



National Association of Charterboat Operators

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Dear Everglades Planning Team,

The National Association of Charterboat Operators (NACO) appreciates the opportunity to submit comments to the National Park Service (NPS) Everglades Planning Team regarding the Everglades National Park (NP) Preliminary Management Alternatives. By way of background, NACO is the nation's largest charter boat association, representing over 3,400 charter boats nationwide. We have over 300 members in sponsoring associations and as individuals who will be affected by any proposed changes.

NACO supports the NPS's efforts to preserve and sustain the Everglades NP, and our members recognize that vibrant natural ecosystems greatly enhance the public's enjoyment of the Park's numerous pristine vistas. The Everglades NP's beauty makes it one of the premier recreational boating and fishing destinations in the nation, and navigating its waters is a pastime interwoven in the fabric of the South Florida lifestyle. Our members were thus surprised and dismayed to learn of the NPS's Preliminary Management Alternatives, which seem to discount recreational boating and fishing as a meritorious activity in the park.

The majority of the Preliminary Management Alternatives appear to unduly restrict boating without resulting in any appreciable environmental benefits. The contemplated sweeping restrictions also contradict established NPS policies to support the public use and enjoyment of National Parks and to avoid public use limitations except when less restrictive measures are unavailable. Most notably, the proposed "Backcountry" area and potential vessel length and depth-based exclusionary zones facially contradict the stated public purpose of the Everglades NP. These new management strategies are all the more surprising given the recent decline in Everglades NP visitations and the reasonable existing management policies. In light of these concerns, our members want to ensure that when the Everglades Planning Team develops its Preferred Management Alternatives, the NPS gives recreational boating and fishing activities due consideration and does not unduly restrict such activities. To that end NACO offers the following comments on the Preliminary Alternatives for managing the Everglades NP:

(1) The Preliminary Management Alternatives Appear to Contradict a Longstanding NPS Policy to Facilitate the Public Use's and Enjoyment of National Parks

NACO recommends that established NPS policies regarding the conservation and public use of National Parks guide the development of the Everglades General Management Plan. Since the NPS's inception in 1916, Park Superintendents have been charged to manage their parks in a manner that achieves two goals: (1) conserve natural and historic resources; and (2) provide for present and future public enjoyment.¹ Congress undoubtedly had these two goals in mind when it established the Everglades "as a public park for the benefit and enjoyment of the people."¹

¹ National Park Service Organic Act of 1916, 16 U.S.C. § 1 (2006).

¹ 16 U.S.C. § 410.

NPS regulations also contain procedural safeguards to help ensure that when a Park Superintendent develops new management strategies, the resultant regulations do not unduly restrict the public's right to use and enjoy a National Park. For instance, NPS regulations specify that any action limiting the public's use of a National Park must be "based upon a determination that such action is *necessary*."¹ Federal regulations further require that a Park Superintendent must explain in writing why any regulation limiting public access has been established and "why less restrictive measures will not suffice."¹

In light of these stated policies and procedures, NACO recommends that NPS reconsider any management alternative that prohibits or severely restricts an established activity, particularly recreational boating and fishing. Park policies should be shaped by the Congressional directive that the Everglades NP is for "benefit and enjoyment of the people," and the NPS should not implement any policy that limits such enjoyment without a sound scientific basis. The reliance on sparse or anecdotal information to restrict public use fundamentally contradicts the purpose and charter of the Everglades NP.

(2) It is Counterintuitive that the NPS would further Regulate and Restrict Public Use of Everglades NP when NPS Data Demonstrates that Park Visitation is Stagnant or Declining

In 2006, the National Park System received 272.6 million recreational visits, representing a 0.3% drop from the previous year and continuing a seven-year downward trend in park visitation.¹ The Everglades NP was no exception, as its attendance dropped by 280,000 visits in 2006.¹ In fact, the 954,022 Everglades NP visits last year represent the fewest number of visitors since 1996,¹ and the past 35 years of visitor data demonstrates that park usage has remained relatively stagnant, fluctuating at levels below 1972's high water mark of 1,534,328 recreational visits.¹ In light of these stagnant or declining visitation statistics, it seems counterintuitive that the NPS would contemplate restricting public access and use of the Park, particularly when the NPS has not produced any substantive evidence that current recreational boating and fishing activities degrade park resources. The proposed management schemes appear even less reasonable when one also takes into account the marginal growth of South Florida's boating population. Non-commercial vessel registrations in Broward, Collier, Dade, and

Monroe Counties have increased by an average of only 1.2% per year since 2001.¹

(3) The NPS should allow Existing Management Policies to Continue to Work

In light of the decline in the public's use of the Everglades NP and the apparent lack of evidence that current recreational boating and fishing regulations fail to protect park

¹ 37 CFR § 1.5(a) (emphasis added).

¹ *Id.* at §1.5(c).

¹ National Park Service, Public Use Statistics: 2006 Regional Report, 1 [available at](http://www.funoutdoors.com/files/2006%20Visitorship%20Statistics.pdf) <http://www.funoutdoors.com/files/2006%20Visitorship%20Statistics.pdf>.

¹ *Id.* at 2. The NPS indicates that hurricane damage to park resources likely contributed to this decline. *Id.*

¹ Everglades NP, Public Use Statistics Office Database, at <http://www2.nature.nps.gov/stats/>.

¹ *Id.*

¹ See Florida Department of Highway Safety and Motor Vehicles, Annual Vessel Statistic by County, at <http://www.hsmv.state.fl.us/dmv/vslfacts.html#2f>. Over this five year period, non-commercial boat registrations have increased 5.3% in the four-county area, totaling 159,403 vessels. *Id.*

resources, it seems unnecessary to radically depart from existing management schemes. The NPS, however, appears to discount the continuation of existing management policies as a legitimate alternative. The May 2007 Newsletter states that Alternative A “is required by law and serves as a baseline for analyzing the action alternatives.”¹ Further, the newsletter fails to provide any text describing existing management policies and thereby gives the false impression that current park management is akin to the “Wild West.” Existing NPS regulations, however, already close particularly sensitive areas to motorized vessel use, and it closes other areas to all vessels.¹ The NPS also already regulates all aspects of recreational and guided fishing in the Park.¹ Thus far, the NPS has not produced any evidence that these existing regulations fail to protect park resources. If such evidence exists, then NACO recommends tailoring the solution to the identified problem. Once again, because the Everglades NP is a “public park for the benefit and enjoyment of the people,” the NPS should closely scrutinize any management scheme that limits the public’s use and enjoyment of the Park.

(4) Certain Preliminary Management Strategies Inherently Contradict the NPS’s Policy to Facilitate Public Use and Enjoyment in the Everglades NP

NACO welcomed the media reports that the NPS will likely withdraw boating restrictions based on vessel length and water depth and that the NPS will not likely prohibit vessel access to the thousands of acres of “Backcountry.” These management strategies would facially contradict the NPS’s directive to support and facilitate the public’s use and enjoyment of the Everglades NP, and it seems unlikely that the NPS could explain “why less restrictive measures will not suffice” in lieu of these alternatives.

The vessel length restriction proposed in Alternative C appears based on the incorrect supposition that vessel length necessarily translates to a greater draw down and an increased likelihood of groundings.¹ Draw down depends largely upon vessel speed and the nature and number of outboard motors. Thus, this management strategy appears to be too blunt of an instrument to protect Florida Bay’s shallow areas, and it would prohibit certain types of vessels without benefiting the environment.

Alternative D proposes water depth restrictions in vast reaches of the Florida Bay and the Gulf Coast in which only polling, trolling, and paddling would be allowed.¹ This management alternative ignores the fact that some skiffs are *designed* for travel in shallow waters, including areas three feet in depth or less. Thus, this management strategy also appears to be too imprecise of a regulatory tool and would unduly restrict access and enjoyment.

Lastly, each of the three new management strategies proposes a “Backcountry” zone that allows for “non-mechanized recreation only.”¹ The May 2007 Newsletter, however, fails to provide any environmental rationale for prohibiting motorized vessels from well over one hundred thousand acres of the Park. The only conceivable rationale appears to be a desire by the NPS to only allow so-called “primitive experiences” in the Park’s central and northeast sections. Such a rationale simply falls short of justifying a motorized

¹ National Park Service, Everglades Park General Management Plan Newsletter, at 4 (May 2007).

¹ 36 CFR § 7.45(e).

¹ 37 CFR § 7.45(d).

¹ See Everglades Park General Management Plan Newsletter, at 8-9.

¹ *Id.* at 10-11.

¹ *Id.* at 4.

vessel prohibition in over a third of the park's area, particularly when the restricted area includes so many of the Everglades' outstanding boating and fishing destinations.

(5) Management Strategies that Focus on Education should not Impede Public Access

One management strategy that appears in Preliminary Alternative B and has been heavily discussed at public forums is some form of mandatory boater education. NACO supports boater education initiatives throughout the country and has learned that a well-focused public outreach campaign can be highly effective in educating the public on specific marine-related issues.

NACO believes that voluntary education on the importance of seagrasses and methods to protect them will be highly effective, given the resounding support among the public to protect the vitality of the Everglades NP.

It is difficult if not impossible to provide access to physically challenged individuals without the use of power boats. Clearly these citizens should have the opportunity to enjoy these public resources.

In sum, NACO supports the NPS's efforts to protect the Everglades NP's resources and maximize public enjoyment. Our members, however, are concerned that several facets of the Preliminary Alternatives under consideration will severely limit recreational boating and fishing in the Park, and these restrictions do not appear to have a scientific basis. NACO hopes that the NPS will reconsider its potential management strategies in light of the NPS's duty to make the Park available for "benefit and enjoyment of the people" and only impose regulations that limit public use when "less restrictive measures will not suffice." NACO anticipates that such reconsideration will result in Preferred Management Alternatives that our members can actively support.

NACO appreciates the opportunity to comment on the Preliminary Alternatives for Managing the Everglades NP.

Best Regards,

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