

APPENDIX A:
PARK LEGISLATION

Establishing Legislation for Biscayne National Park (PL 96-287), June 28, 1980

Authorization for Increasing the Development Ceiling for Biscayne National Monument (PL 95-625), November 10, 1978, and Authorization for Expansion of Biscayne National Monument (PL 93-477), October 26, 1974

Establishing Legislation for Biscayne National Monument (PL 90-606), October 18, 1968

Public Law 96-287
96th Congress

An Act

To establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes.

June 28, 1980
[H.R. 5926]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Biscayne National Park, establishment.

TITLE I—BISCAYNE NATIONAL PARK

SEC. 101. In order to preserve and protect for the education, inspiration, recreation, and enjoyment of present and future generations a rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty, there is hereby established the Biscayne National Park (hereinafter referred to in this title as the "park") in the State of Florida. The boundary of the park shall include the lands, waters, and interests therein as generally depicted on the map entitled "Boundary Map, Biscayne National Park", numbered 169-90,003, and dated April 1980, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register, not more than one year after the date of enactment of this Act, a detailed description of the boundary established pursuant to this section. Following reasonable notice in writing to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of his intention to do so, the Secretary may make minor revisions in the boundary of the park by publication of a revised boundary map or other description in the Federal Register.

16 USC 410gg.

Boundary map, availability for public inspection.

Boundary description, publication in Federal Register. Minor boundary revisions, notice to congressional committees and publication in Federal Register.

SEC. 102. (a) Within the boundary of the park the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that property owned by the State of Florida or any political subdivision thereof may be acquired only by donation, and subject to such reservations and restrictions as may be provided by Florida law. Lands, waters, and interests therein within such boundary which are owned by the United States and under the control of the Secretary are hereby transferred to the administrative jurisdiction of the National Park Service to be managed for the purposes of the park. Any federally owned lands within the park which are not under the control of the Secretary shall be transferred to his control for purposes of the park at such time as said lands cease to be needed by the agencies which currently control them.

Property acquisition: donation by Florida. 16 USC 410gg-1.

U.S. property, transfer to National Park Service.

(b) It is the express intent of the Congress that the Secretary shall substantially complete the land acquisition program authorized herein within three complete fiscal years from the effective date of this Act. Any owner of property within the park may notify the

Time limitation on land acquisition.

Notification to Secretary.

Secretary of the desire of such owner that his property be promptly acquired, and the Secretary shall give immediate and careful consideration, subject to the availability of funds, to the prompt acquisition of such property.

Preservation
and
administration.
16 USC 410gg-2.
Fishing.

SEC. 103. (a) The Secretary shall preserve and administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), as amended and supplemented. The waters within the park shall continue to be open to fishing in conformity with the laws of the State of Florida except as the Secretary, after consultation with appropriate officials of said State, designates species for which, areas and times within which, and methods by which fishing is prohibited, limited, or otherwise regulated in the interest of sound conservation to achieve the purposes for which the park is established: *Provided*, That with respect to lands donated by the State after the effective date of this Act, fishing shall be in conformance with State law.

Biscayne
National
monument,
abolition.

(b) The Biscayne National Monument, as authorized by the Act of October 18, 1968 (82 Stat. 1188; 16 U.S.C. 450qq), as amended, is abolished as such, and all lands, waters, and interests therein acquired or reserved for such monument are hereby incorporated within and made a part of the park. Any funds available for the purposes of such monument are hereby made available for the purposes of the park, and authorizations of funds for the monument shall continue to be available for the park.

Designation of
wilderness areas,
report to
President and
Congress.
16 USC 410gg-3.
16 USC 1132.

SEC. 104. Within three complete fiscal years from the effective date of this Act, the Secretary shall review the area within the park and shall report to the President and the Congress, in accordance with subsections 3 (c) and (d) of the Wilderness Act (78 Stat. 890), his recommendations as to the suitability or unsuitability of any area within the park for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

Management
plan, submittal
to congressional
committees.
16 USC 410gg-4.

SEC. 105. Within two complete fiscal years from the effective date of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a revised comprehensive general management plan for the park consistent with the provisions of this title and pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a-1 et seq.).

16 USC 1a-7.

Appropriation
authorization.
16 USC 410gg-5.

SEC. 106. In addition to the sums previously authorized to be appropriated for Biscayne National Monument, there are authorized to be appropriated such sums as may be necessary for the administration of the park, and not to exceed \$8,500,000 for the acquisition of lands and interests therein, as provided in this title. Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to the park.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-693 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-665 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:

Vol. 125 (1979): Dec. 10, considered and passed House.

Vol. 126 (1980): June 5, considered and passed Senate, amended.

June 17, House concurred in Senate amendments.

NATIONAL PARK SERVICE LAWS

An Act to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho. (92 Stat. 3467) (P.L. 95-625)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEVELOPMENT CEILING INCREASES

SEC. 101. The limitations on funds for development within certain units of the National Park System and affiliated areas are amended as follows:

* * * * *

(4) Biscayne National Monument, Florida: Section 5 of the Act of October 18, 1968 (82 Stat. 1188), is amended by changing "\$2,900,000" to "\$6,565,000".

* * * * *

Approved November 10, 1978.

An Act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, to authorize appropriations for additional costs of land acquisition for the National Park System, and for other purposes. (88 Stat. 1445) (P.L. 93-477)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ACQUISITION CEILING INCREASES

SEC. 101. The limitations on appropriations for the acquisition of lands and interests therein within units of the National Park System contained in the following Acts are amended as follows:

* * * * *

(1) Biscayne National Monument, Florida: Section 5 of the Act of October 18, 1968 (82 Stat. 1188, 1189) is amended by changing "\$24,575,000" to "\$28,350,000".

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TITLE III—BOUNDARY CHANGES

SEC. 301. The Secretary of Interior shall revise the boundaries of the following units of the National Park System:

* * * * *

(1) Biscayne National Monument, Florida: To add approximately 8,738 acres of land and water, including all of Swan Key and Gold Key.

* * * * *

Approved October 26, 1974.



Public Law 90-606
 90th Congress, H. R. 551
 October 18, 1968

An Act to authorize the establishment of the Biscayne National Monument in the State of Florida, and for other purposes. (82 Stat. 1188)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to preserve and protect for the education, inspiration, recreation, and enjoyment of present and future generations a rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty, the Secretary of the Interior may establish the Biscayne National Monument within so much of the area in the State of Florida as generally depicted on the drawing entitled "Biscayne National Monument Boundary Map," numbered NM-BIS 7101, and dated May 1966, which drawing is superimposed on a photographic reproduction of a portion of Coast and Geodetic Survey Chart Numbered 1249 (eighth edition, December 20, 1965, correction numbered 22, dated May 28, 1966) as lies north of the north boundary of the channel easement shown thereon. The drawing shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary may revise the boundaries of the national monument from time to time, but the total acreage of the national monument shall not exceed ninety-six thousand three hundred acres and no boundary shall be revised outward or in such a manner as to obstruct any seaport channel which may be hereafter constructed outside the boundaries hereinbefore referred to.

Biscayne
 National
 Monument, Fla.
 Establishment.

SEC. 2. (a) Within the boundaries of the Biscayne National Monument, the Secretary of the Interior may acquire lands, waters, or interests therein by donation, purchase with donated or appropriated funds, or exchange. The Secretary may in addition acquire by any of the above methods not more than eighty acres of land or interests therein on the mainland for a headquarters site, and not more than forty acres of land or interests therein on Key Largo for a visitor contact site.

Land acqui-
 sition.

(b) When acquiring property by exchange the Secretary may accept title to any non-Federal property within the boundaries of the national monument, and outside of such boundaries within the limits prescribed in subsection (a) of this section, and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction in the State of Florida which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

82 STAT. 1188
 82 STAT. 1189

SEC. 3. Notwithstanding any other provision of this Act, lands and interests in land owned by the State of Florida or Dade County may be acquired solely by donation, and the Secretary shall not declare the Biscayne National Monument established until the State has transferred or agreed to transfer to the United States its right, title and interest in and to its lands within the boundaries of said national monument. The Secretary shall not acquire any other lands or interests in land pursuant to this Act except by donation or with donated funds until the State has made or obligated itself to make the aforesaid transfer: *Provided*, That nothing contained in this sentence shall preclude the Secretary from acquiring options for the purchase of lands and interests in land, other than lands and interests in land held by the State of Florida or Dade County, which are to be acquired pursuant to this Act and, upon the State's transferring or obligating itself to

STAT. 1189

transfer as aforesaid, he shall proceed as expeditiously as possible to acquire the other lands and interests in land which are necessary to carry out the purposes of this Act.

Administration. Sec. 4. The Secretary of the Interior shall preserve and administer the Biscayne National Monument in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), as amended and supplemented. The waters within the Biscayne National Monument shall continue to be open to fishing in conformity with the laws of the State of Florida except as the Secretary, after consultation with appropriate officials of said State, designates species for which, areas and times within which, and methods by which fishing is prohibited, limited or otherwise regulated in the interest of sound conservation or in order to achieve the purposes for which the national monument is established.

Fishing.

Appropriation. Sec. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed \$24,575,000 for land acquisition and \$2,900,000 for development.

Approved October 18, 1968.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 1789 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 1597 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 114 (1968):

Sept. 16: Considered and passed House.

Oct. 4: Considered and passed Senate.

APPENDIX B:
MANAGEMENT OBJECTIVES

The following management objectives are based upon those included in the former monument's approved "Statement for Management" (June 1976) and are updated to meet the needs of the expanded park. Management will strive

to manage the park's natural resources in a positive and scientific manner so as to protect, to the greatest degree possible, the complex and interrelated biological and geological processes

to identify, evaluate, and preserve cultural resources in accordance with legislative and executive requirements and NPS policy

to encourage and participate in natural and social scientific research for the purposes of developing adequate baseline data and monitoring changes in park resources

to foster visitor understanding and appreciation of the park's resources and aesthetic values by providing access to and interpretation of natural and cultural resources and processes

to interpret and provide visitor experiences of underwater resources through the development and use of innovative and varied techniques that minimize disturbance of these resources

to encourage and assist in the use of the park for educational purposes by schools and other groups, and to promote and support related environmental awareness and cultural heritage programs

to orient visitors to and encourage their participation in a range of recreational activities within the park that do not adversely affect natural, cultural, or aesthetic values or unnecessarily duplicate programs, facilities, or opportunities available outside the park

to ensure accessibility and facilitate enjoyment and understanding of the park by non-English-speaking visitors, physically disabled visitors, the elderly, and other special populations

to foster visitor safety and resource protection by disseminating information to park visitors, residents of nearby communities, and appropriate special interest groups regarding safe and compatible boating, scuba diving, snorkeling, swimming, and other activities

to protect visitors through sensitive design and maintenance of facilities and through such services as patrol, search and rescue, and information

to cooperate with the state of Florida, Dade County, and other appropriate local and federal agencies, citizens' organizations, and quasi-public agencies to ensure the maximum protection of park resources and scenic values and to avoid unnecessary duplication of programs, facilities, and activities

to coordinate planning and management of Biscayne National Park with that of the state's Biscayne Bay Aquatic Preserve and the area covered by the county's Biscayne Bay Management Plan

to develop information on which to base sound law enforcement under proprietary jurisdiction and to seek concurrent jurisdiction

to acquire interests in lands necessary for public access and circulation and the control, protection, and management of resources and aesthetic values within the authorized boundary

to make existing park structures as energy efficient as possible and to design future structures to minimize energy consumption by using such means as alternative energy sources

APPENDIX C:
SUMMARY OF PUBLIC RESPONSE TO THE GMP/DCP PLANNING
ALTERNATIVES AND THE ISSUE OF WILDERNESS

In November and December 1981, a planning information and response form was made available to the public to comment on alternatives for managing, developing, and using Biscayne National Park and thereby assist the planning team in selecting a proposal. More than 500 forms were distributed, and 160 forms, mostly from people in the Miami/Homestead area, were returned, tabulated, and analyzed. The public was invited to comment on three categories: planning objectives; four alternatives for resource management, facilities development, and visitor use throughout the park; and the suitability or unsuitability of any area within the park for wilderness designation.

More than 100 people commented on the planning objectives for the mainland, the bay, the barrier system, and the reef tract. Over 95 percent of these people agreed with the objectives. One topic appeared to be of far more significant concern to many people than any other topic--commercial fishing in the bay. Over 43 percent of the respondents wanted restrictions or a ban on commercial fishing in the bay.

Regarding the four alternatives for management, development, and visitor use, comments were so diverse, so few in number for any one topic, or so general in nature that no clear consensus could be established for most of the topics. However, some of the more significant observations and ideas are presented below.

The most significant response of the entire document appeared in the section concerning the alternatives, where again the subject of commercial fishing appeared. Of 58 people who commented, 41 (71%) wanted to stop commercial fishing in the bay.

Regarding public transportation, slightly more people who commented on this subject felt there should be none (46%), compared to those who favored public transportation (39%). Some (14%) felt a fee should be charged. Almost half (42%) of those commenting on development at Convoy Point felt there should be no small-boat rental concessions. More than half (60%) of those commenting on the Arsenicker Keys wanted to restrict public access, whereas the remainder (40%) wanted to increase public use. Regarding food vending services at Elliott Key Harbor, almost half (44%) of those who commented were opposed.

Finally, there were 91 people who commented on wilderness. Sixty (66%) favored wilderness of some kind; fourteen (15%) were opposed to wilderness; and seventeen (19%) were undecided or unclear. However, there was a more important message in the written comments. Most of the people wanted the park resources protected, with no further development, yet they wanted to be able to continue their traditional recreational pursuits. This message and all other comments made by the public were carefully considered by the planning team in arriving at the proposed general management plan and the conclusions of the wilderness study.

APPENDIX D:
SUMMARY OF RESOURCE PROTECTION CASE STUDY

BACKGROUND

In the past national parks were usually created by designating large tracts of public lands or by transfers of land purchased by the states and donated to the federal government. During the last 20 years Congress also has established new parks and appropriated funds to buy land directly from private owners to create or complete units in the park system. In most cases, the federal government has purchased all of the private owner's rights and interests in land (or in technical terms, acquired the "fee").

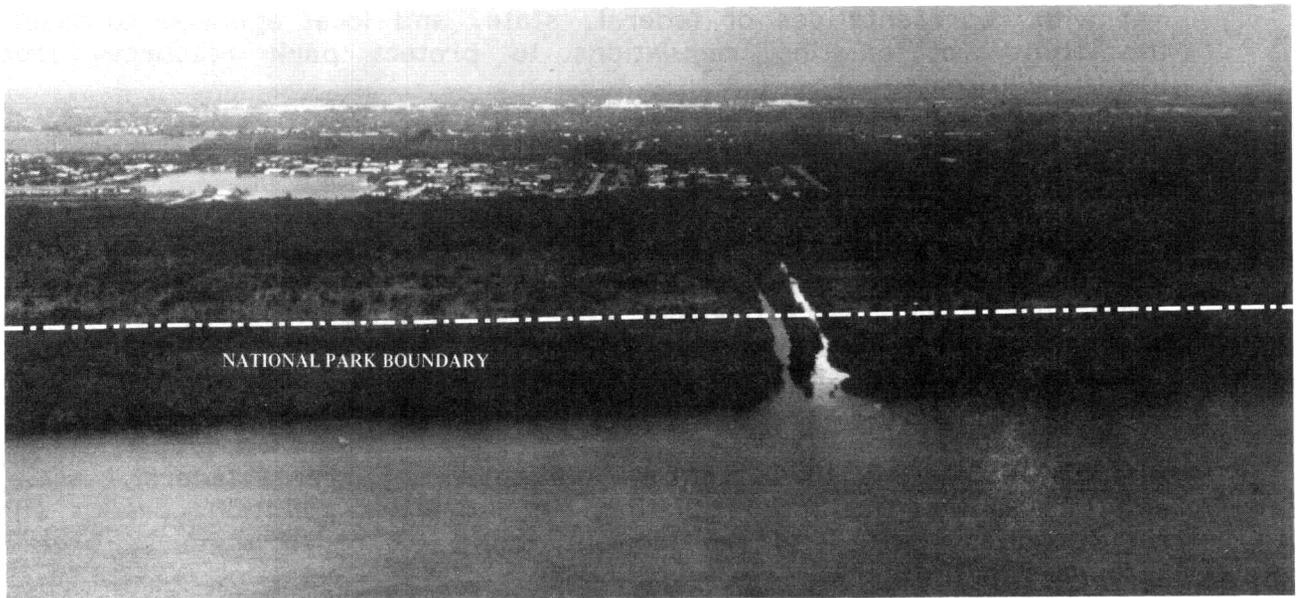
Recent reports by the General Accounting Office and congressional committees have questioned why the National Park Service has relied almost entirely on fee purchases instead of other methods of protecting park resources. In addition, Congress has authorized new park areas and expanded old ones much faster than it has appropriated funds to purchase these lands. Rapid expansion of the park system, landowner concerns about federal acquisition practices, limited funds, and increasing development pressures are some of the forces which require the National Park Service to explore new approaches to protecting parks.

Biscayne National Park was one of eight areas where a case study was conducted to examine alternative methods of achieving management objectives without relying entirely on fee purchases of private land (USDI, NPS 1982a). This case study was conducted concurrently with the initial phase of the general management planning project and was intended to define what interests in land needed to be in federal ownership, what approaches could be used to acquire those interests, and what other protection methods were available. The case study considers a wide range of alternatives to help guide development of a more detailed land protection plan which will be prepared at a later date.

STUDY APPROACH

The basic objective of the case study was to find how the level and quality of resource protection and visitor use envisioned by the proposed general management plan could be achieved most effectively without relying solely on fee-simple acquisition. The primary focus of the study was on the area added to the national monument boundary in 1980, but land outside and adjacent to the new park boundary was also studied.

The study team analyzed the wide range of regulatory authorities already in place to determine the existing protection afforded to lands and waters in the park that are still under private ownership. More than 100 different legal authorities at the federal, state, and local levels were reviewed. These included such regulatory acts as section 10 of the Rivers and Harbors Act of 1899 and section 404 of the Federal Water Pollution Control Act Amendments of 1972. In addition, the study team



Mangrove Shoreline within Park, and Encroaching Development



Coastal Development North of Park

met with representatives of federal, state, and local agencies to assess the ability of existing regulations to protect park resources from identified threats.

RESOURCE PROTECTION ALTERNATIVES

The study team discussed a wide range of resource protection techniques and found strengths and weaknesses in each. Four alternatives for a protection strategy were devised, and their impacts were analyzed. The alternatives were not intended to be mutually exclusive. The preferred resource protection strategy for Biscayne National Park will draw upon elements from each.

Alternative 1: Rely on Current Regulations. Current federal, state, and local authorities for regulating air and water pollution, dredge and fill activities, and land development would be relied upon to protect resources in the park.

Alternative 2: Strengthen Current Regulations and NPS Involvement. Enforcement of current regulations would be strengthened by taking appropriate legal, administrative, and financial actions. The National Park Service would take specific initiatives to effect these changes and play an active role in regulatory programs. Actions would be within the scope of current authorities, not requiring new legislation.

Alternative 3: New Legal Authorities. The National Park Service would assist the state and county governments in developing new ordinances and authorities to protect resources within and adjacent to the park. In addition to encouraging enforcement of existing regulations, the National Park Service would provide technical assistance in establishing new programs, laws, or administrative arrangements to apply regulatory powers to the maximum extent possible.

Alternative 4: Acquisition. The National Park Service would acquire land or interests in land as necessary to achieve the management and planning objectives. The interests acquired would be the minimum necessary to protect resources and provide for public use, assuming there would be a reasonable savings to the federal government over fee-simple acquisition. Methods of acquisition would include donation, bargain sale, and exchange, depending upon the situations of individual owners.

RELATION TO THE GENERAL MANAGEMENT PLAN

Although the "Resource Protection Case Study" was done concurrently with the development of the proposed general management plan described in part one of this document, the ensuing land protection plan will be written as a separate document. The recommendations in the case study are just that--recommendations by the case study team. The results of the case study will help guide development of the more detailed land protection plan. This plan will match the appropriate protection techniques with each resource area and will be designed to implement the proposed land protection strategy of the general management plan.

APPENDIX E:
CULTURAL RESOURCE COMPLIANCE

Section 106 of the National Historic Preservation Act of 1966, as amended, directs federal agencies to consider the effects of their actions upon cultural resources and to allow the Advisory Council on Historic Preservation to comment on proposed undertakings. The "Protection of Historical and Cultural Properties" regulations (36 CFR 800) detail procedures for compliance with section 106 and other sections of the act. The regulations provide for the grouping of related actions, or "programs," requiring compliance with section 106. Under this provision, the National Park Service has entered into a programmatic memorandum of agreement with the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers. This agreement allows the completion of the section 106 compliance requirements for all actions described in this plan, eliminating the need to complete the procedures on a case-by-case basis for each individual action.

All actions taken pursuant to this plan must, however, be certified by NPS regional cultural resource specialists as (1) consistent with all relevant management policies and standards, (2) adequate in documenting effect, (3) incorporating all feasible mitigating measures, and (4) within the scope of the programmatic memorandum of agreement. The NPS "Assessment of Effect on Cultural Resources" form (10/81) will be used in this certification. It will be prepared by the park, region, or center from which the undertaking originates, then sent to the regional cultural resource specialists for review.

APPENDIX F:
BIOLOGICAL ASSESSMENT

PURPOSE

In compliance with section 7 of the Endangered Species Act, the National Park Service (NPS) has conducted an assessment of the probable impacts on endangered or threatened species or designated critical habitat from implementing the proposed general management plan/development concept plan (GMP/DCP) or alternatives considered for Biscayne National Park in Dade County, Florida. Data relating to studies of threatened or endangered species are presented below as well as the conclusions of the National Park Service concerning impacts of the proposed plan and alternatives.

THE PROPOSED PLAN

The GMP will guide resource management, visitor use, and development at Biscayne National Park for the foreseeable future. The plan proposes the following actions (see attached map).

establish a public tour boat system that will provide an opportunity for the nonboating public to experience the park

improve the interpretive program

maintain the present park development sites on the keys without significant change

maintain the undeveloped areas of the keys and mainland in a natural state

return the Ragged Keys and Soldier Key to a natural state

designate Boca Chita as a day use area for the boating public and provide minimal necessary development

allow established recreational pursuits to continue with appropriate controls to minimize visitor use conflicts and resource damage

protect submerged and terrestrial cultural resources

increase monitoring of air and water quality and recreational and commercial impacts upon marine and terrestrial natural resources; take necessary action to preserve and protect the park's resources, with particular emphasis on protection of endangered and threatened species and environmentally sensitive sites

The proposed DCP for the Convoy Point (headquarters) developed area calls for construction of new facilities including a visitor contact/waiting station, an administrative building, an employee residential duplex, and a maintenance building. The harbor facilities will be rehabilitated to better serve the tour boat system and park operations/maintenance craft. The existing boat ramp will be closed to public use once the proposed new boat ramps are available at the neighboring Homestead Bayfront County Park.

Management actions specific to endangered species are designed to maintain long term protection in the park. Surveys of listed species will be conducted periodically, and their habitats will be protected from development or modification. Visitor use of sensitive habitats will be restricted as necessary during critical feeding, nesting, or reproduction periods. Specific actions will include eliminating motorboat access to the mouths of Moody, Military, Mowry, and Florida City canals to protect manatees, and seasonally restricting access to the Arsenicker Keys to avoid disturbance of nesting bald eagles. Proposed boat tours of the Totten/Old Rhodes Keys area will be operated to avoid affecting American crocodile habitat (see discussion below). Interpretive programs to enhance public appreciation and protection of listed species will continue. Monitoring of sea turtle nests on the keys will be intensified to identify species nesting on park beaches, to evaluate park nesting habitat, and to evaluate the impact of predators on sea turtle reproduction. Based on the results of monitoring and informal consultation with the Fish and Wildlife Service, actions will be taken as appropriate to protect nests and hatchlings from predation.

In the GMP the National Park Service recognizes its responsibility to protect endangered or threatened species under section 7 of the Endangered Species Act and will continue to consult with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) prior to implementing management actions concerning endangered or threatened species.

LISTED SPECIES

Two endangered species specialists, Mr. Donald Palmer of the U.S. Fish and Wildlife Service's Jacksonville office and Mr. Charles Oravetz of the National Marine Fisheries Service in St. Petersburg, were informally consulted concerning listed species in the project area, proposed management actions, and potential impacts on endangered or threatened species and critical habitat. They advised that twelve endangered species are potentially within the park area:

Florida Manatee (Trichechus manatus)
Brown Pelican (Pelecanus occidentalis)
Bald Eagle (Haliaeetus leucocephalus)
Peregrine Falcon (Falco peregrinus tundris)
Atlantic Ridley Turtle (Lepidochelys kempii)

Hawksbill Turtle (Eretmochelys Imbricata)
Leatherback Turtle (Dermochelys coriacea)
American Crocodile (Crocodylus acutus)
Finback Whale (Balaenoptera physalus)
Humpback Whale (Megaptera novaeanglinae)
Right Whale (Eubaleana glacialis)
Sei Whale (Balaenoptera borealis).

Five species that are federally listed as threatened have been reported within the park:

Eastern Indigo Snake (Drymarchon corais couperi)
Loggerhead Turtle (Caretta caretta)
Green Turtle (Chelonia mydas)
Schaus Swallowtail Butterfly (Papilio aristodemus ponceanus)
Bahaman Swallowtail Butterfly (Papilio andraemon bonhotei).

In addition, portions of Biscayne are included in designated critical habitat for the Florida manatee and American crocodile (see attached map).

The Fish and Wildlife Service reports no federally listed or candidate plant species in the area. Two animal species currently under review for listing under the Endangered Species Act, the wood stork (Mycteria americana) and the Key Largo wood rat (Neotoma floridana smalli), have been reported in the vicinity of the park.

SURVEYS CONDUCTED - STUDY METHODS

Data collected included review of NPS files, informal consultation with FWS and NMFS personnel and other experts, and field surveys as described below.

RESULTS OF SURVEYS

Florida Manatee: Florida manatees have been observed in areas near channels connecting the outer reef tract with the bay, throughout the bay, in the shallow waters surrounding the keys, and in the canals and mangrove creeks of the mainland on the park's west boundary. During 1981, 23 manatees were sighted in or near the park, all either in the Black Point area or at Homestead Bayfront. This number of sightings indicates that casual use of park waters by manatees continues despite boating activity. Boaters are cautioned through posters, pamphlets, and personal communications to avoid disturbing the animals. Biscayne Bay north of the southern point of Key Biscayne, an area including the extreme northern tip of the park, has been designated critical habitat for the manatee, as has Card Sound immediately south of the park.

Brown Pelican: The brown pelican is a common winter visitor to Biscayne Bay, utilizing feeding, resting, and roosting habitat in the park. Pelicans are typically present in large numbers, indicating a stable population. A 1981 survey of the park averaged 331 pelicans present at any one time and identified the major roosting sites as West Arsenicker Key, the islands on the bayside of lower Elliot Key, the southern shores of Sands Key, and the mainland shoreline between Military and Moody canals. Although potential nesting habitat occurs in the park, brown pelicans are not known to nest within the boundaries.

Bald Eagle: A single bald eagle nest is located on Arsenicker Key. It has been active five or six times in the past 18 years. In 1981 one adult bird was consistently seen in the area and on the nest. During the 1979-1980 nesting season, two hatchlings were seen in the nest during February, but they failed to reach maturity for unknown reasons.

Peregrine Falcon: Migrant arctic peregrines have been reported in the park, but sightings are rare. This subspecies is not known to nest in the eastern United States and only passes through the park region during migration. There were no peregrine sightings in 1981.

Atlantic Ridley, Hawksbill, and Leatherback Turtles: Atlantic ridley, hawksbill, and leatherback sea turtles are occasionally-to-rarely sighted in park waters. In 1981, for example, seven hawksbills were reported, but no leatherbacks or Atlantic ridleys were seen. Three hawksbill nests were discovered on Soldier Key by Florida wildlife officials in 1982, the first hawksbill nesting reported in the park area.

American Crocodile: There have been no confirmed sightings of American crocodiles in the park in recent years, even though a nesting group of 18 animals inhabits the cooling canals at the Turkey Point power plant adjacent to the park. Unconfirmed sightings have been reported from the mainland shoreline near Black Point. Designated critical habitat includes the portion of the park south of a straight line between Turkey Point and the southern tip of Elliott Key. There are no apparent threats to crocodiles within the park.

Whales: None of the four whale species listed have been reported within the park, and there are no threats to whales from park related activities.

Eastern Indigo Snake: The eastern indigo snake has been reported from locations on the keys and the mainland within the park, but due to the secretive nature of the snake, sightings are rare. There are no known threats to the snake in the park, and small but healthy populations are believed to exist in the hardwood hammocks on the keys.

Loggerhead and Green Turtles: Loggerhead turtles are commonly sighted, and green turtles are sighted occasionally, swimming in the bay and the reef tract in the park. There were only four sightings of green turtles in 1981. For both species casual use of park waters appears to be

uninhibited. All of the 17 turtle nests counted in 1981 on the eastern beach of Elliott Key were originally believed to be from loggerheads; however, some may have been hawksbill nests in light of the Soldier Key discovery. Eighty-two percent of the nests were apparently disturbed by raccoons, and some were also damaged by high storm tides and debris from tropical storm Dennis.

Schaus and Bahaman Swallowtail Butterflies: The range of the Schaus swallowtail butterfly originally comprised the keys and portions of the mainland from South Miami to lower Matecumbe Key. Residential and agricultural development, however, has reduced its present range to Lower Matecumbe Key, the keys within the park, and northern Key Largo (USDI, FWS 1979). The butterfly is dependent on hardwood hammocks containing at least some stages of regeneration. Two separate recent surveys (Morrison 1981 and USDI, NPS 1981) indicate that the park's Schaus swallowtail population is stable at a few hundred individuals. A recovery plan for the butterfly (Florida Game and Fresh Water Fish Commission 1981) calls for continued surveys of the park keys to monitor populations.

The same recovery plan recommends that the Bahaman swallowtail butterfly be taken off the federal list of threatened species. Apparently a storm in 1972 blew a large number of Bahaman swallowtails to Elliott Key from the Bahamas (where they are common). At the time, the butterflies were thought to represent a resident breeding population; however, the lack of sightings in spite of intensive surveys since 1972 indicates that this is not the case. No Bahaman swallowtails were found in either the Morrison or the NPS surveys.

Wood Stork: Wood storks are infrequently sighted within the park. The hypersalinity of the Biscayne estuary is not supportive of the storks which characteristically feed in fresh or brackish wetlands.

Key Largo Wood Rat: In spite of a survey of the lower keys, there are no records of Key Largo wood rat from the park.

CONSIDERATION OF CUMULATIVE EFFECTS ON ENDANGERED AND THREATENED SPECIES

Florida Manatee: Critical habitat will not be affected by the GMP proposal or alternatives. Continued boater education and enforcement of boating regulations will aid in keeping accidental injury of manatees within the park at a minimum.

Brown Pelican: Roosting and feeding habitat will be maintained.

Bald Eagle: The nesting site on Arsenicker Key will continue to be protected from visitor-related disturbance.

Peregrine Falcon: Habitat for migratory peregrines will be maintained.

Sea Turtles: Habitat within the reef tract and bay will continue to be protected. Improved monitoring of nesting, as well as possible subsequent actions to reduce predation on eggs and hatchlings, will enhance management of loggerhead and hawksbill turtles.

American Crocodile: Mr. Paul Moler, research biologist with the Florida Game and Freshwater Fish Commission and leader of the FWS American Crocodile Recovery Team, advises that it is unlikely the proposed interpretive boat tours of the Totten/Old Rhodes Keys area will significantly affect crocodile critical habitat. Should crocodiles be resighted in the lower keys, the National Park Service will consult with the U.S. Fish and Wildlife Service to reroute, reschedule, or discontinue the tours as necessary to protect the species.

Eastern Indigo Snake: Habitat for the snake will be maintained.

Schaus Swallowtail Butterfly: Continued annual monitoring of populations in the park will aid in managing the species. Continued removal of exotic plants and natural revegetation of cut sites will provide varied habitat for the swallowtail.

Other Species: It is doubtful if actual habitat exists within the park for Bahaman swallowtail butterfly, finback whale, humpback whale, right whale, sei whale, Key Largo wood rat, or wood stork. None of these species are expected to be affected by the proposed action or alternatives.

DIFFICULTIES ENCOUNTERED IN OBTAINING DATA AND COMPLETING STUDIES

There is limited available information on sea turtle nesting and predation in the park, a situation the proposed action will remedy. No other difficulties were encountered during the survey. The data obtained are considered adequate to assess impacts on endangered and threatened species.

CONCLUSIONS OF THE AGENCY

The National Park Service concludes that there will be no new effect on endangered or threatened species or critical habitat from the proposed GMP/DCP for Biscayne National Park or from alternatives considered. The proposed plan and alternatives would provide continued long-term protection of listed species within the park.

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United States Department of the Interior

FISH AND WILDLIFE SERVICE

15 NORTH LAURA STREET

JACKSONVILLE, FLORIDA 32202

November 15, 1982

Memorandum

To: Regional Director, National Park Service, Atlanta, Georgia

From: Acting Field Supervisor, Endangered Species Field Station,
Jacksonville, Florida

Subject: Section 7 Consultation on Biscayne National Park General
Management Plan/Development Concept Plan (4-1-81-115).

This responds to your memorandum of October 26, with reference to a Section 7 consultation on the General Management Plan/Development Concept Plan for Biscayne National Park, Dade County, Florida. The Threatened and Endangered species evaluated were manatee, brown pelican, bald eagle, peregrine falcon, American crocodile, Schaus and Bahaman swallowtail butterflies, eastern indigo snake, and green, loggerhead, hawksbill, Atlantic ridley, and leatherback marine turtles.

In addition, the Biological Assessment addressed two species, wood stork and Key Largo woodrat, which are currently under review for possible listing under the Endangered Species Act.

The assessment addresses in a thorough manner potential problems as they relate to the above listed species. Furthermore, it covers the protective measures that have been and will continue to be implemented to protect Threatened and Endangered species. With reference to turtle nests, monitoring will intensify and further evaluation will be made regarding impact of predation on turtle reproduction. As the Park Service indicated, pending results of this monitoring program, further consultation may be necessary as to corrective measures.

After reviewing the information in the Biological Assessment we concur with your determinations of "no effect" on the above listed species. We will notify the Park as information develops regarding the status of the Key Largo woodrat, wood stork, and Key Largo cotton mouse which is also under status review.

This does not constitute a Biological Opinion as described in Section 7 of the Endangered Species Act; however, it does fulfill the requirements of the Act and no further action on your part is required. If modifications are made in the project or if additional facts involving potential impacts on listed species arise, consultation should be reinitiated.


David W. Peterson

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