

~~DRAFT~~

~~DRAFT~~
11/21/00

~~DRAFT~~

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

AND

THE NATIONAL MARINE SANCTUARY PROGRAM
NATIONAL OCEAN SERVICE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

AND

THE NATIONAL MARINE FISHERIES SERVICE
SOUTHEAST REGION
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

November 2000

~~JUNE 2000~~

Developed by SAFMC Staff with Input from GRNMS Staff: 11/17/99
Presented to the Marine Reserves Advisory Panel: 11/18/99
Approved by the Marine Reserves Advisory Panel: 11/18/99
Presented to the Marine Reserves Committee: 11/29/99
Presented by the Marine Reserves Committee: 3/7/00
Revised version presented to Marine Reserves Committee: 6/15/00
Approved by the Marine Reserves Committee:
Approved by the SAFMC:
Approved by NOS/NOAA:
Approved by NMFS/NOAA:

I. PURPOSE

The purposes of this Memorandum of Understanding (MOU) are: (1) to provide a framework for cooperation and coordination between the South Atlantic Fishery Management Council (SAFMC), Gray's Reef National Marine Sanctuary (GRNMS), and the National Marine Fisheries Service, Southeast Region (NMFS/SER) within the SAFMC's area of geographic authority; (2) to facilitate the exchange of information, advice and technical assistance between GRNMS, SAFMC and NMFS/SER; and (3) to coordinate their efforts concerning public outreach.

II. AUTHORITIES

This MOU is entered into by and between the National Marine Sanctuary Program (NMSP), National Ocean Service, NOAA, the NMFS/SER, NOAA, and the SAFMC (the "Parties"), pursuant to Sections 309 and 311 of Title III of the Marine Protection, Research, and Sanctuaries Act of 1992, as amended, 16 U.S.C. 1440 and 1442 ~~Do we need to reflect new bill?~~ of 16 U.S.C.1431, et seq. (the Act), and the Magnuson Stevens Fishery Conservation and Management Act, 16 U.S.C. 1861, et seq.

III. GRNMS

Gray's Reef was designated as a National Marine Sanctuary in 1981 due to its significance as a live-bottom habitat and the diversity of marine life. National marine sanctuaries are established to protect areas of the marine environment which have special conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities. In accordance with the National Marine Sanctuaries Act, each sanctuary is managed to maintain natural biological communities, enhance public awareness, support research and monitoring, and facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities.~~The mission of the National Marine Sanctuary Program is to comprehensively protect and manage marine areas of special significance to conserve, protect and enhance their biodiversity, ecological integrity and cultural legacy for the benefit of current and future generations. to serve as the trustee for the nation's system of marine protected areas to conserve, protect, and enhance their biodiversity, ecological integrity, and cultural legacy.~~

For the purposes of the memorandum "marine protected areas" means any area of the marine environment that has been reserved by Federal, State, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein.

(b) PURPOSES AND POLICIES. ~~The purposes and policies of (this title)?? are--~~

(1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance and to manage these areas as the National Marine Sanctuary System;

(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;

(3) to maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes;

(4) to enhance public awareness, understanding, appreciation, and wise and sustainable use of the marine environment, and the natural, historical, cultural, and archeological resources of the National Marine Sanctuary System;

(5) to support, promote, and coordinate scientific research on, and long term monitoring of, the resources of these marine areas;

(6) to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

(7) to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;

(8) to create models of, and incentives for, ways to conserve and manage these areas, including the application of innovative management techniques; and

(9) to cooperate with global programs encouraging conservation of marine resources.

IV. SAFMC

The South Atlantic Fishery Management Council is responsible for the conservation and management of fish stocks within the federal 200-mile limit (exclusive economic zone) of the Atlantic Ocean off the coast of North Carolina, South Carolina, Georgia, and east Florida to Key West. In addition, the Council must describe and protect essential fish habitat (EFH) and essential fish habitat-habitat areas of particular concern (EFH-HAPC), and the Council must as well as address ecosystem management.

V. NMFS/SER

The mission of the National Marine Fisheries Service is stewardship of the nation's living marine resources. The NMFS/SE is responsible for planning, organizing and implementing fishery management and conservation programs, including regulatory requirements, fishery management plans, recreational fisheries, commercial fisheries, international fisheries, and services through the range of NMFS programs. In addition, NMFS/SER provides administrative and technical support to the SAFMC. The mission of the National Marine Fisheries Service is to rebuild and maintain sustainable fisheries, promote the recovery of protected species, and protect and maintain the health of coastal marine habitats. The NMFS/SER works in partnership with the SAFMC to manage marine fisheries, and provides administrative and technical support to the SAFMC.

VI. GOALS

GOAL 1. To exchange information, advice, and technical assistance, and to improve public outreach.

GOAL 2. To involve the public in discussions and evaluations regarding management of specific marine areas.

GOAL 3. To ensure that the public is well informed of the work and policy decisions of the SAFMC, GRNMS, and NMFS/SER.

GOAL 4. To consult and cooperate fully with each other in matters regarding the conservation and management of natural resources of mutual concern and geographic authority. The consultations and cooperation shall take the form of participation in and presentations to the various committees, advisory panels, and working groups of each of the parties, and exchange of documents, viewpoints, recommendations, advice, and other pertinent information between the SAFMC, GRNMS and NMFS/SER. This consultation and cooperation should occur prior to implementation of regulatory changes affecting any of the Parties.

GOAL 5. To protect the ecological integrity of Gray's Reef and its biotic communities and their associated habitats for the benefit of current and future generations.

GOAL 6. To contribute to the conservation and management of fish, the protection of EFH, EFH HAPCs, and ecosystem management within the South Atlantic Region.

VII. COMMITMENTS OF THE PARTIES

SAFMC, NMSP, and NMFS/SER hereby affirm their mutual understanding and agree to use their efforts to take the following steps:

1. To carry out their mutual intent to discuss and evaluate management and regulation of specific marine areas.
2. To work together to coordinate current and future discussion, evaluation, and informational activities through cooperative planning.
3. To ensure that the public and constituent groups of all three organizations participate fully in the activities of the SAFMC, GRNMS and NMFS/SER.
4. To share research and information that contribute to the above goals.
5. To request and respond to requests for input from one another in a timely and cooperative manner as required by or consistent with applicable laws, regulations and policies.
6. Specific matters for coordination may include but are not limited to:
 - i. Review, revision, and implementation of Gray's Reef National Marine Sanctuary Management Plan.
 - ii. Consideration, development, and review of Fishery Management Plans, Essential Fish Habitat (EFH), ~~EFH-Habitat Areas of Particular Concern~~ inclusive of traditional management measures, EFH-HAPC, and Marine Reserves, related to GRNMS.
 - iii. Research and education initiatives that further the goals and missions of the SAFMC, GRNMS and NMFS/SER.

- iv. Technical assistance regarding fisheries management (including fishing techniques, presence/abundance of fish species), protected species, habitat types and conditions, and socioeconomic issues and enforcement.
7. ~~In preparing any~~ Regarding fishing regulations for the Sanctuary, GRNMS is required to follow the provisions of section 304(a)(5) of the NMSA, (16 U.S.C. 1434(a)(5)). The process described in section 304(a)(5) is summarized, in part, here:

SAFMC will have the opportunity to draft fishing regulations for GRNMS. Regulations drafted by SAFMC, or a determination by SAFMC that regulations are not necessary, will be accepted and shall be issued as the proposed regulations for GRNMS unless the Secretary of Commerce finds that SAFMC's action does not fulfill the purposes and policies of the NMSA and the objectives of the designation of GRNMS. In that event, the Secretary will draft the fishing regulations.

~~GRNMS will also consult~~ **(Because "consult" carries legal connotations, we suggest substituting the word "confer"**) with the State of Georgia regarding fishing regulations proposed by GRNMS for the Sanctuary and shall consider the views and comments of the State of Georgia before issuing final regulations, **insuring that draft final regulations are consistent with Georgia's Coastal Zone Management Program.** ~~As part of the consultation, GRNMS will request a meeting with representatives from the State of Georgia to discuss proposed fishing regulations prior to issuance of final regulations.~~

Response

Below is a minor revision to the proposed Georgia text provided by NOAA attorneys

~~GRNMS will also confer with the State of Georgia regarding any changes to fishing regulations for the sanctuary and shall consider the views and comments of the State of Georgia before issuing final fishing regulations. As part of this process, GRNMS will meet with representatives from the State of Georgia to discuss draft fishing regulations prior to issuance of final fishing regulations. GRNMS will act in accordance with applicable NOAA regulations implementing the Coastal Zone Management Act (16 U.S.C. ~~xxx~~ 1451 et seq.)~~

GRNMS will also consult with the State of Georgia regarding fishing regulations proposed by GRNMS for the Sanctuary and shall consider the views and comments of the State of Georgia before issuing final fishing regulations. As part of this process, GRNMS will meet with representatives from the State of Georgia to discuss draft fishing regulations prior to issuance of final fishing regulations. GRNMS will also coordinate with the Georgia Coastal Management Program pursuant to the Coastal Zone Management Act (CZMA) Federal consistency requirement under § 307 of the CZMA (16 U.S.C. § 1456) and implementing NOAA regulations.

VII. OTHER PROVISIONS

1. Nothing herein is intended to conflict with any requirement of any federal law nor with any federal, council, or Department of Commerce/NOAA regulation, policy, administrative order, or directive. If terms of this MOU are deemed to be inconsistent with the policies or programs of either any Party hereto, then those specific terms shall be deemed not binding on that Party.
2. The responsibilities agreed to in this MOU are contingent upon the availability of funding and other necessary resources. The signature of agency officials on this MOU does not legally obligate their respective agencies to provide personnel or funds for planning or coordination unless specifically agreed to in subsequent obligatory documents.
3. This MOU will become effective upon the signature of the approving officials of the parties and will remain in effect until terminated by written notice from any partner. Any partner to this MOU may terminate its involvement upon 90 days written notice to the other signatory agency partner(s).
4. This MOU shall be reviewed periodically by the Parties. Any revision or amendment to this MOU may be made upon approval of all of the Parties.
5. This MOU does not affect the confidentiality provisions of the Magnuson-Stevens Fishery Act (16 U.S.C. 1881a).

VIII. SIGNATORY PARTIES

The parties hereto represent that they have the legal responsibility and authority from their respective federal statutes or other constitutive documents to conduct management of specific marine areas and to enter into mutual programs with other federal agencies in order to meet these responsibilities.

Response

~~We are satisfied with signature by either the Executive Director or Council Chair and will agree to the decision of the Council on this matter.~~

_____	_____
Robert K. Mahood, Executive Director	Date
(Council Chair should be the signatory for Council)	
Fulton Love, Chairman	Date
South Atlantic Fishery Management Council	

_____	_____
Daniel J. Basta, Acting Director	Date
National Marine Sanctuary Program	
NOAA/Department of Commerce	

Joseph E. Powers, Acting Regional Administrator
National Marine Fisheries Service, Southeast Region
NOAA/Department of Commerce

Date

