Mr. Frohlich stated that he would like to meet again with the LRRC members regarding FWC staff's reasoning behind the rules that were brought before the Commission that differed from their recommendations.

Chairman Barreto stated that he believes in the LRRC process and would appreciate receiving comments from affected county commissions, which might give weight to the LRRC recommendations.

Mr. Frohlich replied that staff will meet with the LRRC before the next Commission meeting, and seek county input on the proposals brought before the Commission.

Upon motion of Commissioner Huffman, seconded and carried, staff was directed to advertise a proposed rule as presented by staff, to conduct a public hearing on the rule in Lee County, and to bring the rule back before the Commission for a final public hearing in April 2005.

Substantial Risk Counties-Manatee Protection Plans

Mr. Frohlich explained that the 2002 Legislature revised the Manatee Sanctuary Act to include a new section regarding manatee protection plans (MPP).

The act identifies current counties that need to develop MPPs, specifies that MPPs be submitted to the Commission for review and approval, provides due dates for completion, specifies that MPPs must be consistent with specific criteria, and requires that the boat facility siting portion be adopted into the county comprehensive plan.

Thirteen counties are required to complete MPPs, and ten of 13 have been approved. The remaining three are in development (Broward, Palm Beach, and Volusia).

In addition, the new statutory language provides rule-making authority to the Commission for the designation of new substantial risk counties that would need to develop MPPs, and the development of new criteria for approval of MPPs.

In early 2004, staff developed draft guidelines that would assist in the rule development of the MPP approval criteria and designation of new substantial risk counties. These draft guidelines were distributed to a wide array of stakeholder groups and individuals requesting comments. Input from these stakeholders will be used to help staff develop a proposed rule.

The proposed process for rule development includes (1) notifying the three remaining counties that they are substantial risk counties and reaffirm statutory requirements for completion of a MPP, (2) publishing a notice of rule development in early 2004 for designating additional substantial risk counties and rules for MPP approval criteria, and (3) proceeding with the rule-making process once a draft rule is developed and the Commission approves publishing the proposed rule.

Staff intends to convene public meetings on the proposed rule and solicit written comments from stakeholders and the public, which will be carefully considered prior to drafting a final rule for Commission consideration and adoption.

Public Comment

Pat Rose offered his support of the staff proposal, adding that this rule allows the Commission to be pro-active in the development of MPPs and will provide continuing manatee protection within a changing state.

John Sprague mentioned that future MPPs should address future marina sites and mentioned the need for water access in Palm Beach County. He pointed out that the citizens of the affected counties should be made aware of what is ahead for them at the onset of the development of county MPPs.

Commission Discussion

Upon motion of Commissioner Corbett, seconded and carried, the Executive Director was authorized to notify Palm Beach, Broward, and Volusia counties of the

substantial risk designation, and staff was directed to advertise a notice of proposed rule making for identification of other substantial risk counties and MPP approval for consideration by the Commission at a future meeting.

Recreational Boating Characterization for Tampa and Sarasota Bays

Mr. Henry Norris, Fish and Wildlife Research Institute (FWRI), advised that Florida is the most active state for boating. Florida is ranked as the number one destination in the United States for Saltwater Recreational Boating. Boating is a key element in Florida's coastal lifestyle and a major contributor to the state's population growth. Florida ranks third in the nation in recreational boat registrations; and as the quantity of boats that ply coastal waterways increases, so does the need for improved waterway access and maintenance, greater public safety, improved boater education, and enhanced water resource management. Lack of adequate information has hindered local efforts to plan for recreational boating access and resource management.

The recreational boating characterization for Tampa and Sarasota bays, conducted by Florida Sea Grant and the FWRI, provides a wealth of spatially explicit geographic information for a proactive approach to coastal resource management that also considers the activities and needs of a major user group.

Mr. Norris explained the project goals:

(1) Characterize the preferences, activities and use patterns of the Tampa Bay region's recreational boating population.

(2) Develop scientifically sound methodology to provide information for proactive waterway management.

(3) Provide baseline information to understand the overall system rather than focusing on a single specific issue.

To obtain the data needed for the study, Mr. Norris explained that a comprehensive map-based questionnaire was sent through the mail to 6,500 boaters selected at random who use the areas of Tampa and Sarasota bays. The information obtained provided information such as boater's choice of departure site, choice of travel route, and choice of destinations.

Survey responses were transferred from paper maps to a computerized Geographical Information System (GIS) database, which can depict locations boaters reported as preferred destinations, travel routes, and activities and boaters associated with each location. Information was provided about on-water boater behavior and regulation compliance, which assist marine law enforcement entities.

Mr. Norris explained the importance of the data and its impacts for waterways throughout Florida. He expressed that the information collected and the boating characterization drawn from the data meshes with a statewide project that aims to enhance waterway access throughout Florida. The data are currently being used to map land and water-side service areas, and use potential for Tampa and Sarasota bay boat ramps.

Mr. Norris concluded by stating that related investigations will extend the boating characterization study to Sarasota, Charlotte, and Lee counties; compare demographics of survey respondents with the boating community at large and market area analysis for boat ramps and marinas.

Public Comment

Suzanne Tarr (STMC) commented on the importance of boater use pattern data for making management decisions on many of Florida's natural resources and protection of people, and pointed out the importance of continuing this type of study due to increased boating in Florida. She commended law enforcement officers of Palm Beach County and the FWC for their work during "Operation Slow Speed Zone" and thanked the federal, state, and local law enforcement agencies for increased boater education.

Commission Discussion

Chairman Barreto asked staff to provide the Commission with a breakdown of the economic value of boating, fishing, and hunting to Florida.

Mr. Haddad stated that the agency has the data and will forward it to the Commissioners.

Florida's Process for Listing Imperiled Wildlife

Mr. Frank Montalbano explained that following the controversy over applying the Commission's 1999 criteria-based listing process, FWC staff, at the direction of the Commission reconvened the stakeholder panel, added four marine interest groups, and placed the listing process on hold. Mr. Montalbano introduced Dan Sullivan of the Division of Habitat and Species Conservation to present for Commission review, staff's current thinking regarding process revision and seek additional guidance and Commission concurrence to proceed with rule development.

Mr. Montalbano introduced Dr. Perran Ross, an employee of the University of Florida's Department of Wildlife Ecology and Conservation, who is a member of the IUCN Species Survival Commission. Dr. Ross served as a member of the stakeholders panel and serves the FWC as a leadership facilitator under a contractual arrangement between the Commission and the University of Florida.

Mr. Sullivan gave a brief history of Florida's process for listing imperiled wildlife. He explained that the newly formed Listing Process Stakeholders Panel (LPSP) was assigned four charges: (1) Propose any change needed to address marine-harvested species; (2) Determine, by full consensus, if any change is needed to address confusion between the state and federal processes; (3) Determine, by full consensus, if new IUCN criteria should be applied; and (4) Discuss concerns with the existing listing process criteria and bring changes recommended by full consensus.

Charge one was reached by consensus in the form of language that excludes from listing marine-harvested species that meet specific criteria. The LPSP was

unable to reach consensus on charge two. There was general agreement that no change should be instituted to address this charge, as this was not viewed as a critical issue and no consensus could be reached. Although the LPSP did not officially come to consensus on charges three and four, a measure of consensus was reached in the form of a package of listing process enhancements:

- (1) Utilize the IUCN Red List Categories and Criteria Version 3.1.
- (2) Adopt the guidelines for Application of IUCN Red List Criteria at Regional Levels Version 3.0.
- (3) Modify the biological review panel (BRP) to allow it to function more like a species specialist group.
- (4) Provide resources so staff may be trained to appropriately use the IUCN procedures.
- (5) Conduct a study of species of management concern to develop procedures and conditions where regulation specific to these species may be necessary.
- (6) Adopt a policy that would require a management plan for any currently listed species that is de-listed.
- (7) Acknowledge that rules can be adopted at any time to ensure that species can be protected through specific agency action even if not listed.

In addition to the LPSP recommendations, the group's meetings were successful at specifically defining the relevant issues on which consensus could not be reached: (1) Is the current alignment of FWC and IUCN categories appropriate? (2) What names should be used for FWC listing categories? and (3) Should the current listing process be changed?

FWC staff believes the listing process adopted in 1999 achieved many significant improvements to the listing of Florida's imperiled species. Despite these advancements, the recent controversy and staff analysis indicate that there is room for improvement. Although staff recognizes the importance of LPSP enhancement items 5 and 7, staff does not believe these items need to be included in the listing process because they are best addressed elsewhere. Enhancement items 1 through 4 and 6 are included in the following staff recommendations:

- (1) Adopt the IUCN "Guidelines for Application of IUCN Red List Criteria at Regional Levels Version 3.0, June 2003."
- (2) Modify the definitions of listing categories to reflect the changes made pursuant to "IUCN Red List Categories and Criteria, Version 3.1."
- (3) Apply, via policy, the use of "Guidelines for Using the IUCN Red List Categories and Criteria, May 2003," and provide for IUCN training to select staff on the use of these guidelines.
- (4) Alter the Biological Review Panel so it functions similar to an IUCN species specialist group, but require that the panel chair be an FWC employee.
- (5) Alter rules to clarify that a management plan is required for any species being added to, moved within, or removed from (i.e., de-listed) the state list.
- (6) When possible, include a management plan outline in the FAW notice soliciting input on the drafting of the management plan; this could be adopted via policy and would not require a rule change.
- (7) Remove the self-imposed listing moratorium and direct staff to proceed with evaluating pending petitions.

(8) Invite members of the LPSP to participate in IUCN training. During this training session, a handful of species should be evaluated to allow the LPSP to see how the "new" process would operate.

(9) Modify rules to specify that other than emergency petitions, petitions will be evaluated only during the period July 1 through December 31 each year to allow staff to adequately prepare operational plans to handle the implementation of the listing process.

Staff believes these recommendations will adequately address the charges and, with time, alleviate concern about the process. As such, if these recommendations are adopted, there would be no need to alter the nomenclature, shift the categories, or make any other major changes to the process. The rule would be reviewed at the February 2005 Commission meeting and advertised for a final public hearing in April.

Public Comment

Elizabeth Fleming (Defenders of Wildlife) stated that Defenders is supportive of the changes in the listing process but does have some minor concerns regarding the alignment issue. She provided a copy of Defenders' December 1 letter regarding their concerns. She believes that it is very important to ensure FWC staff is trained by IUCN staff during the rule-making process, to assure appropriate use of the IUCN procedures.

Jessica Koelsch commented that the species listing process is a complicated issue. She believes the proposed process is a step in the right direction but does not correct the alignment issue. She asked the Commission to adopt the IUCN criteria in its entirety.

Ted Forsgren asked for a measurable quantitative system for species listings. He supports keeping the nomenclature alignment as Endangered, Threatened, and Species of Special Concern. He asked the Commission to move forward with the staff recommendation because everyone's concerns will never be solved.

Pat Rose pointed out the need of moving toward a criteria-based system and correcting the misalignment, but mentioned that some refinement will still be necessary especially for long-lived marine mammals. He supports the suggested improvements but believes the LPSP should continue to work on perfecting the process. He thanked Dr. Perran Ross for his involvement with the panel.

John Sprague offered his support of the staff recommendations.

Lloyd Brown (Humane Society of the United States) offered his support of the staff recommendation but still believes the realignment of categories and descriptions should be addressed by the panel. He suggested a category for long-lived marine species should be added.

Steve Webster (Florida Marine Contractors Association) offered his support of the staff recommendations and thanked Chairman Barreto for his leadership as Commission Chairman during the past year.

Barbara Jean Powell offered her support of the staff recommendations. As a member of the committee, she said she was not concerned with the change in nomenclature because federal and state regulators usually differ on "names," but species management will remain the same. She pointed out that it is most important to keep the process simple and write management plans for the species involved.

Commission Discussion

Commissioner Barco offered a motion to accept the staff recommendation and the motion was seconded.

Commissioner Corbett commended the Commission staff and Dr. Ross for their efforts to assist in bringing the listing process issue to a more acceptable compromise for all involved.

The Chairman called the question and the motion carried.

Land Acquisition Issue—J.W. Corbett and Aucilla WMAs

Mr. Breault explained that staff is seeking Commission authorization to add 135 parcels, located within the J.W. Corbett and Aucilla wildlife management areas, to the FWC's Florida Forever land acquisition list.

Commissioner Yablonski stated that he would recuse himself from action on the issue due to his business association with one of the landowners, St. Joseph Land and Development Corporation.

Upon motion of Commissioner Corbett, seconded and carried (with six votes), the 135 parcels will be added to the agency's Florida Forever land acquisition list.

Presentations by the Public

Alan Rigerman brought to the Commission's attention what he believes are scams related to the wildlife rehabilitation industry. He commented that many of the so-called "rehabilitators" or "sanctuaries" are businesses that advertise for donations or other funding for the care of animals they purposefully purchase or take to their facilities, which does not make them sanctuaries. He asked that each FWC regional director meet with local law enforcement investigators regarding the importation of exotic wildlife into rehabilitation centers or sanctuaries. Mr. Rigerman expressed that possibly, during the 2007 rule review process, wildlife rehabilitation rules will need to be reviewed.

Byron Maharrey commented that the Commission has a great dedicated staff and thanked Commissioner Yablonski for wanting the Commission to work with public land managers for camping and hunting privileges. He asked the Commission to continue to work toward having the Big Cypress addition lands open soon, work with the landowner to allow camping on the new Matanzas WMA, and ensure the Everglades canals are not filled as part of the restoration program.

Lloyd Brown of the eleven-member International Wildlife Rehabilitation Council conveyed that Wildlife Rescue of Dade County is against the release of exotics into the wild. He believes it is too easy for people to secure a rehabilitation permit in Florida, and offered his assistance to Commission staff to develop standards to elevate the professionalism in the field of wildlife rehabilitation.

Ken Stead (Marine Industries Association) pointed out to the Commission that boating in Florida produces \$14 million for the economy of the state, and since the last study was complete more than 200,000 more boats have been registered in Florida.

Barbara Jean Powell believes the situation with access and hunters in the original Big Cypress Preserve is getting worse. She pointed out that the Stairsteps Unit is not accessible. Ms. Powell mentioned that in Zone 4 nearly 150 airboats historically participated in the hunts, yet, this year during the second weekend of general gun season there were only eleven. She asked the Commission staff to review who is receiving the permits.

Laurie McLaughlin (Florida Keys National Marine Sanctuary) mentioned the use of illegal casitas by lobster divers in the Keys and applauded the Division of Law Enforcement's efforts to stop those violating the laws. She suggested the rules need to be tightened to better protect the lobster resource, and thanked the Commission for working with the Sanctuary on resource protection issues.

Colonel Jones asked Officer Charlie Mallow to bring the Commission up to date on law enforcement efforts regarding illegal crawfish habitats. She stated that more detailed information is available on a CD which she will forward to each Commissioner.

Officer Mallow reported that the Illegal Crawfish Habitat detail conducted by FWC/Sanctuary Enforcement Team Personnel and Special Agents from the National Marine Fisheries Service was a success. Three cases were made during the three-day detail (August 6-8, 2004) involving both recreational and commercial divers harvesting crawfish from illegal artificial habitat. Officer Mallow presented some detailed information on the cases. Some improvement to the rules to be suggested by staff include: (1) Require that the dive gear in the water being used to harvest lobsters have their C&D number affixed, (2) Require that containers on the boat have their C&D number affixed, and (3) Require that gear being used in the water be marked with a dive flag with their C&D number. Possibly, increased penalties for violations will be requested.

Commission Exchange

Commissioner Meehan stated that he remains concerned with tarpon mortality because of pictures he has seen of fishermen taking photos and actually being in possession of the tarpon out of the water. Mr. Meehan asked staff to investigate the sterilization of released ducks for shooting preserves and contact Disney staff, who have been successful with duck sterilization. Additionally, he suggested staff seek additional data on tower shoots.

The Commissioners thanked Chairman Barreto for the welcome reception he hosted the evening before.

Chairman Barreto thanked agency constituents and staff who assisted with the reception.

The Chairman recessed the meeting at 5 PM to reconvene at 8:30 AM, Friday, December 4.

Chairman Barreto reconvened the meeting at 8:35 AM, Friday December 4.

Prior to the election of the Chairman and Vice Chairman for 2005, Mr. Haddad asked if he might say a few words regarding Chairman Barreto.

Mr. Haddad, speaking on behalf of the staff, expressed that Chairman Barreto has been an effective and gracious Chairman, who always portrayed a positive image and has been generous in his accolades to staff. He made it a point to make daily contact with the Office of the Executive Director asking how he could help and did his homework to keep up with on-going issues, which made for a smooth year and helped staff perform their jobs. During the hurricane disasters, Mr. Barreto showed his concern not only for those personally suffering through the disasters, but asked the agency to give special attention to those employees directly affected and those employees who worked tirelessly to ensure citizens were provided needed care and supplies. It was a stellar performance of the agency guided by Chairman Barreto. Mr. Haddad thanked Chairman Barreto for an outstanding 2004, and for his generosity to staff while meeting in the Keys.

Election of 2005 Chairman and Vice-Chairman

Chairman Barreto explained that the Commissioners had the choice of holding the elections by either closed ballot or acclamation. The Commission, through general consent, chose acclamation.

Chairman Barreto placed the name of Herky Huffman in nomination as 2005 Chairman. There were no other nominations and the motion was seconded and carried.

Commissioner Corbett placed the name of David Meehan in nomination as 2005 Vice Chairman. There were no other nominations and the motion was seconded and carried.

Commissioner Corbett offered a motion to accept both nominations, Chairman, Herky Huffman, and Vice Chairman, David Meehan. The motion was seconded and carried.

Mr. Antista reminded the Commissioners that January 1, 2005, is the start date for the newly elected Chairman and Vice Chairman.

Commissioner Huffman stated that he was honored by his election as Chairman and looked forward to the challenges of 2005.

The Commissioners thanked Chairman Barreto for his great leadership and "people skills," which are much appreciated by the agency's stakeholders; and for the time and effort he has put forth on behalf of the Commission.

Commissioner Meehan mentioned that the agency's 2004 legislative issues were successful due, in part, by the efforts of Mr. Barreto. He thanked him for the personal touch in writing letters to employees and guests, who made presentations at Commission meeting, and his enhancement of the meeting protocol.

Executive Director's Report

Mr. Haddad presented highlights from the December Executive Director's Report.

Division of Habitat and Species Conservation (HSC)

→The Governor and Cabinet (Board of Trustees) recently approved adding the 52,000-acre Pine Island Slough Tract to the Florida Forever A-category acquisition list, with FWC serving as the co-applicant and designated lead manager if the tract is acquired.

→The South Florida Water Management District governing board approved a resolution at their September 8 meeting to allow waterfowl hunting on two of the district-owned Stormwater Treatment Areas (STAs). The resolution allows FWC to re-establish STA 5 as a public small-game hunting area for the 2004-05 hunting season. The resolution also allows FWC to expand utilization of the STAs by establishing STA 1W as a public small-game hunting area and opening the area for the first time to public use.

→A \$1.9 million Wetlands Restoration Program (WRP) grant agreement was signed in November. The WRP grant, administered by the Natural Resources Conservation Service, will provide FWC over \$1.4 million to restore and improve 2,700 acres of wetlands in the Spirit of the Wild WMA in Hendry County. FWC will contribute approximately \$477,000 of in-kind services (prescribed burning, roller chopping, and treatment of exotic vegetation) to meet the required 25 percent grant match by the state.

Division of Hunting and Game Management (HGM)

→The Florida Chapter of the National Wild Turkey Federation has agreed to donate \$108,007 to the FWC for FY 2004-05 as part of an ongoing, cooperative cost-share program (presently in its eleventh year). This year's cost-share program will provide funding for 30 projects on 24 WMAs, continue the third year of a wild turkey research project involving the University of Florida and Tall Timbers Research Station, and fund a wild turkey population survey conducted in cooperation with the US Fish and Wildlife Service on Lake Woodruff National Wildlife Refuge.

Division of Law Enforcement (LE)

Academy Graduation:

→FWC Academy Class #6 has completed their required coursework with an overall class average of 95.2%. They were seated for the State Certification Exam on September 22, and all passed, which keeps FWC as the only training center with a 100% passage of the Certification Exam. Recruits are now in the Advanced Basic portion of their training, which consists of agency specific topics such as code book, species ID, gear and equipment, water safety survival, vessel law, vessel boarding, ATV, man/vehicle tracking, night scenarios and animal handling.

Canine Graduation: The following personnel and K-9s graduated on October 22:

Officer Christian Rodriguez and "Dice"	Officer Eric Steinmetz and "Cheyenne"
Officer Joe Wolf and "Gunner"	Officer Jeff Gier and "Bubba"
Officer Wayne Hargabus and "Madison"	

Fish and Wildlife Research Institute (FWRI)

→Feline leukemia virus continues to persist in the Florida panther population. Since 2002, five panthers have been diagnosed with the disease and three have died as a direct result of infection. A vaccination program is under way and so far approximately 25% of the population has been vaccinated. Due to the poor prognosis following infection and to decrease the risk of spreading the disease, any panthers testing positive for the virus will likely be removed to captivity until the infection clears or they succumb to the disease. If the infection is cleared, release will be considered.

Division of Marine Fisheries Management

→The recent meeting of invited participants on the future vision of Florida's marine fisheries was well received by our stakeholders. Approximately 30 people attended the one-day facilitated meeting. Among the diversity of issues discussed included: allocation of harvested resources among users; maintaining access to the waterfront and to fisheries resources; habitat and water quality; and development of research and management priorities. Breakout sessions were held comprising groups of commercial fishermen, recreational fishermen, and researchers/environmentalists. Additional meetings will be held in February. These groups will discuss their interests and visions for the future, and a combined meeting of all the groups to share their results will be scheduled in the spring.

Office of the Executive Director (OED)

Facilitation Leadership Initiative:

→A grant/contract with Department of Wildlife Ecology, University of Florida was initiated in July 2004 to provide external expert advice on stakeholder issues. The contractor, Dr. J. P. Ross, has become familiar with current FWC structure and personnel and initiated action, in conjunction with staff teams, on the State Imperiled Species Listing Process, State Comprehensive Wildlife Strategy, and

development of Office of Policy & Stakeholder Coordination. A work plan covering October 2004 through June 2005 proposes continued development of these stakeholder issues, direct contact to key stakeholders and development of long-term stakeholder relations.

Wildlife Foundation of Florida:

The nominating committee, headed by Ken Haddad, is actively seeking new Board members.

Some fundraising activities of the Foundation were delayed, due to the hurricanes. The Board felt it an inappropriate time to solicit donations while the citizens of Florida were struggling with personal loss and storm-related activities.

Over 600,000 mailings will soon go out regarding the availability of the Foundation's American Express credit card, which provides royalties to the Foundation.

An Endowment Giving Program has been launched, which will provide a process for people to provide an endowment to the Foundation.

The Foundation has a new look and feel, a new website, a new video, and a new PSA marketing campaign for the Conserve Wildlife Tag and the Foundation that will begin soon.

Commissioners Barreto and Corbett offered to spearhead a fundraising effort for the Foundation. All Commissioners agreed to seek recommendations for additional members of the Foundation's Board of Directors.

Financial Report

Ms. Sandy Porter presented the Financial Report as of October 31, 2004.

Marine Resources Conservation Trust Fund—Fund Balance for Fiscal Year 03/04 equals \$4,850,203. In fiscal year 01-02, the Legislature took \$3 million General Revenue from Law Enforcement salaries and shifted payment of these salaries to this trust fund. There is insufficient revenue to support the shift and the fund is fast becoming depleted. There may be some federal grant relief, however, without grant funds, the agency could face significant cuts in FY 06/07.

State Game Trust Fund—Fund Balance for Fiscal Year 03/04 equals \$27,429,474. With the exception of documentary stamps, revenues in this trust fund do not keep pace with rising costs. The large balance in the fund drops in FY 04/05 due to a doc stamp sweep of \$9.8 million and nonrecurring appropriations (\$4 M boats, \$3.4 M doc stamps). This projection assumes any additional build-up of doc stamps will be expended by FY 06/07. The available balance in the fund is projected to be depleted by FY 06/07. If revenues do not improve, it may be necessary to take reductions at that time.

Nongame Wildlife Trust Fund—Fund Balance for Fiscal Year 03/04 equals \$3,245,264. This trust fund is fairly stable. The moderate rise in speeding fines and title fees is sufficient to keep pace with normal cost increase.

Florida Panther Research and Management Trust Fund—Fund Balance for Fiscal Year 03/04 equals \$756,394. The 1996 Legislature shifted \$1.35 million of Law Enforcement into this fund causing it to be over-appropriated in order to spend down an accumulated balance. In spite of significant reductions taken over the years, this fund is still over-appropriated. The balance is projected to be exhausted in FY 06/07. Revenues from tag sales continue to decline and expenditures increase annually due to pay and insurance increases. Plans for this fund include a marketing effort for the tag and potential reductions or fund shifts to be proposed for FY 06/07.

Save The Manatee Trust Fund—Fund Balance for FY 03/04 equals \$715,808. This trust fund is over-appropriated as a result of declining revenues coupled with rising costs. Revenues from tag sales continue to decline. Expenditures increase annually due to pay and insurance increases. The balance is projected to be exhausted in FY 07/08. Plans for this fund include a marketing effort for the tag and potential reductions or fund shifts to be proposed for FY 07/08.

Conservation and Recreation Lands Program Trust Fund—Fund Balance for FY 03/04 equals \$5,327,415. This trust fund is very stable. Land management spending is easily tailored to match available land management formula funding. The high fund balance being spent down is an accumulation of interim land management funding provided for newly acquired lands.

Land Acquisition Trust Fund—Fund Balance for FY 03/04 equals \$15,386,868. This trust fund is very stable, with a large balance held in reserve to generate interest. Its sole function is to support the mitigation park program.

The Commission suggested that where there are surpluses in trust funds, identify where revenues are needed in other trust funds and determine if surpluses might be transferred before there is a sweep of trust funds.

Commissioner Yablonski suggested staff investigate why some trust fund revenue is declining to determine what action might be taken to stop the declines.

Ms. Porter also presented a status report on Fixed Capital Outlay projects.

Public Comment

John Sprague voiced his concern over the Coastal Protection Trust Fund. He commented that the boating industry is prepared to introduce a "Boater" vehicle tag to the 2005 Legislature, in the hope that funds generated might go to the Wildlife Foundation of Florida to enhance funds for the Commission's Office of Waterways and Boating Safety. He thanked Chairman Barreto for his leadership during 2004.

Barbara Jean Powell voiced her concern over the unreasonable "federalization" of south Florida. She stated that reductions in airboat use, access

to recreation areas, hunting restrictions, federal grants with "strings," and other federal regulations have an adverse effect on Florida hunting and fishing license sales and federal Pittman-Robertson funding.

Alan Rigerman suggested the Commission look into redesigning the Florida Panther vehicle tag and increasing captive wildlife fees for Florida's major attractions.

Commissioner Barco, who was a member of the Commission's Financial Review Task Force, mentioned that the task force suggested increasing a number of permit fees but knew that the "no new taxes" stance of current administration would not welcome fee increases.

Chairman Barreto conveyed that the nonresident hunting and fishing license fees for Florida are much lower than other states, which should be addressed.

Commissioner Yablonski commented that the Commission needs to be revenue neutral and mentioned that if the Commission suggested cutting General Revenue it might be able to increase certain fees.

Legislative Report

Prior to presenting the Legislative Report, Ms. Jackie Fauls, commented that during the 2003 Legislative Session there were some fee increases approved. They included fee increases for the exhibition and sale of wildlife; however, the increases were enacted because the program's fees could not support the cost of the program and the fees had not been increased in decades.

Ms. Fauls discussed the development of a legislative proposal to increase penalties for those who violate deer/dog hunting laws. Staff worked with stakeholders and, based on a general consensus of attendees at two stakeholder meetings, staff recommends delaying the development of a proposal. The general consensus from stakeholders was that it would be better public policy to review all of Florida's wildlife, freshwater and saltwater fishing violations and their penalties together and then make recommendations to provide consistency among the penalties for similar violations in all three areas, including an increase in penalties for a habitual offender of Florida's fish and wildlife resource laws.

Ms. Fauls mentioned that the Northwest Florida Rural Property Owners Association wishes the Commission go forward as soon as possible with increases in the penalties for deer dog hunter violations.

Mr. Heller pointed out that, in terms of good public policy, the FWC needs to bring a well-thought out approach of recommended penalties to the legislature for all Commission rules and regulations.

Commissioner Huffman stated his main interest is enacting more severe penalties on the habitual offender.

Commissioner Yablonski pointed out the need to get in touch with key legislators to ensure their support of the increased penalties.

Commissioner Meehan stated that it might be more difficult to introduce the broader penalty package and commented some property owners need immediate relieve from the dog trespass problem. He believes the broader scope will be a daunting, time-consuming project, and suggested staff focus on the single issue of dog hunting while working on a comprehensive plan for other violations. He mentioned that 25 percent of all hunters are dog hunters, who want to ensure the future of their sport.

Commissioners Kaupe and Barco agreed that an entire package of proposed increases in violations might be overwhelming and suggested the land/water penalties for violations might be broken out for individual review before finalizing the larger package of proposals.

Chairman Barreto stated his concerns over postponing all potential increases in dog hunting/trespass penalties. He stated that the Commission is attempting to protect dog hunting in Florida while protecting people's property rights, and the Commission made a promise to both the landowners and dog hunters that increased penalties for dog hunting violations would be addressed during the 2005 legislative session.

Commissioner Huffman suggested that while staff prepares its comprehensive report on hunting and fishing violations, it look at the "three strikes and you're out" rule that would revoke a person's hunting and fishing license for an extended period of time.

Chairman Barreto stated that an important part of the overall package must be appropriate education of the courts that administer the fines and punishments.

Commissioner Yablonski stated that addressing the penalties by category might be more a more manageable approach in developing the overall penalty package.

The Commission directed Ms. Fauls to bring the stakeholder group back together to discuss the "global" package and the Commission's direction, and provide an update the Commission on the dog trespass penalty proposals at the February 2005 Commission meeting.

Ms. Fauls brought the Commission up to date on the revised membership criteria of the Boating Advisory Council (BAC).

Upon motion of Commissioner Kaupe, seconded and carried, staff was directed to go forward with the BAC membership criteria legislation for the 2005 session.

In the Congressional Issues report, Ms. Fauls reported on the 2005 federal budget issues that will affect the agency.

The Legislative Affairs Office is developing a process that will result in establishing a FWC priority legislative agenda for the 109th session of Congress.

New budgetary proposals will be presented to the Commission for its consideration at the February meeting.

Chairman Barreto stated that the FWC needs lobbying effort in Washington and suggested a firm that might assist, *pro bono*. He asked staff to develop an action plan of agency needs from Congress to present to lobbying firms that might offer their assistance.

Public Comment

Ted Forsgren asked the Commission to work with Congress to allow Florida to regulate saltwater fisheries species common only to Florida waters. He thanked Chairman Barreto for his work during 2004 and most importantly his efforts to ensure passage of the net violation penalties law.

Chairman Barreto asked Ms. Fauls to consider Mr. Forsgren's comments in the staff's Congressional agenda.

John Sprague expressed that Florida needs more representation on federal committees affecting fish and wildlife issues. He mentioned the need for federal funds to remove the remaining derelict vessels sunken during the 2004 hurricanes, and mentioned that boater insurance legislation, to be introduced by the Marine Industries Association, will help FWC in its effort to provide safe boating in the state.

Bonnie Basham stated that Standing Watch is prepared to be fully engaged in the budget and legislative processes with the FWC this year, and asked that staff call on the association when needed. She asked staff to consider video-conferencing for the final public hearing on the Lee County Manatee Protection Rules. She thanked Chairman Barreto for his work on behalf of the Commission in 2004, and congratulated Commissioners Huffman and Meehan on their new positions.

Barbara Jean Powell, speaking for the Allied Sportsmen and other dog hunting groups, conveyed that fish and wildlife violations require a "big fix" rather than a patchwork. The sportsmen want to stop the repeated, deliberate outlaw; "he's the one who casts his dog in the church yard, he fire hunts, exceeds his limits, and is also the drunk driver." Ms. Powell conveyed that the suggestion of looking at all hunting violations was formed from a consensus of the stakeholders. She asked the Commission to move forward with the entire package of increased penalties for fish and wildlife violations.

Presentations by the Public

Regina Lopez asked the Commission to help the Biscayne Bay Wingnet Shrimpers with a solution to the dispute between the shrimpers in the bay. She stated that she wants all shrimpers treated equally, and suggested closing the bay to everyone during the months of June through October.

Chairman Barreto stated that the Commission has directed staff to have an outside investigation of the entire situation regarding the Biscayne Bay Wingnet Shrimpers and report the findings at a future meeting.

Jesus Lopez advised the Commission that they were receiving bad information from the staff regarding landings data, and asked the Commission to reopen shrimping for the wingnetters on Saturdays because they could wait two months for the shrimp to run and when they do run it could be on a Saturday.

Allan Rigerman pointed out the danger of allowing private individuals, lacking experience, to be permitted to keep exotic species in Florida. He stated that Florida has good laws on the books and asked the Commissioners to listen to their experienced law enforcement personnel on captive wildlife issues and appropriate regulations. Mr. Rigerman offered his congratulations to Commissioner Barco on her appointment, Chairman Barreto on his 2004 Chairmanship, and Commissioners Huffman and Meehan for their upcoming leadership roles.

John Sprague offered his support of the new criteria for the Boating Advisory Council. He suggested that federal and state officials sit down to discuss a comprehensive management policy of state land the federal government regulates that could be used on an area-by-area basis.

Commission Exchange

Chairman Barreto congratulated Commissioners Huffman and Meehan on their newly elected leadership roles, welcomed Commissioner Barco, and thanked Regional Director Chuck Collins and staff for their assistance with the meeting and associated activities. He stated he was proud of the FWC accomplishments throughout the past year, and particularly proud of the passion each Commission employee demonstrates when dealing with fish and wildlife issues. He asked the Commission and staff to continue to work on the employee pay disparity issue and work with stakeholders. The Chairman urged Commissioners to visit Commission offices, review field work whenever possible, evaluate priorities, and take a lead on an issue. He said he will continue to work toward securing appropriate FWC law enforcement facilities in the upper Keys; and offered that the FWC is a leader in the country in fish and wildlife. He suggested a one-time bonus for the Executive Director and Assistant Executive Director. The other Commissioners agreed. He thanked the Commissioners for allowing him to serve as 2004 Chairman.

Commissioner Barco thanked the Commission and staff for their warm welcome.

Commissioner Meehan thanked Chairman Barreto for his good work as 2004 Commission Chairman. He suggested that the new Chairman speak with the Executive Director and Assistant Executive Director about agenda issues prior to each meeting, and recommended the Executive Director's Report be presented on the first day of the meeting and suggested that the most intense issues be separated on the agenda. He asked staff to investigate the possibility of allowing the harvest of goliath grouper in certain areas.

Commissioner Corbett indicated he would like to see a revision to the meeting structure based according to what the Commission needs to accomplish, with staff discussing and trying to form a consensus on issues prior to bringing them before the Commission. He asked Ms. Porter to review budget assumptions, and stated that he would like an onsite visit to the Lee County areas proposed for manatee protection zones. Commissioner Corbett thanked Dr. Perran Ross, Dr. Thomas Eason, and Dan Sullivan for their efforts on the Imperiled Species Listing Process. Regarding mallard-release regulations, he asked staff of the Division of Hunting and Game Management to look into research regarding use of other ducks that would not hybridize with Florida ducks.

Commissioner Kaupe welcomed Commissioner Barco and thanked Chairman Barreto for his leadership in 2004.

Commissioner Huffman offered that in 2005 he would like to see the Commission better regulate and control the importation of exotic species into Florida, and mentioned that he also has the support of Agricultural Commissioner Bronson. He asked the Commissioners to provide any ideas they may have for Commission direction in 2005.

Administrative Matters

The next Commission meeting is scheduled for February 2-4, 2005, in Panama City Beach. In April, the Commission will meet on the 14th and 15th in Tallahassee. Regarding the June meeting, Regional Director David advised that he was unable to secure a facility in Daytona Beach that could accommodate the meeting and suggested the Commission consider changing the dates to June 15, 16, and 17.

There being no further business, the meeting was adjourned at 12:45 PM.

H.A. "Herky" Huffman
Chairman

Kenneth D. Haddad
Executive Director

Respectfully submitted:

Commission Secretary

/tm
minutes\december 2004

