

CITY COUNCIL AGENDA STATEMENT



Meeting Date: October 8, 2019  
From: George Garrett, Planning Director  
Through: Chuck Lindsey, City Manager

Agenda Item: Resolution 2019-106, Opposing The Possibility, As Expressed In Alternatives 3 (Preferred) And 4 Of The Draft Environmental Impact Statement (DEIS), Florida Keys National Marine Sanctuary: A Restoration Blueprint, That The Sombrero Reef Sanctuary Preservation Area Would Prohibit Access To Recreational Boaters; And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

The DEIS for the proposed Florida Keys National Marine Sanctuary revision to their management plan has developed four alternative management scenarios for review by the public:

- Alternative 1 (no action),
- Alternative 2 (slightly more environmentally protective),
- Alternative 3 (preferred alternative, with many actions identical to Alternative 2 or progressively more environmentally protective), and
- Alternative 4 (many actions identical to alternatives 2 and 3 or progressively more environmentally protective); and

The DEIS has proposed the following in Alternatives 3 (Preferred) which is repeated in Alternative 4:

**“Sanctuary preservation areas (Alternative 3, preferred)**

A total of 26 SPAs are proposed (seven additional compared to the no action alternative and one more than Alternative 2). Differences in regulations from Alternative 2 include three SPA (Carysfort, Sombrero, and Sand Key) that would be limited use areas, accessible by Blue Star Dive Operators only (see Section 3.4.5). All other proposed regulations included in Alternative 2 would apply;” and

The language of this portion of the DEIS proposal has been interpreted to exclude ALL vessels and users, but those vessels, owners, and clients of commercial “Blue Star Operators.” The FKNMS has made a number of statements to indicate that they intended the language to only apply to commercial operators and NOT to the general recreational public. The City Council expressed its concerned that until this language is changed to clarify the intent of the Sanctuary, the language will continue to be misinterpreted,

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	<u>  X  </u>	<u>      </u>
2. Other – 2010 Sewer Mandate	<u>      </u>	<u>  X  </u>

FISCAL NOTE: N/A

RECOMMENDATION: Approval of Resolution

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2019-106**

**A RESOLUTION OF THE CITY OF COUNCIL OF THE CITY OF MARATHON, FLORIDA OPPOSING THE POSSIBILITY, AS EXPRESSED IN ALTERNATIVES 3 (PREFERRED) AND 4 OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS), FLORIDA KEYS NATIONAL MARINE SANCTUARY: A RESTORATION BLUEPRINT, THAT THE SOMBRERO REEF SANCTUARY PRESERVATION AREA WOULD PROHIBIT ACCESS TO RECREATIONAL BOATERS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on November 16, 1990, Congress designated the Florida Keys National Marine Sanctuary (FKNMS) to be protected under the management of the National Oceanographic and Atmospheric Administration (NOAA); and

**WHEREAS**, NOAA's current management of the sanctuary is based on its 1997 final environmental impact statement and a 2007 revised management plan.; and

**WHEREAS**, the 1997 environmental impact statement and management plan implemented sanctuary-wide regulations and established the nation's first comprehensive network of marine zones in the FKNMS after years of planning, design, and public input; and

**WHEREAS**, the FKNMS marine zones have differing levels of use and protection for each area and are designed to protect and preserve sensitive parts of the ecosystem while allowing activities that are compatible with resource protection. FKNMS marine zones include

- Wildlife management areas (WMAs) that protect shallow water habitats and dependent wildlife,
- Sanctuary preservation areas (SPAs) that separate conflicting uses and protect the reef structure,
- Special use areas (SUAs) that support specific targeted activities such as research and restoration,
- Ecological reserves (ERs) that protect large contiguous habitats, and
- Existing management areas (EMAs) that provide for the continued management of areas that were established prior to sanctuary designation in 1997 and are subject to their own protections and restrictions in addition to sanctuary-wide regulations; and

**WHEREAS**, toward the development of the current DEIS, on April 19, 2012, NOAA and the U.S. Department of the Interior's (DOI) U.S. Fish and Wildlife Service (USFWS) – a cooperating agency for this DEIS – published a notice of intent in the Federal Register. The notice informed the public of the proposed action, announced five scoping meetings, and solicited public comment.

ONMS and USFWS held public scoping meetings in Marathon on June 19, 2012; Key Largo on June 20, 2012; Key West on June 21, 2012; Miami on June 26, 2012; and Fort Myers on June 27, 2012; and

**WHEREAS**, several hundred people participated in these meetings and provided input on specific issues to be analyzed or addressed as part of the marine zoning and regulatory review; and

**WHEREAS**, in addition to public scoping meetings, ONMS and USFWS accepted written comments from April 19, 2012, to June 29, 2012. Comments were provided in emails, letters, faxes, and electronic submission; and

**WHEREAS**, after many ensuing years of work, the DEIS – “Florida Keys National Marine Sanctuary: A Restoration Blueprint” was released officially at the August 20, 2019 meeting of the FKNMS Sanctuary Advisory Council meeting held at Isla Bella Resort in Marathon; and

**WHEREAS**, the DEIS has developed four alternative management scenarios for review by the public:

- Alternative 1 (no action),
- Alternative 2 (slightly more environmentally protective),
- Alternative 3 (preferred alternative, with many actions identical to Alternative 2 or progressively more environmentally protective), and
- Alternative 4 (many actions identical to alternatives 2 and 3 or progressively more environmentally protective); and

**WHEREAS**, the DEIS has proposed the following in Alternatives 3 (Preferred) which is repeated in Alternative 4:

**“Sanctuary preservation areas (Alternative 3, preferred)**

A total of 26 SPAs are proposed (seven additional compared to the no action alternative and one more than Alternative 2). Differences in regulations from Alternative 2 include three SPA (Carysfort, Sombrero, and Sand Key) that would be limited use areas, accessible by Blue Star Dive Operators only (see Section 3.4.5). All other proposed regulations included in Alternative 2 would apply;” and

**WHEREAS**, the language of this portion of the DEIS proposal has been interpreted to exclude ALL vessels and users, but those vessels, owners, and clients of commercial “Blue Star Operators;” and

**WHEREAS**, the FKNMS has made a number of statements to indicate that they intended the exclusion language to only apply to commercial operators and NOT to the general recreational public;

**WHEREAS**, the City Council of the City of Marathon Florida is concerned that until this language is changed to clarify the intent of the Sanctuary, the language will continue to be misinterpreted,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:**

**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** Alternative recommendation language associated with Section 3.3.3 (Pages 50-51) of the DEIS concerning limiting entry to three SPAs, specifically, Carysfort, Sombrero, and Sand Key, should be clarified to ensure that the general public shall not be prohibited from entry into those areas.

**Section 3.** The City Clerk shall forward a certified copy of this Resolution to the staff and Administrators of the Florida Keys National Marine Sanctuary, and to equivalent individuals within the Florida Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission.

**Section 4. Effective Date.** This Resolution shall become effective immediately upon its adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8TH DAY OF OCTOBER, 2019.**

**THE CITY OF MARATHON, FLORIDA**

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**John Bartus, Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

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David Migut, City Attorney