

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

# Sanctuary Advisory Council Meeting

## Meeting Minutes

### November 17, 2010

**Meeting Attendance Roster:**

Frank Burek	Recreational Diving	present
Lori Traweek	Recreational Diving	present
Cher Walker	Diving Operators	absent
Frank Wasson	Diving Operators	absent
Clint Moore	Oil and Gas Industry	present
Rebecca Nadel	Oil and Gas Industry	present
Irby Basco	Fishing - Recreational	present
Matt Bunn	Fishing - Recreational	present
Joe Hendrix	Fishing - Commercial	absent
Mike Jennings	Fishing - Commercial	present
Will Heyman	Research	present
Larry McKinney	Research	present
Dale Loughmiller	Education	present
Jacqui Stanley	Education	present
Ellis Pickett	Conservation	present
Page Williams	Conservation	present
James Sinclair	BOEMRE (non-voting)	absent
Carmen DeGeorge	U.S. Coast Guard (non-voting)	absent
Rusty Swafford	NOAA Fisheries (non-voting)	present
Charles Tyer	NOAA OLE (non-voting)	present
Vacant	EPA (non-voting)	-----
G.P. Schmahl	Sanctuary Superintendent (non-voting)	Present

The regular meeting of the Flower Garden Banks National Marine Sanctuary (FGBNMS) Advisory Council was held on Wednesday, November 17, 2010, at 9:00 AM, at the FGBNMS Headquarters offices in Galveston, Texas. The council chair, Larry McKinney and council vice-chair, Frank Burek, were present.

G.P. Schmahl, sanctuary superintendent, welcomed the council and the public and gave a brief "safety moment." He introduced sanctuary staff that were present and announced the two newest of members of the council: Ellis Pickett, serving in a conservation seat, and Cher Walker serving in a diving operations seat. G.P. also recapped the member selection process. Ellis Pickett introduced himself and provided some information about his background. Cher Walker was not present at this time.

G.P. thanked the advisory council for their time on the council and unveiled a new plaque made to recognize everyone having served on the sanctuary advisory council. The plaque will hang in the ballroom as a permanent reminder of the contributions that all have made.

G.P. also recognized others in attendance including a member of the Cordell Bank NMS advisory council.

Larry McKinney asked Jen Morgan to review the agenda for the day. Clint Moore moved to adopt the agenda. Frank Burek seconded the motion. The agenda was approved. Rebecca Nadel moved to adopt the draft minutes of the September 22, 2010 SAC meeting. Frank Burek seconded the motion and the minutes were approved.

Larry suggested that the council address the one agenda item requiring a vote as soon as possible to ensure a quorum. Clint Moore, representing the council charter review subcommittee, described the efforts of the subcommittee to limit the language in the draft charter amendment on term limits. The recommended language is the third iteration. Clint moved to adopt the following language:

*Non-governmental council members will not be selected to serve more than three consecutive terms in a specific seat on the sanctuary advisory council, unless the ONMS Director has granted a waiver to this limit. The ONMS Director will consider waivers to this limit on a case-by-case basis and in a manner provided for by ONMS policy.*

Dale Loughmiller seconded the motion. Clint spoke to the motion. He noted that the language is the result of formal and informal discussion on how to best determine term limits. He stated that the policy will be in effect and final and that it is retroactive. The council voted by a show of hands. All were in favor; none opposed. The term limit charter amendment will be adopted. Clint recognized the efforts of his subcommittee.

Larry brought the agenda back to the regular order of business. One additional housekeeping item was addressed. Larry asked for discussion on the idea of allowing members to attend meetings by teleconference, as Frank Wasson has asked for this accommodation. The council discussed the benefits and drawbacks of virtual meeting attendance. Council members stated concerns, including: the importance of face-to-face attendance, problems with participation only by phone, voting, number of meetings per year that could be attended via teleconference, cost of equipment for doing this effectively by videoconferencing, and the need for a written policy on virtual attendance. Advantages of virtual attendance include meeting the needs of members who desire to attend but due to circumstances are not able to do so. Dale Loughmiller offered to help us use GoToMeeting to allow participants to get audio and presentations. He suggested

that members are still counted as absent if not physically present at a meeting, but will have the advantage of remote participation with a web-based teleconference. Larry suggested that we try this at the next SAC meeting.

G.P. Schmahl gave a presentation on the Draft Management Plan (DMP), released in October 2010. G.P. noted that the advisory council had great input into this product. Some of the newer SAC members were not involved but will be soon. G.P. explained that under NEPA, any action that an agency takes needs to be supported by an EA (environmental assessment) or an EIS (environmental impact statement, or sometimes a FONSI (finding of no significant impact)). The DMP itself does not promulgate rule or take action but identifies what we intend to do and address over the next five years, such as boundary expansion. The DMP itself does not establish expansion. That will require an EIS. G.P. stated that the public is invited to review the documents and submit comments during the 90 day comment period that ends on January 20, 2011. He noted that today is also a public meeting and that we will capture comments and record them as official comments on the DMP. He also announced the December 9<sup>th</sup> public meeting, and the various ways to submit comments. He explained that sanctuary staff will evaluate the comments, address them, review the DMP and make changes if necessary, and forward those into a final management plan (FMP). He further explained that the FGBNMS DMP requires an EA, as we have a proposed rule associated with it. ONMS and sanctuary staff felt that there were several regulations that we could move forward with immediately that were non-controversial and would have little impact. Jen Morgan reviewed the proposed rules. G.P. believes that there will be two general concerns, the first being boundary expansion. The DMP includes the SAC recommendation for expansion. Sanctuary management intends to go forward with the DEIS for expansion, analyzing the various options, as soon as possible but likely after the final management plan is complete. The second likely concern is the recommended experimental closure. This recommendation is not as well developed, but the sanctuary and council will work to come up with a proposal and begin holding workshops to address this. Council members engaged in discussion and posed questions regarding proposed regulations on use of the alpha flag, ray and whale shark disturbance, and timing of the DEIS and FMP.

Due to time constraints, Larry McKinney moved the sanctuary update to a later point in the agenda and introduced the guest speaker, Lauren Garske. Lauren introduced herself, providing some background on her education and current position and research. Lauren is a Nancy Foster Scholar and is conducting research that involves councils. She is a PhD student in the department of Environmental Science and Policy at UC Davis and works out of Bodega Marine Laboratory. Lauren described the one component of her research that asks the questions: how do scientists share their knowledge?; and how does scientific information play a role in management and policy decisions? FGBNMS is the 7<sup>th</sup>

sanctuary that Lauren has visited and whose council members she has interviewed.

Rebecca Nadel introduced her guests, Shell staff members, Randy Abadie and Brian Riche. The Shell staff gave a presentation on one of Shell's rigs to reefs projects, Eugene Island 332A, which was affected by Hurricane Ike. EI-332-A was removed using internal pile cutters to cut the legs below the mud line. A reefing site located 6 miles away was selected. This reefing project allowed habitat enhancement, cost savings to the company, cash contributions to the state (LA), and a transfer of liability to the state. Council members engaged in a lengthy discussion following the presentation. Topics included: cost comparisons, life span of the structure as a viable reef site, pros and cons of toppling in place and reefing elsewhere, monitoring, selection of reefing sites to avoid natural hard bottom areas, artificial reefs as a means for invasive species, and decommissioning activities.

G.P Schmahl reported on the state of the sanctuary in the Sanctuary Update Report. He reviewed the activities of sanctuary staff that have occurred since September 2010. Topics covered included: the 2010 Coral Bleaching Alert, continuing SPMD effort following the oil spill, placement of FGBNMS information kiosks, the recent Aquarius mission, and the oil discharge near FGBNMS at EB-164. G.P.'s final comments were related to how a proposed BOEMRE policy may affect boundary expansion. A federal register notice statement said that lease blocks will not be available for lease if they are touching FGBNMS boundaries. As boundaries expand, lease areas will be reduced. BOEMRE doesn't lease blocks that will be inaccessible. Clint Moore was asked for clarification. He stated that only the protected areas within lease areas would be affected by this new language in the federal register notice. Doug Peter followed G.P.'s report with a short presentation on Louisiana's artificial reef program.

At 1:00 PM the council heard official public comments on the DMP and proposed rule. The following were recorded as official public comments:

**Brandt Mannchen**

My name is Brandt Mannchen and I have just a couple of comments to make. I think I have three, two of which apply to the management plan. It wasn't too long ago, early this year or late last year, when there was a real concern that R/V Manta wasn't going to be able to operate as it should because of a lack of funding. And I think it is really important in these comments that people make, and I encourage you to do this, is to mention how important the R/V Manta is and the funding for it. Because, if you think of it, the R/V Manta is like a linchpin. If you're talking about research, if you're talking about public outreach and education, if you're talking about monitoring...just about anything this program is about; the R/V Manta is necessary for enforcement to protect these resources. I just want to encourage you all to make that one of your comments. Number two, in the SAC summit minutes, in the summary that Jennifer was so kind to

get to me, Dan Basta, who's in charge of everything as far as the marine sanctuaries, talked about expanding sanctuaries was one way to get a bigger constituency. And I think that's very true. I would also like to suggest that having a much more rigorous volunteer recruitment effort by the sanctuary is another way also to get a bigger constituency. Because those folks, besides doing good things for the sanctuary are also the natural advocate for the sanctuary when problems like the R/V Manta funding comes up and things of that nature. So, I think a very strong volunteer outreach effort in the management plan is really necessary. And then one comment that's not really related to the management plan. There was a lot of discussion this morning about people not being here but wanting to do it by video or audio—participating on the council, the SAC. I do think it's a good idea to have that opportunity, I don't think video is really needed and audio is something that's been around forever, which you can get at a fairly cheap rate; and also I think the comment that was made here about them not being able to vote but at least being able to participate by listening or hearing what's going on is really good. And I do agree also with the comment that this doesn't take the place of being here in person. And so if you're not here, and even if you're listening, but you don't make it three times, that's still a problem because you need to be here on the SAC and in person to develop these relationships and be more effective. And, that's all I've got to say.

### **Josh Davis**

(Summary of comments and questions)

My name is Josh Davis. I spoke here once before. For those of you that don't know me, I'm a part-time charter guy. I don't have too much to comment on, but I do have questions. I read the draft management plan, and there are some things I don't understand in the DMP. It lists areas of concern and says Sonnier Bank is of concern because of anchoring damage. I dive there quite a bit and haven't seen damage. Do you have photos of damage? I have seen damage from the hurricane, but not anchoring damage. I haven't seen shrimp boats there. There were a lot of good things that I did see mentioned. Regarding the recommendations for no fishing regulations—I haven't seen debris from fishing. I don't know that there is enough proof to regulate fishing more than now. I don't know that there is proof that fishing is hurting the resource. I would understand it maybe if you guys would show my why. If it's not hurting the stocks of fish...then I don't get it. If it's not hurting anything, then why regulate more. The other thing is spearfishing and free diving. We're allowed to rod and reel fish there. I would like to see consideration for free-diving for spearfishing. I see that new areas will have the same regulations. I'd like to see some exceptions for spearfishing. Will there be more rules on top of current ones for new areas or exceptions for specific sites? Where do our comments go? With expansion, it looks like every shallow bank will be included in the new area. We usually try to avoid the sanctuary. Why include all banks and apply all sanctuary rules? I avoid the sanctuary because I spearfish; I can't have the equipment on the boat. I like the outreach programs. There is a focus on establishing a presence in Galveston. The programs seem to be biased. There are good outreach

programs, but you need to have equal effort in other coastal communities, too, not just Galveston. The proposed areas are off Louisiana. You need a presence there, also at sportsman shows, etc. People respect a resource if they consume it for food. Regarding research closures: I have a concern about how it will impact a small struggling charter business. Many reef systems have much human interaction and seem to do fine. Flower Garden Banks doesn't have as much pressure. I want protection but not over protection. I'm having a hard time understanding why we're pushing for this so hard when other coral reef areas get much more pressure.

### **Rory Starling**

(Summary of comments)

I'm Rory Starling. In the draft management plan there is much information to absorb. Boundary expansion would happen at high cost; cost to government. I don't think you need to expand the boundary to protect. The primary users are right here. So few people use this. I saw the US Coast Guard Cutter Manta out there; this is the first time that I saw them out there. You can control anchoring by using a notice to mariners. There are other means of protection other than by making it a sanctuary. I appreciate education and outreach. But be careful, you could increase pressure by making it known. It is unique, little known, with little pressure. With outreach, that could increase. There were fewer divers this year than ever due to the Spree being in FL and the Fling involved in the oil response. There is concern over any executive order closing large areas in the gulf. Use by fishing and diving is so little. It is not an issue, but you are pushing for more regulations. You can't control interactions with whale sharks and rays. Texas needs the rigs to reefs program. Rigs create habitat. There will be an imbalance if you take away artificial structures; the rate of removal is unreal. These structures create habitat; snapper are up. I don't feel that expansion is warranted. With outreach, like the web site, resources are too easy to exploit if too much information is available to the public. You are giving people information they should have to learn on their own. You assume there is too much pressure on Flower Garden Banks due to winter Wahoo. That's when there are a lot of boats. It's thought that Wahoo go there to spawn. But I learned that they spawn May to October. They migrate there because it's warm water. Flower Garden Banks is not the only place with Wahoo. They are found elsewhere too. Don't put information on the web site that is hearsay. Users are the best stewards of environment. I would like to see CCA make a stance on this for fishermen. Those that use it will take care of it. I would be glad to pay for a permit for use. Regarding recreational anchoring, I feel it is not an issue. Commercial vessels should not be allowed entirely.

### **Thomas Orsak**

(Summary of comments)

My name is Tom Orsak. I live in Matagorda county. I recreational fish and dive. I want protection but also access. I want my son to participate someday. I appreciate the education components in the draft management plan and the

efforts so far. An example of ducks unlimited was given to describe management through users—those that use it will protect it. I know there are impacts from diving and fishing, but I don't want to see this go away.

### **Brian Bremsen**

(Summary of comments)

I represent recreational fishing. Flower Garden Banks is isolated. Fishers are good stewards. I want this to be around to share with my kids. I used to have to do research to find fishing locations, now all of this information is on the web site.

### **Matt Bunn-CCA**

(Summary of comments)

I'm Matt Bunn, Assistant Director for CCA Texas. CCA's position is that we're interested in seeing how expansion will develop. Our main issue is limiting public access to the sanctuary, a public resource, and how this works with historical use. Our other concern is a possible research or experimental closure. CCA is a resource first organization. If there is not a reason to protect the resource, then we don't feel that it should be protected or closed to use. If there is a reason, then we'd be behind that. There needs to be a research plan and a sunset provision and it should be re-evaluated at intervals with no blanket closures.

### **Frank Burek**

I am Frank Burek and wish to thank you for giving me an opportunity to convey my personal thoughts about the FGBNMS DMP. I believe that this DMP is an excellent plan. The FGBNMS is to be complimented for their work on it. Looking at the overall DMP I am extremely pleased with how well this plan provides benefits for its many user groups, interested parties and the general public. I agree with the FGBNMS mission statement on page 13, although I would add "manage" to this description. This would be closer to the wording given in the second paragraph of the Executive Summary on page 6 of the DMP. I also agree with the general goals as outlined on pages 13 through 14. I agree with the proposed sanctuary expansion, and the "minimal footprint" approach it demonstrates. I also like the fact that 3 additional (1 is already in the existing sanctuary boundary) oil and gas production platforms are within the proposed boundaries – As this will enhance the recreational diving, fishing and research options offered by the FGBNMS. It also provides opportunities should artificial reefs become an option in the FGBNMS future. Priorities are not addressed in the DMP. Priorities become important if all the money needed to support this total plan is not available. What I feel gets the most "bang" for the "bucks" is:

- The Sanctuary Expansion Action Plan (SEAP)
- Expansion of the Mooring Buoy system
- Visitor Use – Implement a web-based system to report visitation, activities, and observations at FGBNMS.
- The Resource Protection Action Plan (RPAP) – Especially the law enforcement aspects of this plan.

This FGBNMS DMP continues the cooperative basis upon which the FGBNMS was founded. That was an effort to elevate concerns (that recreational divers, fishermen, scientists, researchers, conservationist, and the oil & gas industry had about unique marine areas in the Gulf of Mexico) from a local to a national level – in the hopes of obtaining appropriate management and protection. That effort was almost 20 years ago and the sanctuary that resulted now has a proven track record. This DMP is a well thought out map for building on this sanctuary’s accomplishments.

### **Frank Burek - TGCC**

I am Frank Burek. At the last Texas Gulf Coast Council of Diving Clubs (TGCC) board meeting on November 11<sup>th</sup>, I was asked to represent that organization and make a public statement about certain elements of the FGBNMS DMP.

The TGCC and some of its members became interested in seeking protection for the Flower Garden Banks in the late 1960s and early 70’s. At various times since then we have participated in doing what we could to move the process along. We have even commented on the scoping process for this DMP.

We thank you for this opportunity to comment on the DMP, and compliment you on the scope, content and detail of the DMP. It’s very well done. **(TGCC supports the general plan!)**

TGCC supports your decision to rework the boundaries of the Flower Garden Banks and Stetson Bank. Also the addition of the nine other banks (Horseshoe, McGrail, Geyer, Bright, Sonnier, Alderdice, MacNeil, Rankin and 28 Fathom Banks) listed in the DMP. **(TGCC supports boundary expansion!)**

TGCC especially supports at the extension of the Mooring Buoy system to these areas. Several TGCC members, or members of member clubs were involved with the Gulf Reef Environmental Action Team (GREAT) during their initial installation. TGCC also provided funding to support their installation. To this day, the Mooring Buoy system continues to aid the FGBNMS in protecting the substrate from anchoring damage, managing the impact of recreational diving and improving diver safety. **(TGCC supports the mooring buoy maintenance and expansion!)**

With respect to flying the “Alpha” dive flag (page 66, Activity 2.1); TGCC would recommend that both dive flags be flown. The red flag with white strip is more universally recognized by the public in this region. There’s a reason all the dive stores hang that one on their shingle and not the blue and white. **(TGCC recommends a change to the DMP!)**

The DMP also mentions (page 48, 49, 50, RM.4, Activity 4.1) investigating the impacts of fishing and diving. The DMP indicates that this is still going through a public review process. TGCC understands the need to fine tune the knowledge of the impacts of each activity, but anticipates that because they are currently being managed these impacts are minimal. **(TGCC plans to monitor these issues as they continue through the review process.)**

Finally, staffing and costs in general – the OAAP and all plans. TGCC feels that “smaller” is better. Most of the DMP’s benefits are minimal in costs and those should be pursued first. **(TGCC observation, no specific recommendations)**



**for the DMP.)**

Thank you again for giving TGCC the opportunity to comment on the FGB

**Will Heyman**

(Summary of Comments)

The process that we're engaged in represents a tremendous amount of effort: from the staff, SAC, and particularly participation of the public.

We have been working to try to identify users. We are still really limited on enforcement capacity. If we can't enforce existing regulations, then our credibility is limited in what we can do in the future. On page 55 in the DMP under enforcement, the R/V Manta is identified, but no money is designated. We should support Charles Tyer and support W&T in putting monitoring equipment on the platform. I like the idea of outreach to direct users. A voluntary vessel monitoring system is good if users are the best stewards of the resource. However, the budget towards that doesn't start until year 2.

**Capt. Scott Hickman**

(Summary of comments)

My name is Scott Hickman. I'm a charter for hire captain here in Galveston. I go to the Flower Garden Banks and the area 50-60 days per year. I think you're doing a great job with the sanctuary. I see more fish and I see the fishing getting better. I also see the rules being followed. I fish the artificial reefs. This is a great program for expanding the fishery. I have seen the snapper population increase. The commercial fishery is accountable. IFQ (individual fishing quota program) has had huge benefits and is also good for the sanctuary. I don't do dive charters.

**Robert Palmer**

(Summary of comments)

My name is Robert Palmer. I have questions on the draft management plan. Regarding dive flags, I looked at meeting notes from 2007. Dive flags were an issue then. The red and white diver flag is common practice in Texas and is part of the TPWD (Texas Parks and Wildlife Department) code. If you follow the CFR (code of federal regulations) for the alpha flag, then you would need a rigid flag 1 meter tall and lights; a mast headlight. Bilge discharge is not allowed in the sanctuary, but allowed if coast guard approved. Currently, you can get a tuna permit online. You could do something similar here. I'm okay with a permit.

Following the public comment period, G.P. briefly noted that he appreciated the first use of the online trip report by Mr. Starling.

Emma Hickerson gave a presentation on the state of invasive lionfish. She began by explaining that they are thought to have been first released off Florida during Hurricane Andrew. The population can be traced back to six individual fish. There is concern over this species because they are voracious predators,

spread quickly, and breed every four days. Lionfish establish themselves in deep water. Once they are observed on the reef crest, they are probably already established. In the Gulf of Mexico, Lionfish were reported at the following locations: Sonnier Bank (two specimens; one at each peak), Northern Yucatan (2009), off Pensacola, FL, Alabama, and Louisiana. Emma gave brief descriptions of their ecology, prey, and life history. She discussed with the council the impacts of their introduction and Lionfish control.

Constituent Reports were given at this meeting by Irby Basco (recreational fishing seat) and Mike Jennings (commercial fishing seat). Irby's slide presentation summarized his involvement with a number of clubs and organizations related to recreational fishing, his accomplishments, and his membership on the Gulf Council. Mike Jennings described how recreational fishermen have paid a dear price for red snapper, but that there is now an increase in red snapper numbers. He explained what the IFQ system has accomplished since 2007. He introduced Bubba Cochran, an IFQ holder and commercial fisherman, who also spoke to the benefits of the IFQ system. Members of the council and public engaged Bubba in discussion of fishing gear types, VMS, and fishing on artificial versus natural reefs.

Jacqui Stanley gave a brief presentation on her involvement in the recent Aquarius mission: If Reefs Could Talk. Jacqui underwent training in Florida. She narrowly missed the requirement to swim 400 m in 12 minutes, completing the test in 13 minutes. She was not able to saturate during the mission, but stayed on as a resident educator. If Reefs Could Talk was an example of science and education working together to communicate a number of topics. This mission targeted African American and Latino communities with NABS and MERITO. Themes included biodiversity, ocean acidification, and climate change. The hurricane threat experienced by the mission participants taught everyone flexibility. Jacqui was involved with daily live broadcasts and students painting along with her.

Council members established the following schedule of meeting dates: February 16, April 20, September 14, and November 30.

The council came to a consensus to support a resolution on NMSA reauthorization. A subcommittee consisting of Jacqui Stanley, Lori Traweek, Frank Burek, and Larry McKinney agreed to begin drafting a letter to Dr. Lubchenco.

The council briefly discussed the idea of a youth working group or youth seat, but tabled this topic until the next meeting.

The meeting was adjourned.