

February 17, 2011

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Southeast Region
U.S. Fish & Wildlife Service
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Crystal River NWR
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RE: Comments on the Emergency Rule to Establish a Manatee Refuge in Kings Bay, Citrus County, Florida

PEER strongly supports the action to establish an emergency manatee refuge, as codified in 50 CFR 17 subpart J., throughout Kings Bay, Citrus County, Florida. A manatee refuge is defined as an area in which the Director has determined that: (1) certain waterborne activities will take one or more manatees; or (2) certain waterborne activities must be restricted to prevent the take of one or more manatees, including but not limited to taking by harassment.

This action, while laudable in and of itself, does nothing to enhance manatee protection and to prevent harassment. The emergency rule states:

“To further prevent acts of harassment and other forms of take from occurring in Kings Bay, through this emergency rule, we designate the entire area as a manatee refuge. The areas covered by this emergency rule are shown in the map in the rule portion of this document. With this designation, we will implement measures that will improve our ability to address potential take associated with manatee viewing and other activities. These protection measures will establish, as needed, additional no-entry areas outside of and within specified distances from existing manatee sanctuaries where all waterborne activities, including swimming, diving (including skin and scuba diving), snorkeling, water skiing, surfing, fishing, and the use of water vehicles (including but not limited to boats powered by engine, wind or other means; ships powered by engine, wind or other means; barges, surfboards, personal watercraft, water skis, and any other devices or mechanisms capable of locomotion on, across, or underneath the surface of the water) are

prohibited from November 15 to March 15. We will also restrict and/or prohibit specific actions known to take manatees in Kings Bay outside of existing manatee sanctuaries, like riding or attempting to ride a manatee.”

However, no new sanctuaries have been established and no waterborne activities have been restricted or regulated to prevent the “take” of manatees.

As you know, PEER initiated legal action to prevent the take of manatees in Kings Bay, Citrus County, Florida and most specifically at the King Spring at that location. King Spring is part of the Crystal River National Wildlife Refuge. The taking of manatees has long been recognized as a problem in Kings Bay. The U.S. Fish & Wildlife Service (FWS) has done little to prevent this problem and, in fact, may be complicit with this violation of both the Endangered Species Act and the Marine Mammal Protection Act.

PEER strongly urges that the following actions be immediately implemented under the authorities of the emergency rule to enhance manatee protection and to address harassment problems.

1. Manatee Sanctuary.

Establish a manatee sanctuary for the entire canal system, starting at the entrance of Kings Bay proper, for the canal system which includes Magnolia and Three Sisters Springs. Waterfront home owners will be allowed ingress/egress with their personal watercraft.

The manatee sanctuary at the King Spring should be expanded to include the spring itself and the existing entrance corridor (known as the “keyhole”).

2. End Harassment of Manatees.

Require that all persons swimming/snorkeling in the waters of King’s Bay –

- Wear a wet suit and/or dry suit or flotation devices;
- Wear no weights/ weight belt or other devices which facilitate prolonged submerged activities; and
- Wear no swim fins or other devices designed to assist with in-water propulsion.

These restrictions should be immediately implemented under the emergency rule and incorporated into permanent regulations for the Kings Bay manatee refuge.

The permanent rule also needs to address the high volume of swimmers in the water at any one time. PEER would urge FWS to implement a daily permit system that would regulate the activities of swimmers/divers in Kings Bay during the period from November 15 through March 15. This permit system should make provisions for the following:

- a. A daily quota that would limit the number of swimmers/divers in Kings Bay. This quota will be determined with the intent to minimize disturbance to wintering manatees;
- b. A requirement for education of permit applicants to assure their familiarity with the actions allowed and prohibited to minimize manatee “take”;
- c. Enforcement policies that would result in the rescission of permits for individuals violating manatee regulations; and
- d. Oversight and permits for commercial operations which provide equipment, access or guide services to the public for the purpose of interactions with manatees in Kings Bay. Commercial operators who demonstrate the inability to prevent violations of manatee regulations by their customers would face loss of permits.

Finally with respect to ending harassment of manatees, PEER expects FWS to define harassment under 50 CFR 102. This definition should include intentional hazing with the use of watercraft, feeding, watering, chasing, riding, holding, separating a calf from a cow or attempting to impede or block a manatee from moving, and disturbing a resting/sleeping manatee.

3. Eliminate Summer High Speed Zone.

PEER strongly urges that elimination of the summer high speed watercraft zone in Kings Bay be a part of the permanent rule. The shallowness of the Bay combined with declining water clarity multiplies the risk of manatee mortality. Today, the majority of manatee deaths from watercraft in Kings Bay occur during the summer months.

As watercraft traffic in the Bay has grown so has the number of manatees in the Bay. A permanent rule should address this needless danger to both manatees and human recreationists.

Thank you for this opportunity to comment on the forthcoming permanent rule.

Sincerely,

Jeff Ruch
Executive Director