

**Board of County Commissioners**

Addie L. Greene, Chairperson  
Jeff Koons, Vice Chair  
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Robert J. Kanjian  
Mary McCarty  
Burt Aaronson  
Jess R. Santamaria

**County Administrator**  
Robert Weisman



August 20, 2008

Douglas A. Kahle, Esq.  
11376 North Jog Road, Suite 101  
Palm Beach Gardens, FL 33418

Dear Mr. Kahle:

Thank you for your letter of August 12, 2008.

I understand the Parks and Recreation Department will be putting up signs advising that the removal of tropical fish is prohibited. In addition, the Park Rangers and the Palm Beach County Sheriff's Office Parks Enforcement Section will be notified.

Thank you again for bringing this matter to my attention. Needless to say, if I can be of assistance in any other way, please don't hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen T. Marcus".

Karen T. Marcus  
County Commissioner

KTM/cld

C: Eric Call, Assistant Director  
PBC Parks and Recreation Department

"An Equal Opportunity Affirmative Action Employer"

P.O. Box 1989 West Palm Beach, FL 33402-1989 (561) 355-2001 FAX: (561) 355-3990

[www.pbcgov.com](http://www.pbcgov.com)

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**County Administrator**  
Robert Weisman



August 6, 2008

Douglas A. Kahle, Esq.  
11376 North Jog Road, Suite 101  
Palm Beach Gardens, FL 33418

Dear Mr. Kahle:

I'd like to take this opportunity to follow up on my previous letter regarding your request for an ordinance prohibiting the taking of marine creatures in the waters under and surrounding the Blue Heron Boulevard Bridge.

Attached is a copy of a memo I recently received from Rich Walesky, Director of Environmental Resources Management, regarding this matter. Mr. Walesky feels that the current Parks Ordinance clearly prohibits the removal of animals from the Park. I've enclosed a copy of the current Parks Ordinance. Dennis Eshleman, Director of the County's Parks and Recreation Department is pursuing a submerged land lease with the State for this area

I hope this information is helpful and I will continue to keep you posted of our progress in this regard. In the interim, if I can be of further assistance, please don't hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Marcus", written over a horizontal line.

Karen T. Marcus  
County Commissioner

KTM/cld

Enclosures

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LAW OFFICES

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**KAHLE**

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Palm Beach Offices

11376 North Jog Road, Suite 101  
Palm Beach Gardens, FL 33418

June 9, 2008

**VIA OVERNIGHT DELIVERY**

Commissioner Karen Marcus  
Commissioner Jeff Koons  
Commissioner Robert J. Kanjian  
Commissioner Mary McCarty  
Commissioner Burt Aaronson  
Commissioner Jess R. Santamaria  
Commissioner Addie Greene  
301 N. Olive Ave., Suite 1201  
West Palm Beach, FL 33401

County Administrator Robert Weisman  
301 N. Olive Ave., Suite 1201  
West Palm Beach, FL 33401

Florida Fish and Wildlife Conservation Commission  
Marine Fisheries Division  
ATTN: Mark Robson  
2590 Executive Center Circle East, Suite 201  
Tallahassee, FL 32301

Florida Fish and Wildlife Conservation Commission  
ATTN: Chuck Collins, Regional Director  
8535 Northlake Blvd.  
West Palm Beach, FL 33412

**RE: Petition To Protect Marine Creatures**

Dear County Commissioners, County Administrator, and FWC Directors:

Attached is a Petition to protect the underwater area surrounding Phil Foster Park and the Blue Heron Bridge ("the BHB area") and a few pictures of some of the marine creatures that have made the BHB area their home – all pictures were taken at the BHB area. The underwater environment at the BHB area is being destroyed by individuals capturing and collecting these creatures for sale to aquarium stores across the state. Accordingly, we respectfully request your immediate attention and ask that you declare the BHB area a "no take" zone before it is too late and this underwater environment is irreparably

damaged.

It may come as a surprise, but there is nothing like the BHB area anywhere on this planet. The BHB area is a very unique underwater environment that is frequented by scuba divers from around the world, particularly underwater photographers. The reason the BHB area is so remarkable is because of its coincidental location relative to the Gulf Stream Current.

As you likely know, the Gulf Stream Current sits only a few miles offshore -- it is not closer to land anywhere on this planet. Because of its proximity to Palm Beach County, twice a day at high tide the warm and nutrient rich waters of the Gulf Stream Current flow right up to the shoreline and enter the inlets and waterways connecting the ocean to the bays. The BHB area, coincidentally, sits just to the north of the inlet between Palm Beach and Singer Island (known as the Lake Worth inlet). Accordingly, twice a day at high tide, the BHB area gets a dose of this nutrient rich water.

Moreover, the BHB area contains numerous submerged structures (such as the columns supporting the bridges and docks) and is the final resting place for several boats and docks that became casualties of the hurricanes. These structures have turned into underwater reefs that provide an anchoring spot for the corals and sponges that are carried in via the high tides each day. These newly created reefs, in turn, provide a safe home and food to a large variety of juvenile marine fish that are also brought to the BHB area via the high tides. In essence, the BHB area has become a nursery for numerous species.

Because the BHB area rests in the bay waters, it is also home to many of the more temperate species of marine creatures found in this area.

Accordingly, the BHB area attracts and is home to both the marine creatures dependent upon the nutrient rich waters of the Gulf Stream Current and the more temperate "local" marine creatures. The intermingling of such marine creatures is unparalleled anywhere on this planet and is the reason why this area is so frequented and well known locally and internationally amongst the scuba diving community -- especially underwater photographers.

This prized and coveted location, however, is also a curse because it is easily accessible. The collectors are also aware of the amazing creatures that reside in the BHB area. They bring their nets and buckets and take everything they can catch for sale to aquarium stores around the state. Of course, as you might guess, many of these creatures are very sensitive to changes in their environment and are dependent upon particularized diets and water conditions. Simply stated, most die within 30 days of being placed into the aquariums.

The attached petition was created and "organized" quickly due to the urgency of this matter. In only a couple of weeks, we gathered around 800 signatures from scuba divers across the state and world (Germany, Italy, Australia, Canada, and others) who visit and

vacation here regularly to dive in the BHB area -- many have provided a short testimonial regarding this incredible underwater environment.

The petition is directly supported by several of the local scuba dive operators, such as Pura Vida Divers, Narcosis Dive Charters, and Jim Abernethy's Scuba Adventures. Additionally, the petition includes the names of Ed Tichenor of Palm Beach County Reef Rescue, Stephen Frink of Key Largo (one of the most published underwater photographers in the world, see [www.stephenfrink.com](http://www.stephenfrink.com)), renowned underwater photographer David Haas (see [haasimages.com](http://haasimages.com)), and amateur and up-and-coming underwater photographers too numerous to list.

Finally, the capturing and collecting of the marine creatures from this area is arguably already prohibited. That is, pursuant to the "Palm Beach County Parks and Recreation Ordinance" (Ordinance No. 2004-022), Section 7(B):

No person shall remove, molest, harm, frighten, kill, trap, hunt, chase, shoot, or throw any object at any animal . . . .<sup>1</sup>

However, we are repeatedly informed by Park Rangers that there is nothing they can do to prevent people from capturing and removing the marine creatures because there is no law preventing such. If the Park Rangers are mistaken, we respectfully request a clarification of Section 7(B) and a formal notice to the Park Rangers that such capturing and collecting is in fact prohibited. Additionally, we seek the placement of a sign at the BHB area informing the public that such capturing and collecting is prohibited (a sign is already present at this area informing the public of various prohibited activities).

In summary, we respectfully request your immediate attention and the declaration of the BHB area as a "no take" zone before it is too late and Palm Beach County loses this underwater treasure and one of a kind area.

We request the enactment of serious and "real" penalties for those who will invariably attempt to continue to capture and collect the species in this area and ignore the "no take" zone declaration.

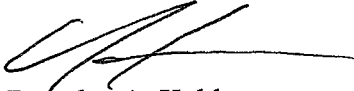
Because this area is regularly visited by strong supporters of this petition, the local diving community will voluntarily monitor this area for violators and contact the Park Rangers and local law enforcement upon the observance of a violation. Accordingly, neither Palm Beach County nor Riviera Beach will be required to expend one penny policing this area. Rather, all we request is that the Park Rangers and/or local authorities respond promptly and enforce the "no take" zone declaration. This is a small price to pay considering the numerous divers that visit and vacation in this area on a regular basis to experience the BHB area.

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<sup>1</sup> Incidentally, every dictionary and encyclopedia that I consulted defined fish and other creatures that inhabit the oceans as "aquatic animals."

Thank you for your time and consideration.

On behalf of those who signed the Petition,



Douglas A. Kahle

Note: The enclosed picture of the white seahorse is very rare – the only one I have ever seen. Most divers and photographers have never seen a white seahorse. There were two of them in early 2008 – likely a breeding pair. Unfortunately, due to their bright white color they were very easy to locate and were captured and collected shortly after arriving at the BHB area. If they would have bred and established a colony of white seahorses, divers and photographers from around the world would have visited the area to observe and photograph such a rare creature.

Note: The petition can be accessed and viewed on the home page at [divewestpalmbeach.com](http://divewestpalmbeach.com).