

# Florida Keys Commercial Fishermen's Association

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October 18, 2011

Ms. Susan Gerhart  
NMFS-SERO  
263 - 13<sup>th</sup> Avenue South  
St. Petersburg, Florida 33701

Re: Spiny Lobster Amendment 11 - Supplemental Environmental Impact Statement (SEIS)

Dear Ms. Gerhart,

Our association, along with a distinguished group of interested parties, has worked diligently with the Protected Resources Division of NMFS-SERO in an effort to develop and identify solutions to the Reasonable and Prudent Measures (RPM) suggested in Spiny Lobster Amendment 11. More specifically, to better define proposed closed areas in the EEZ to protect Acroporids and other corals of concern under the Endangered Species Act and suggest alternatives to trap rope marking as originally defined in the RPM's.

It has been an arduous task, made more so by the NMFS-SERO request to fast-track the effort as a Framework Amendment. This rush to completion has created some miscommunication in the processing and application of information and recommendations made by concerned parties.

While we have made every effort to be as proactive as possible on both coral protection and trap rope marking to assist the Gulf and South Atlantic Councils and NMFS-SERO, we have been stymied by slow or incomplete responses from NMFS-PRD. Here are some immediate concerns regarding the SEIS being considered by the Councils and NMFS for release and public comment:

- The only notice for public comment on the SEIS was published in the Federal Register on September 19, 2011 with an October 19, 2011 deadline. There was no release of a NMFS, South Atlantic or Gulf of Mexico Fishery Bulletin (the blue sheet) noticing a request for comment on the SEIS. The only way stakeholders would have had knowledge of the request for public comment is if they read the Federal Register.
- On October 11, 2011, FKCFCA requested a complete list of the proposed coral protection sites and the latitude and longitude (lat/lon) coordinates for each location from NMFS-PRD. The purpose of the request was to compare notes from our earlier collaborative meetings with NMFS-PRD and NMFS-SERO which included input from interested parties including the Florida Keys National Marine Sanctuary, as to the accuracy of the drawings on the charts, verify the total number of sites and the exact locations that were provided to the Councils for inclusion in Amendment 11. PRD advised there is no list of sites or lat/lon detailing their exact locations.

Industry certainly cannot support any chart markings based on hand-drawn locations. Any rule-making by NMFS obviously has to be based on lat/lon and published in that format in the Federal Register.

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Discussions with others involved in the FKCF A meetings indicate they would also be reluctant to sign-off on site selections without lat/lon coordinates.

- A discussion of buffer zones did take place at the FKCF A meetings. However, the majority of the conversation on buffer zones was relative to existing SPA's within FKNMS as an immediate and easy fix for protecting Acropora. According to Dr. Billy Causey, Director, NOAA-SENMS, "75% of Acropora palmatta is already protected by existing closed areas (FKCF A Mtg July 13, 2011)." These sites are known to the boating and fishing communities and in almost every case are already marked by buoys. Expansion of these existing sites by adding buffers would be a relatively easy fix since the SPA's cover a broad range of territory in the Keys reef tract. None of the areas proposed in this amendment include the already existing FKNMS areas.

On page 35 of the SEIS it states, ***"Closed areas approximately 200 ft. or more across would likely be sufficient to protect Acropora spp. colonies from trap movements occurring during typical non-tropical storm conditions. However, the accuracy of most locating equipment used by fishermen dictates the need for closed areas of 500 ft., at a minimum, to ensure the proposed closed areas achieve the goal of protecting Acropora spp."***

Notwithstanding that the above statement is false and unsupportable; we are once again talking about enormous areas of sand bottom closed to spiny lobster trap fishing and in some cases protecting more sand than coral. These proposed buffers are nearly two football fields in length around each selected site. The preceding, highlighted statement about the accuracy of the electronics used by fishermen is quite simply inaccurate. Fishermen use sophisticated chart plotters interfaced with GPS satellite technology ***"that provides an accuracy rate of 7.8 meters at a 95% confidence level,"*** (www.gps.gov) and amounts to a distance of approximately 24' not 500' or even 200'.

- The SEIS reference that white rope has a user serviceable life similar to black rope is taken out of context from information supplied by FKCF A. White rope is used exclusively in bottom trawls where exposure to UV degradation is significantly reduced. White rope is also used in bottom trawls because of manufacturer's availability in that particular rope size. In addition it has previously been documented that the introduction of any colored strand, including white, to an otherwise all black rope will weaken it (Adams and Brennan, Properties of Currently Utilized Rope and Alternative Rope, 2011).
- NMFS-PRD suggested use of a black rope would be acceptable; however, black was dismissed in the spiny lobster fishery because the color is already in use in the Northeast by a fishery under the jurisdiction of ALWTRP. Not surprisingly, there has never been a documented case of a marine mammal entangled in a black rope associated with a Northeastern fishery over 1200 miles away in the waters of South Florida or the Florida Keys.
- NMFS initiated a Draft Recovery Plan for Acropora in 2008. Now, three years later, this recovery plan is still in draft form and NMFS refuses to release it. Considering the potential impact of any actions the Councils may take on the spiny lobster trap fishery, it is disconcerting as to why this information is not being made available as supporting documentation for these proposed actions.
- The Biological Opinion used to promulgate these RPM's is based on a great deal of conjecture including the use of consistent terminology utilizing words such as 'might, may and could,' when the reality is the impact of the spiny lobster trap fishery on marine mammals, smalltooth sawfish and Acropora corals has been documented as relatively insignificant.

Thank you, for this opportunity to comment on the Supplemental Environmental Impact Statement to Spiny Lobster Amendment 11.

Sincerely,

*Bill Kelly*

Capt. Bill Kelly  
Executive Director

C: Mr. Bob Gill, GMFMC  
Mr. David Cupka, SAFMC  
Mr. William Teehan, FFWCC  
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