

PUBLIC HEARING REPORT
for the
Fisheating Creek Wildlife Management Area (WMA)
Draft Conceptual Management Plan (CMP)
held by the
Fisheating Creek WMA Management Advisory Group (MAG)

(March 27, 2002 – County Commission Chambers - Moore Haven, Florida)

This hearing had been advertised in one or more local newspapers, announced at the Glades County Commission meeting, and advertised in the Florida Administrative Weekly, in compliance with Chapter 259.032 (10), Florida Statutes. Forty-four persons were in attendance; twenty-one of these signed attendance sheets. Eleven persons signed speaker cards and subsequently gave public testimony. Assistance with advertising and conducting the hearing was provided by the administrative, planning and management staff of the Florida Fish and Wildlife Conservation Commission (FWC).

Dr. Reed Bowman, Avian Ecologist with Archbold Biological Station, opened the meeting at 7:30 PM, indicating that he was a spokesperson for the Fisheating Creek MAG. He further indicated the MAG's priority ideas and considerations had been utilized by FWC staff in preparation of a draft set of goals, objectives, problem statements, strategies and management intent language for the Fisheating Creek CMP. Dr. Bowman stated that the MAG was serving as hosts for the hearing, but that the MAG members would be relying upon the FWC staff to present the specific information regarding the plan. He then introduced Mr. Hugh Boyter, Planning Section Supervisor for the FWC WMA system, who presented some introductory information regarding the planning process, the opportunities for public involvement, and the agenda for the evening. Mr. Boyter also asked the other MAG members present to introduce themselves and to give their various affiliations. He then introduced the FWC staff members in attendance.

Following the introductions, Mr. Boyter asked if there were any questions regarding the planning process, or the legal arrangements surrounding the acquisition and management of the Fisheating Creek property. Several questions were asked concerning the lease agreement between FWC and the Division of State Lands (DSL), and about the interim management letter that enables FWC to operate temporarily, to formulate goals and objectives for management and to expend management funds on the property. Mr. Boyter explained that the 2002 and 2003 objectives in the draft plan are not a problem since the interim management letter gives FWC the authority to proceed with management and expend appropriated funds, even without an executed lease. However, he also indicated the lease should be signed very soon, if FWC and the DSL can agree upon certain specific lease provisions.

Following this discussion, Mr. Boyter turned the podium over to Fisheating Creek WMA Biologist, Mr. Grant Steelman, to present the draft CMP elements. Mr. Steelman presented the general management intent language from the plan in several categories including vegetation,

wildlife, fisheries, hydrology, recreation and interpretation. He then presented the specific goals and objectives for the WMA, indicating the management and protection efforts planned for the area over the next 5 years, and providing the dates for completion of those activities. Following this, Mr. Steelman stated a number of problems identified by FWC staff, along with the strategies the agency intends to pursue to solve those problems (these strategies were also reflected in the objectives under the goals in the previous section).

Following the presentation, several clarifying questions were answered by Mr. Steelman, Mr. Boyter and other FWC staff members. Several questions concerned arrangements for public access, the types of access allowed by the Fisheating Creek Settlement Agreement, and use of the creek and marsh by various types of watercraft. Other questions concerned the use of cattle for vegetation control in Cowbone Marsh, plans and methodologies for separation of incompatible uses, safety for canoeists during hunting seasons, and plans for dealing with private inholdings within the WMA. After these questions were answered by various FWC staff members, Mr. Boyter began taking public testimony from persons who had turned in speaker cards.

The first speaker was Dr. Ken Meyer, Biological Scientist with the Avian Research and Conservation Institute in Gainesville, Florida. He indicated that he has conducted approximately 14 years of research on the swallowtail kite under various grants, including some from FWC. He stated that Fisheating Creek lands and waters, especially the lower creek / Cowbone Marsh portions, are extremely important for this species. Human disturbance factors are not as important during the nesting season for this species as they are during the summer [July – August] communal roost, when the birds are trying to fatten by 20 to 25% for their migration to South America. The Fisheating Creek communal roost is considered to be of world class importance for the species. Since 1986 when it was discovered by Mr. Brian Millsap, this roost has contained between 1,350 to 2,200 birds. During the summer feeding period the birds leave the roost in the morning when thermals begin to rise, ride them while feeding over the marshes and Lake Okeechobee, and return to the roost around 3:30 to 4:00 PM. He indicated the original roost was in native cypress trees at the head of Cowbone Marsh, but that when the Marsh was opened to human disturbance during the lawsuit, most of the birds moved to Australian pines on the southern Herbert Hoover Dike. He indicated that this communal kite roost is a world class resource that should be awarded the highest level of protection. Dr. Meyer's recommendations included the following:

- From the 28th of June through the month of August each year, and from 4:00 PM until 10:00 AM each day in that time period, no boating activity should be allowed up the creek any closer than the fence sign ("cable line"), a little under 2 miles from the original cypress roost site at the head of the Marsh [one mile from the current Australian pine roost site, as stated in the Settlement Agreement],
- Though this should be done carefully, and in a phased fashion, because of uncertainty about kite behavior, the Australian pines should be removed incrementally from the Hoover Dike, starting at the east end. Monitoring should be an important component of this effort to avoid dispersing the roost. The ultimate objective would be to move the kites back to their historic roost,

- Because of the sensitivity of the birds during this roosting period, all forms of human disturbance should be carefully monitored and controlled. Bird watching activities, if carefully planned and controlled, can be allowed at a distance under one mile [i.e., if blinds are set up prior to daylight or return to roost, and vacated after birds have left the roost or after nightfall].

Ms. Barbara Jean Powell of the Everglades Coordinating Council indicated, in response to concerns expressed earlier in the meeting, the safety of recreationists sharing public lands with hunters in Florida is fairly well assured, including those at Fisheating Creek. She feels there is more a matter of perception of danger than a reality where the safety issue is concerned. She pointed out that Florida has a very strong Hunter Safety training program and that the multiple use programs are operating well on Florida's public lands. Ms. Powell also indicated that her main point was to appeal for cooperation among the users, managers and landowners of the area. She feels the "bad blood" of the past should become history, and that we should all work together to resolve problems and accommodate each other on the land. She indicated that the MAG meeting showed that there are Settlement Agreement issues that need to be addressed to assure the welfare of the resources and users on Fisheating Creek, and we need to work together in good faith to correct the things that need to be addressed.

Ms. Ellen Peterson of ECOSWF (Environmental Confederation of Southwest Florida) indicated that her organization is interested in being sure the public has access to the creek, and that the creek is used wisely. She also said one of the best things that can be done is to educate people; for example, let them know the swallowtail kites are in the area in June and July (and August). The other portions of the creek can be used during that period. She is opposed to putting in concrete boat ramps because of the damage done to the bottoms of canoes; she feels some other material should be used rather than concrete. She also indicated that she is pleased to see that people have come together to work for the good of the creek.

Mr. Byron Maharrey of the Florida Sportsman's Conservation Alliance thanked FWC for the professional presentation. He indicated that he had been recreating on the creek since the early 1940's when the roads were less developed and the users were fewer in number. He feels the Settlement Agreement does not provide for enough access. He indicated the canoe access at Ingram's Crossing and Burnt Bridge is fine, but when you take people from the campground and push them up-creek, he feels it limits access and degrades the quality of the recreational experience by concentrating the people into too small an area. He is asking FWC to use its discretion to spread the people out by means of acquiring additional access points, designing more drop-off points for hikers, canoeists and eco-tours, etc. He also agrees with Ms. Barbara Jean Powell's statements regarding safety issues and compatibility of certain uses on the area.

Mr. Bishop Wright of the Florida Sportsman's Conservation Alliance thanked FWC for the opportunity to speak from the public's perspective. He felt that others had already exercised their opportunities to be heard through the Settlement Agreement and in other ways, and that it was about time for the public to speak out. He indicated that he is an airboater who has lived in the

South Florida area for 37 years (his entire life), and that he airboats in 2 places, the Everglades and Lake Okeechobee. In order to ride in Fisheating Creek, he must apply for a permit. He enjoys frogging, and will continue to fight for his opportunity to pursue that activity, in Lake Okeechobee, and in Cowbone Marsh, if the water comes up and creates a situation conducive to good frogging. He indicated that the cabled area with posted signs is probably unnecessary from an airboaters perspective, since the area inside the cable to the north is full of willows and not good for airboating. He indicated the solution to the noise complaints from residents on the north, is to open Cowbone Marsh to airboats when the birds (kites) are not there. Unless the Marsh is flooded, the only place airboaters can operate is up the creek channel, and he and the other 300 airboat permit holders will fight for their opportunity to use the area. He indicated that hunting opportunities on Fisheating Creek are very limited; out of the 52 weekends of the year, only 8 are open for hunters, and only 15 hunting permits are issued. Perhaps only 10 of the permitted hunters will show up for the hunt. He feels that airboaters and hunters have been given very little, and that some people would even wish to take that away from them.

Dr. Paul Gray, Audubon of Florida, indicated he is the conservation organization appointee on the Settlement Agreement Advisory Board (SAAB). He indicated he lives in Florida, has been in Florida for 15 years, worked on Florida Ducks while at the University of Florida, and worked for 3 years for the Waterfowl Section of the FWC. For the past 7 years he has worked for Audubon as the Manager for the Kissimmee Prairie and Lake Okeechobee Sanctuaries. He said he is both a bunny-hugger and a hunter. He commended FWC for the plan as it exists to this point; he indicated that he has gone down the checklist of important things to consider and found all of them are included in the current draft plan. He is pleased with that fact. He indicated he is somewhere on a huge learning curve with reference to Fisheating Creek planning; he has read the Settlement Agreement, but still has a lot to learn and absorb. One fact he emphasized, however, is that the Fisheating Creek land acquisition project has been the most important for the State so far. He re-emphasized the importance of the swallowtail kite summer roost. Similarly, he feels the area is important for its dry prairie habitats and cypress swamps, and that nothing done in the name of management should compromise those values. Secondly, he recognizes the need to get as many people into the area to enjoy it as possible. He recognizes that's where the conflicts will arise, and he looks forward to working with the MAG and SAAB to manage these issues.

Mr. Robert Geiskopf, a Glades Co. resident, indicated he is happy we have acquired this property and its resources for all to enjoy. However, he would like for everyone to focus on improving the area as a place to raise a family and bring in new industry. This could be done by bringing in additional resident people, beyond outsiders coming for recreation, and by bringing businesses to Glades County, to go along with this beautiful resource.

Mr. Robert Rader, Director of the Glades County Economic Development Council, indicated he felt sorry for FWC because he did not realize the agency was operating under such a restrictive agreement. He said he has great respect for FWC, and is heartened by the agency's stated intent to try to make the situation at Fisheating Creek WMA good for everyone. He indicated, however, that Glades Co. has a problem that anyone who lives there recognizes: there are only

13,000 people with an income of only \$15 million; this is insufficient to even keep the roads paved, much less to offer improvements in the lives of local residents. The only way the problem can be solved is to make the county attractive to good people and good industries. Fisheating Creek offers among the best opportunities in recent times for this to happen. He feels, if done properly, this state land can attract people from all over the world. However, if the area is filled up with airboats and outboards with high-speed engines, that dream will not come to pass. He indicated he has been a hunter and fisherman for 83 years, and he knows what happens when those forms of recreation are brought in. No one will bring their children and families up the creek in a canoe if someone comes by at 50 mph and swamps them. Two people were drowned in the river recently by that kind of activity. He indicated he has great faith in FWC that the agency will do the right thing, and that we will all cooperate to make the project an overall success.

Mr. Tom Gaskins, Jr., a resident on the creek for 60 years, indicated he had hunted, fished and cut cypress knees from one end of the creek to the other, and maintains he know the creek better than any person alive. He asked the audience: "What is it that makes a creek?" His answer was "one word....water". If you keep water from coming in, you don't have a creek. Historically Rainey Slough provided at least one-third of the water in Fisheating Creek. In the 1940's and 50's, Mr. Gaskins said he could cross Rainey Slough during hunting season in a WWII weapons carrier when no one else could do so because of the knee-deep to waist-deep water. Now, Rainey Slough has no ducks, and has been drained. Today the dominant vegetation is ragweed. The water has been cut off. There is a dike across the Charlotte County line. He doesn't know whose land it is, or who put in the dike...nor does he care. He said, regardless of whose land it is, they are blocking the water and he believes that is against both Florida laws, and U.S. laws. And he feels this is a point that should be addressed, if we love Fisheating Creek. Secondly, he believes it is against the law to cut cypress trees in the creek corridor. Just above the Glades County line along the creek there are three or four landowners, one of whom clearcut cypress trees on their property, across the creek and to one-quarter of a mile on either side. Furthermore, they cut and laid whole trees across the creek bed to facilitate access for logging equipment. He indicated he believes in private property rights, but this landowner stepped over the bounds. He also indicated that this infraction was reported to DEP and the Game Commission, pictures were sent, but nothing has been done. He indicated this illegal activity is blocking water, and blocking canoeists. In response to comments from other speakers, Mr. Gaskins indicated that motorboats have never been a problem on Fisheating Creek because the creek will automatically limit the size of boats and motors due to the submerged logs and other obstructions. With regard to hunters and canoeists in possible conflict, he also feels there is not a problem here. During Lykes Bros. ownership a canoe concession operating from both Ingram's and Burnt Bridges could have interfered with turkey hunting, but it never has. When canoeists pass along the creek making noise, the turkeys merely squat until the canoes pass, and then resume normal feeding activities. The swallowtail kite will be bothered more by lack of water in their habitat than by the few canoeists, hikers or others that will come by on occasion.

Ms. Christina Harling, a local resident, indicated she has been a user of the creek and its resources

for more than 40 years. She is concerned about the mixed messages about wanting more people to come to the County while wanting to preserve the natural resources of the creek. She indicated that all over Florida, where we bring more people in the gators and other animals are pushed out. She said high rise development has its place, but that place is probably not on or near Fisheating Creek. Even though in Palmdale you can't buy a new car, a refrigerator or a new suit, no one up or down the creek has a problem with that. Some people like it that way. In order to work out our problems, compromise will be necessary.

Ms. Becky Hendry, President of Save Our Creeks, indicated for information purposes, that when the Settlement Agreement was developed, FWC was not a part of the proceedings. There are a number of things in that agreement about which there is dissatisfaction. For example, there are only 2 access points because of the land ownership pattern. Lykes Bros., Inc. still owns most of the property rights on the lands adjacent to the creek. FWC is trying its best to come up with ideas to solve some of the deficiencies.

Mr. Boyter thanked those in attendance for their participation. He indicated the write-up of this hearing would be available for review on the FWC WMA Planning website (<http://wld.fwc.state.fl.us/planning/>), perhaps the following week. The public hearing was adjourned at 9:50 p.m.