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## From Nick Wiley, Executive Director: FWC and Section 6 - Another Step in the Right Direction for Endangered Species

1 message

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**FWCNews** <FWCNews@myfwc.com>

Tue, Apr 9, 2013 at 2:10 PM

Reply-To: Section 6 Agreement Stakeholders <SECTION\_6-L@listserv.myfwc.com>

To: SECTION\_6-L@listserv.myfwc.com

Dear Stakeholders and Interested Parties,

A recent notice of intent to sue against the United States Fish and Wildlife Service (Service) filed by the Conservancy of Southwest Florida and the Center for Biological Diversity has resulted in some press releases, newspaper articles and editorials. The purpose of this communication is to provide clarifying facts and information related to the Florida Fish and Wildlife Conservation Commission's (FWC) endangered species management programs.

The FWC has a long and successful track record of caring for endangered species. Florida is one of only 18 states that have active regulatory programs for endangered species [1]. Building on that foundation, the FWC recently revised and improved rules for the protection of threatened and endangered species after working closely with a broad array of stakeholders over a two year period. This process was highly transparent and inclusive of all who expressed interest in working together to find common ground regarding the conservation of imperiled species. It was impressive to see people and organizations with widely diverse views and priorities come together and ultimately support a strong suite of regulations to protect and recover Florida's threatened and endangered species.

Section 6 of the Federal Endangered Species Act (ESA) calls for the Secretary of Interior to cooperate with each state to the maximum extent practicable in carrying out programs authorized by the ESA. Further, this section of the ESA authorizes a cooperative agreement between the Service and each state to outline, in Florida's case, how the FWC will cooperate with the Service to improve the conservation of federally listed species. This agreement is commonly called a "Section 6 Agreement" and serves as an important link in conserving Florida's threatened and endangered fish and wildlife. Core components include creating a mechanism for federal funding to augment state programs that protect and conserve endangered species; allowing for joint state and federal law enforcement of endangered species rules and regulations; coordinating research and management needs for endangered species; and authorizing state personnel to handle endangered species for conservation purposes. This Section 6 Agreement has been a fundamental part of our determined efforts to protect Florida's endangered species since 1976 and continues to play an integral role today.

The FWC has renewed its Section 6 Agreement with the Service annually since 1976 and has updated it twice: once in 2001 and again in 2012. Each of these updates has strengthened cooperation between the FWC and the Service and improved conservation of endangered species. The enhancements to Florida's Section 6 Agreement are a key part of the FWC's recently approved endangered species listing rules and program, which are aimed at increasing conservation and protection of state and federally listed species in the most effective and balanced way possible. The updates to the FWC's listing rules and program were carried out in an open and transparent manner that included significant involvement of partners and stakeholders. The FWC went through many public hearings and meetings, along with an extensive effort to work with stakeholders. Additionally, there was a public-comment period associated with the environmental assessment that the Service performed on the updated Section 6 Agreement. This updated Section 6 Agreement serves as a framework for developing future cooperative projects, not an authorization of any specific action. (To access the 2012 agreement, please visit [MyFWC.com/WildlifeHabitats/Imperiled/Links](http://MyFWC.com/WildlifeHabitats/Imperiled/Links).)

The changes to the Section 6 Agreement allow for the development of clear permitting guidance and standards

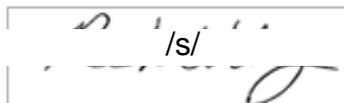
that currently are not available for many threatened or endangered species. Historically, there has been inconsistency in recommendations and management practices for threatened or endangered species. Because of the enhanced Section 6 Agreement, the FWC now can engage in the development of permitting standards for listed species on a species-by-species basis with full public involvement and Service approval. These standards will provide more predictable positive outcomes through the regulatory process and the result will be more success in conserving state and federally listed species.

The above outcomes are facilitated by recent improvements to Florida's Section 6 Agreement that focus on providing a framework for the Service to recognize FWC permits as federal approval of direct or incidental take of federally endangered species. The issuance of permits would be authorized through a Section 7 biological opinion and the National Environmental Protection Act (NEPA) compliance on all Permitting Guidelines. Such permits can be issued only after Permitting Guidelines have been developed and approved and then only for the specific species and situations covered by the Guidelines.

The new Section 6 Agreement **does not delegate any federal authority to the FWC and by itself does not authorize the FWC to issue any permits for federally listed species.** If the FWC chooses to seek development of a program to issue incidental take permits in the future, we first would have to develop, vet and get Service approval for the Permitting Guidelines. This process would include extensive public involvement and NEPA compliance. At this point, Permitting Guidelines have not been developed, and the Service has not provided approval to recognize any FWC permits regarding federally listed species. The only area that FWC and Service staffs currently are exploring related to new Permitting Guidelines involves whether the development of such Guidelines would enhance the conservation of the indigo snake. To date, all parties involved see the development of Guidelines for this species as a promising potential way to improve its conservation and protection.

Over the past several years, FWC staff, Commissioners and stakeholders have worked collaboratively to develop sound conservation measures for fish and wildlife in proper balance with important social and economic factors. While developers and landowners have benefited from having transparent state requirements for permitting, these same requirements have provided for enhanced protection and conservation of threatened or endangered species. For example, the FWC's gopher tortoise program robustly and actively manages the impact of development on both gopher tortoises (a state threatened species) and their burrows. This approach has directly led to the conservation of nearly 9,000 tortoises and more than 17,500 acres of habitat in the form of permanently protected recipient sites since 2009. In fact, the strength of the FWC's gopher tortoise program has been identified by the Service as a model for other states to follow. Another example of the FWC's excellent conservation record is freshwater turtle protection. Based on staff, partner and stakeholder input and concerns, the FWC strengthened regulations for all freshwater turtles. These regulations have put into place an important safeguard for Florida's freshwater turtles from the increasing demand for turtles as food around the world. Other examples abound and include: protection of bald eagles and peregrine falcons after their removal from the ESA; development and implementation of Bear and Manatee Management Plans; protection of Critical Wildlife Areas across Florida; active habitat management programs benefitting imperiled species across 5.6 million acres of state conservation lands; conservation of red-cockaded woodpeckers via safe harbor agreements and translocation; and active management of panther, manatee and sea turtle populations.

Florida has a long and successful history of conserving fish and wildlife, including threatened and endangered species. FWC Commissioners and staff are charged with protecting the public trust relative to Florida's fish and wildlife for the good of current and future generations. Balancing the needs and expectations of all segments of society can be challenging, which is why the FWC works so diligently to involve partners, stakeholders, and the public in its decision-making and conservation programs. The FWC's record in this regard stands alone and is recognized across Florida and the country as a model for participatory management of fish and wildlife resources. The FWC looks forward to continuing this inclusive approach to conservation and welcomes input from all partners and stakeholders as we strive to meet the needs of fish, wildlife and people in Florida. We are dedicated to such involvement because it strengthens conservation outcomes by utilizing the expertise, experience and insight provided by Florida's diverse constituents.



Executive Director

Florida Fish and Wildlife Conservation Commission

[1] State Endangered Species Acts; Susan George and William J. Snape III; Pages 344-359 in Bauer, D. C. and Irvin, W. R. eds.; Endangered Species Act: Law, Policy, Perspectives, Second Edition; American Bar Association, 2010.



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