



January 7, 2022

Mr. Larry Williams
State Supervisor, FWS
1339 20th Street
Vero Beach, FL 32960-3559

Subject: Miami International Boat Show February 2022 - FWS # 2021-I-540

Dear Mr. Williams:

Please accept this comment letter in response to the activities planned for the Miami International Boat Show anticipated for February 2022. The proposed project is for a 947-slip marine event facilitating a variety of vessels with a range of drafts. One hundred and fifty of the 947 slips are proposed to be dedicated for sea trials/demonstration rides.

The annual boat show connects people to the water, and we are excited to support an event that brings people together. However, The Center for Biological Diversity, Miami Waterkeeper, and Tropical Audubon Society object to the authorization of sea trials in the location currently proposed by the Applicant. We are not opposed to alternative sea trial routes that would have *de minimus* impact on the species, nor are we opposed to the Applicant numerically capping the sea trial numbers to under a threshold that would not have an unacceptable risk to the species, as determined by technical experts in the resource agencies.

Manatee status:

At least 1,038 state- and federally-protected manatees have died in 2021¹. We understand that the Florida Fish and Wildlife Conservation Commission (FWC) and Fish and Wildlife Service (FWS) announced on December 8th that they are resorting to unprecedented supplemental feeding to alleviate the crisis.

Within Biscayne Bay, FWC data shows an over 600% increase in manatee mortality in Miami-Dade since 2012². Moreover, Biscayne Bay has overall lost around of 70% seagrass cover with nearby Venetian Basin (just north and east of the Sea Isle) losing around 78% coverage³; manatee

¹ <https://myfwc.com/media/25428/preliminary.pdf>

² FWC yearly manatee mortality summaries referenced at: <https://myfwc.com/research/manatee/rescue-mortality-response/statistics/mortality/yearly/>

³ https://www.miamiwaterkeeper.org/biscayne_bay_s_localized_seagrass_die_off_by_basin

grazing areas have been significantly reduced.

Project Site:

The project is proposed within an Outstanding Florida Water and within Biscayne Bay Aquatic Preserve. Sea Isle Marina, located in downtown Miami, hosts 222 existing slips utilized primarily by recreational vessels that typically do not make frequent daily trips to and from the marina⁴. The waters adjacent to the coast are designated as Essential Manatee Habitat by Miami-Dade County's Manatee Protection Plan and an Important Manatee Area defined by the Miami-Dade County map associated with the 2013 Manatee Key⁵. The boat show stationary exhibits and sea trial routes are also proposed within an area designated as critical habitat⁶ for the West Indian Manatee.

While manatees may traverse many areas of Biscayne Bay, they significantly depend on waters within Essential Manatee Habitat and Important Manatee Areas for survival. We understand that these designations acknowledge that such areas experience increased manatee utilization for sensitive activities such as feeding, resting, mating, nursing, cold shelter, and travel. Moreover, sighting data also indicates that manatees utilize the mainland side of Biscayne Bay when traveling to and from areas where these sensitive behaviors occur⁴. Brickell Key Shoal near the mouth of the Miami River hosts a bank of seagrass that serves as manatee foraging habitat. Manatees congregating within and at the mouth of the river and its tributaries travel to seagrass habitats in the Bay, with Brickell Key shoal being a nearby destination.

One of the sea trial routes bisects the mouth of the river and Brickell Key Shoal; this area is also designated by FWS as an Important Manatee Area.

Current Application

The project will generate significant vessel traffic. All 222 tenant crafts at the Sea Isle Marina will be required to move out and back in; 943 exhibition boats will move in and out; in-water construction vessels will be deployed at project commencement and breakdown; water taxis are proposed to run throughout the duration of the event. In addition to these vessel trips, the sea trials will incur an unknown number of trips per day through routes traversing areas designated as important and essential for the survival of the manatee.

The Miami-Dade Department of Environmental Resource Management (DERM) technical staff recommended denial of sea trials due to the rational expectation that demonstration trips would reasonably be expected to adversely affect protected species. However, DERM's technical expertise was overruled by the Board of County Commissioners. The Commission agreed to require reporting after-the-fact to determine the adverse direct impacts to manatees.

Objection

The year 2021 has been devastating for the manatee. While many mortalities have occurred earlier in the year within Indian River Lagoon, we are unpersuaded by the Applicant's claim that

⁴ DERM Project Report dated November 19, 2021 for Class I Permit Modification No CLI-2018-0071

⁵ The Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida, April 2013.

⁶ 41 FR 41914

manatee mortalities to the north have no bearing on populations in Biscayne Bay. To the contrary, we understand that manatees may migrate to South Florida extensively in the winter with individuals observed to travel 40 km in a day for several days^{7,8}. We are also unpersuaded by the Applicant's contention that the move from Marine Stadium will reduce manatee conflicts.

While FWS review of the application is not in the public domain, we assume that application materials submitted to FDEP similar in nature to what has been submitted to FWS. At this time the Applicant has not clarified the numbers of sea trial anticipated trips per day to FDEP. Miami Waterkeeper understands that the 2011 Manatee Biological Evaluation Form requires the number of estimated launches per day. We further understand that 50 CFR 402.14(d) sets forth the responsibility to provide the best scientific and commercial data available. If the estimated numbers of sea trials or an enforceable numeric cap has not been submitted by the Applicant, we object to you moving forward with review as this commercial data has not been supplied.

We believe take is likely for the following reasons:

- The show proposes sea trial routes through an Important Manatee Area and through Essential Manatee Habitat where manatees are likely to be present.
- The due south route traverses near the mouth of the Miami river and foraging habitat seaward of it. Plausible impacts to the manatee generated by this project include increased potential for direct vessel strike and disruption of normal manatee behavioral patterns. The latter could reasonably be instigated by increased noise and activity that could deter manatees from normal feeding, resting, mating, nursing, cold shelter, and travel.
- The Board of County Commissioners admit as much when, in an abundance of caution, it limited the DERM Class-I Permit modification to a one-year window and required reporting on any adverse impacts to the manatee.

We understand that the Marine Mammal Protection Act prohibits the issuance of a permit for the taking of any marine mammal which has been designated by the Secretary as depleted⁹.

We trust that the agencies will abstain from issuing any authorization without the best scientific and commercial data available to assess the full picture of risk on the West Indian Manatee. Further, we trust the agencies to maintain a level playing field. If the applicant declines to state the anticipated number of sea trials as requested the manatee biological evaluation form, then we do not believe it appropriate to move forward with issuing any authorization or incidental take statement for this event as the full picture of risk on the species will not have been established.

⁷ South Florida Multi-Species Recovery Plan, FWS, 1999

⁸ <https://www.mmc.gov/priority-topics/species-of-concern/florida-manatee/>

⁹ 16 USC § 1371(a)(3)(B)

Our organizations look forward to the Miami International Boat Show in February 2022. We wish the Sponsor a well-attended and successful event.

Regards,

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