

THE EVOLVING REGULATORY NIGHTMARE

AN UPDATE

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION:

The Commission met for three days from October 31st until November 2nd at the remote, yet very posh, Westin Beach Resort at Key Largo. As is always the case, a large staff was present and the parking lot was full of FWC staff cars. Notwithstanding a significant agenda, the location precluded much public participation beyond organization and association principals.

Items of central concern to the FMCA were on the October 31st agenda. The Executive Director attended and represented the Association. The meeting presented a good opportunity to confer with the leadership of our sister associations. The following day was spent conferring with our new president, Bob Cayce, at his location in Marathon and talking with four other members in the Keys.

Turning to the FFWCC agenda, the staff counsel briefed the Commission on State Representative Lindsay Harrington's splendid draft bill that, inter alia, calls for the creation of citizen rule review committees in areas where manatee protection zones may be imposed. The staff position was that the envisioned bill was inconsonant with the federal agreements in place. Of course, if that is the case, there are easy semantic fixes. This was not acknowledged.

The Commission then considered the superior petition of the Coastal Conservation Association of Florida (CCA) to embark upon a scientific biological review of the endangerment, if any, of the manatee with a view to "down listing." While it is a long story, such required review was never conducted when the manatee was listed in 1972. Six spoke in support of the petition and three women from the plaintiff groups dutifully read their objections into the record. One Laura Combs, formerly of the FFWCC staff and now given a senior management position with the Save the Manatee Club, spoke for the Club. To the Commission's great credit, and to the credit of the CCA preparation, the petition was approved unanimously. The staff recommendation to deadline the effort in January 2003 prevailed and was a bit excessive and disappointing. Staff luminary Brad Hartman explained to the Commission the great burden of other tasks imposed on staff.


It is necessary to digress and to pay great tribute to the newly appointed Commissioner from Miami, Rodney Barreto. He well represented himself and the public throughout. He insisted that an independent and impartial panel "with no vested interest in the outcome" conduct the review of the manatee endangerment. In addition to his erudite positions and fine forensic abilities, he did not participate in the common violations of the Florida Sunshine Statutes by running around the hall engaging in ex partite and unreported conversations with other commissioners and the audience on matters before the Commission. Clearly, the staff counsel needs to brief the Commission on the Florida Sunshine Statutes. _____

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While the impact of the Commission decision to reevaluate the status of the manatee is largely psychological, favorable results could provide a watershed for revisiting the issue with the feds. However, the U.S. Fish and Wildlife Service (FWS) has just released a Recovery Plan that is totally insensitive to public input. David Hankla of FWS has stated that under the plan it will take 24 years before the manatee can be removed from the listing. Meanwhile, the Save the Manatee Club (SMC) et al is threatening to take the Corps of Engineers (ACOE) and the FWS back to court for alleged failure to live up to the January agreements. They want a restoration of the "extortion" fees, more habitats sooner, and especially a moratorium on marine construction in Lee and Collier Counties. Such threats by the SMC are not uncommon.

In all of this, FMCA was there for you and will continue to leave no stone unturned to protect the concessions on permitting that have been achieved. Of interest, one member firm that was visited in the Keys just received a \$5,000 check as rebate for "extortion" fees charged before the relief package was negotiated.



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