

**COMMENTS ON THE DRAFT MANATEE MANAGEMENT PLAN AS  
RELEASED BY THE FLORIDA FISH AND WILDLIFE CONSERVATION  
COMMISSION, NOVEMBER 8, 2006**

Submitted by  
Public Employees for Environmental responsibility (PEER)  
January 11, 2007

PEER would like to take this opportunity to offer the following comments regarding the draft manatee management plan.

The Florida Fish and Wildlife Conservation Commission (FWCC) is proposing to reclassify the manatee as a threatened species per the state's listing rule. Part of the requirement to do so requires the adoption of a species management plan to guide further recovery efforts.

PEER objects to the reclassification of the manatee. It is counter-intuitive to reclassify to a lower classification a species whose overall population numbers are small and, given current modeling efforts, is in all probability in decline. Additionally, threats to both the short and long term survival of this species are multiplying and include loss of a significant portion of both artificial and natural warm water refugia and increased habitat loss and watercraft threats from burgeoning human population growth and unbridled development, as the FWCC admits:

- **More Propeller Deaths and Maiming:** "In addition to the expected increase in boat numbers, there are other factors that may act synergistically to increase the risk of fatal collisions between manatees and watercraft."
- **Worsening Habitat Destruction:** Losses "of warm-water refuges over the next several decades present one of the most serious long-term threats to manatees in Florida."
- **Red Tides and Harmful Algal Blooms:** "Red tide represents a major natural source of mortality for manatees in the southwestern region that is beyond the control of managers."

The potency of these threats appears to be reflected by a record 416 manatee deaths in 2006, following 396 deaths in 2005.

While it is argued that this reclassification will not result in a decrease in actual protection efforts, the reclassification will undoubtedly result in diminished efforts and protection of this native Floridian. Reclassification will make it more difficult to enact additional protection measures while simultaneously facilitating reduction of current protection measures. Reclassification will result in less staff effort and funding directed at recovery efforts.

Although it is projecting a 30 to 50% decline in manatee population over the next 60 years, the state plan lays out no concrete steps to combat what it admits are growing threats. The plan –

- Eschews any tighter speed limits, despite the current chaotic county-by-county speed policies that hinder consistent protections;
- Undermines enforcement by urging warnings to violators rather than fines, even in egregious cases; and
- Weakens harassment protections by advocating that law enforcement must show that the harm caused to the animal was intentional or the result of negligence

In light of record manatee deaths and growing threats to future populations, it would be irresponsible for FWCC to proceed with this ineffectual and counter-productive approach.

## SPECIFIC COMMENTS

### CONSERVATION GOALS (PAGE 13)

The Measurable Biological Goals for recovery are confusing and seem in conflict. Goals 1 and 2 are both dependent on maintenance of status quo conditions. Goal 1 is dependent on current warm water resources and Goal 2 is dependent on current adult survival rates.

Adult survival rates (Goal 1) are more heavily dependent on human-related mortality at the present time. Conditioning the achievement of this goal on maintenance of the current warm water regime minimizes the role of human-related mortality. A reduction of human-related mortality needs to be factored into this goal.

Warm-water carrying capacity (Goal 2) is vague. Warm-water carrying capacity has not been determined either state-wide or at individual sites. It is therefore impossible to determine at what level warm-water needs to be maintained and what warm water losses are acceptable to achieve this goal.

The population level set in Goal 3 is even more troubling. 2500 mature manatees is most probably far below optimal sustainable population levels as directed in the Marine Mammal Protection Act. As mature manatee population levels in Florida are now approximately 2181 and the population is statistically in decline, it is scientifically improbable that a mature population of just 319 more mature manatees would achieve a level of recovered.

### RATIONALE FOR MEASURABLE BIOLOGICAL GOALS (pages 13-14).

There has been much debate regarding the adoption and alteration of the IUCN criteria by the Florida Fish and Wildlife Conservation Commission. PEER joins the ranks of those opposed to this action and the use of these amended criteria by the FWCC. It is very likely that few species would remain as currently listed by Florida if all were reviewed

under these guidelines. This action is unconscionable in a state where most wildlife populations and habitats are diminishing daily due to intensive human development.

#### PROPOSED REGULATIONS/PROHIBITIONS AND PROTECTION (PAGE 25)

FWCC proposes to list the Florida manatee as threatened by amending Florida Statute 370.12. The proposed amendment reads that it is unlawful for persons to “intentionally or negligently” harm manatees. This regulation would be in contradiction to the Federal Marine Mammal Protection Act. There is no knowledge requirement in the MMPA and the proposed Florida regulation sets a lower standard of protection than that of the federal statute. To date, there has been no incidental take rule developed for manatees nor has there been a cumulative impact determination for human actions with this species. As such, this proposed action may be in violation of federal law.

#### PERMIT EXEMPTIONS (PAGE 27).

PEER supports the elimination of the exemptions to commercial fishermen and guides for the purpose of exceeding manatee speed limits.

#### MANATEE PROTECTION ZONES (PAGE 30-33)

#### ZONE EFFECTIVENESS (PAGE 30)

Zone effectiveness can only be determined if the zones are complied with. Compliance is the critical factor, which seems to be ignored here.

#### CRITERIA FOR EXISTING AND NEW RULES (PAGE 32)

Existing state rules pertaining to speed zones are, in a word, a mess. While PEER commends FWCC for the comprehensive nature of statewide protection, the mechanism for designing this system was flawed. Allowing speed zones to be designated on a county by county basis, with consideration for a myriad of local and personal agendas has left the speed zone system a hodgepodge jigsaw puzzle. The result is confusion, irritation and non-compliance by the public and ever increasing watercraft-related manatee mortalities.

The entire system needs to be reevaluated at the state and federal levels in order to ensure that the overall system adequately protects manatees while, at the same time, is user-friendly, consistent and understandable. PEER recommends that rather than the piecemeal, county-by-county approach recommended in the draft plan, that FWCC and USFWS do a comprehensive review of the entire system. This could be accomplished regionally. The goal of this review would be to simplify for understandability, to ensure consistency and to optimize manatee protection and boating opportunities.

#### ENFORCEMENT TASKS (PAGE 57).

The strategy of achieving 50,000 patrol hours, while commendable, is relatively meaningless. As state officers have a multi-task assignment, the coding of hours can be done to achieve virtually any “patrol hour” goal adopted for any of these activities. Achieving this goal does not necessarily enhance or even meet manatee protection needs. A far better measure would be based on compliance levels with protection measures.

#### COORDINATION OF PROTECTION EFFORTS (PAGE 58).

While coordination of efforts between various enforcement agencies is needed, a basic problem exists due to the difference in the penalty structure between state and federal court systems. The lack of severity of state and local court fines, coupled with the perceived low risk of getting apprehended, leads to noncompliance. For a limited number of boaters, the attitude is that the minimal fines are the “cost of doing business” in the unlikely event that one is given a citation. The state fine system needs to be enhanced to make enforcement by state officers meaningful.

#### FWC ENFORCEMENT STRATEGY (PAGE 58)

PEER understands that FWCC law enforcement has no way to track warning tickets. As such, it is difficult to determine if a boater in violation has been stopped before if the stop did not result in a ticket. PEER objects to the establishment of a de facto policy of only issuing warnings to boaters. If the violation is flagrant, the boater should receive a ticket regardless of past circumstances.

#### MANATEE SIGN POSTING (PAGE 60)

PEER notes that FWCC, in consultation with the USFWS, is producing a white paper regarding standards for waterway marking. It is our understanding that this paper was completed two years ago. In concert with our comments on Criteria for existing/new rules above, signage for manatee protection areas needs immediate state-wide review and significant improvements in concert with these waterway marking standards to enhance manatee protection and boater understanding/compliance.

#### MANATEE HARASSMENT (PAGE 62)

The draft plan states that the current laws answer most of the questions surrounding harassment. PEER strongly disagrees with this statement. The current laws and regulations are extremely unclear as to what constitutes harassment in real world situations. Additionally, watering is anything but occasional throughout Florida. Current laws and policies need to be improved to define harassment, and education and enforcement need to be implemented to minimize these problems.