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Sent via U.S. Mail and Email

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U.S. Fish and Wildlife Service
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Re: Request for Enforcement of the Migratory Bird Treaty Act for Take Caused by Management, Operation, and Regulation of Sunshine Skyway Fishing Pier State Park

Dear Assistant Director Ford,

On behalf of Center for Biological Diversity, Friends of the Pelicans, Friends of the Tampa Bay National Wildlife Refuges, Conservancy of Southwest Florida, Humane Society of the United States, and American Bird Conservancy, we submit this letter requesting that the U.S. Fish and Wildlife Service (Service) enforce the Migratory Bird Treaty Act (MBTA) as it pertains to the oversight, operation, and regulation of the Sunshine Skyway Fishing Pier State Park (Skyway Fishing Pier) by the Florida Department of Environmental Protection (FDEP), Florida Fish and Wildlife Conservation Commission (FWC), Florida Department of Transportation (FDOT), and Pier Associates, Inc. (Pier Associates). The operation and management of the Skyway Fishing Pier has caused the take of hundreds of migratory birds annually for years and continues to do so. To date, neither FDEP, FWC, FDOT, nor Pier Associates has individually or collectively taken adequate steps to avoid, minimize, and mitigate the overwhelming amount of take caused by the operation of the Skyway Fishing Pier. Without the Service's enforcement of the MBTA, we are gravely concerned that the continued operation of the Skyway Fishing Pier will continue to contribute to the catastrophic decline of coastal bird populations in Tampa Bay.

Last year FWS acknowledged that “[o]ver the last 50 years, the total population of North American birds has declined by an estimated 3 billion birds,” and “[m]any of the 1,093 species of birds protected under the MBTA [] are experiencing population declines due to increased threats across the landscape.”¹ This alarming trend emphasizes the need to prevent the needless harm and death of migratory birds across the country, and we urge you to intervene and protect coastal migratory birds in Tampa Bay.

¹ Migratory Bird Permits; Authorizing the Incidental Take of Migratory Birds, 86 Fed. Reg. 54,667, 54,668 (Oct. 4, 2021).

I. Interested Parties

The Center for Biological Diversity (Center) is a national, nonprofit organization dedicated to protecting wildlife and wild places through science, law, and creative media. The Center has worked for decades to protect migratory birds by seeking protections for individual species under federal and state laws and taking legal action to ensure migratory birds remain protected from incidental take under the Migratory Bird Treaty Act. The Center's Florida office works to prevent the extinction of some of the most imperiled bird species living in the state.

Friends of the Pelicans is a nonprofit organization whose mission is to protect the right of all birds—pelicans in particular—to live out their lives free from harm caused by human interference, including fishing line entanglement. To that end, Friends of the Pelicans has full-time staff and volunteers dedicated to rescuing birds that have become entangled or hooked in fishing gear on the Skyway Fishing Pier and in nearby rookeries. During this work, the organization monitors and documents observed bird entanglements and mortalities. Friends of the Pelicans also works to educate the public and anglers about how to prevent fishing line entanglement and what to do if a bird is accidentally hooked or otherwise entangled.

Friends of the Tampa Bay National Wildlife Refuges' mission is to promote conservation, awareness, and appreciation of the Tampa Bay National Wildlife Refuges, and to assist the U.S. Fish and Wildlife Service with its mission for the Refuges. The Friends accomplish this through outreach, education, advocacy, and volunteering to protect the nesting and resting wading birds, seabirds, and other wildlife on the refuges as well as protecting the habitat they need to thrive.

The Conservancy of Southwest Florida's (The Conservancy) mission is to protect Southwest Florida's unique natural environment and quality of life now and forever. The Conservancy envisions a region where land, water and wildlife are protected, citizens are informed, and leaders make decisions with the health, wellness, and sustainability of our region in mind. The Conservancy seeks to increase knowledge of the natural world through continued scientific research and to increase its impact through collaboration with its partners. The Conservancy works to protect a high quality of life for both current residents of Florida and for the generations to come. Conservancy's von Arx Wildlife Hospital has been involved in the protection and rehabilitation of native wildlife species for decades. Much of the protection and injury prevention efforts are focused in Collier County, Florida, including coastal birds at the Naples Pier.

The Humane Society of the United States (HSUS) fights to end suffering for all animals. Together with millions of supporters, HSUS works through rescue, response, sanctuary, and law and policy work to help thousands of animals every year. HSUS fights all forms of animal cruelty to achieve the vision behind its name: a humane society. In Florida, this includes fighting wildlife cruelty and advocating to protect migratory birds at the Skyway Fishing Pier State Park from needless suffering and death.

American Bird Conservancy (ABC) is a nonprofit organization dedicated to conserving native birds and their habitats throughout the Americas by safeguarding the rarest bird species, conserving and restoring habitats, and reducing human-caused threats to birds, including habitat destruction, collisions with buildings and wind turbines, and hazardous pesticides and lead. ABC has worked for nearly thirty years to protect threatened birds from population decline.

II. Factual Background

a. Skyway Fishing Pier State Park

Skyway Fishing Pier State Park (“Skyway Fishing Pier” or “the pier”) is a “massive fishing pier spanning Tampa Bay”² and is located about 5 miles south of St. Petersburg in Pinellas, Hillsborough, and Manatee counties.³ Formerly a highway bridge crossing the mouth of Tampa Bay,⁴ FDEP advertises the Skyway Fishing Pier as “the World’s longest fishing pier.”⁵

The Skyway Fishing Pier is comprised of two separate piers at the north and south sides of Tampa Bay. The north pier spans 0.6 miles, and the south pier spans 1.6 miles.⁶ Together, the north and south piers provide more than four miles of total fishing platform.⁷ The piers are approximately 15 feet above the mean low water level.⁸

The Skyway Fishing Pier is open 24 hours a day, 365 days a year. It is primarily used for fishing, with more than 70 nearby artificial reefs attracting fish to the area.⁹ After paying an entrance and fishing fee, visitors can drive directly onto the pier and park at their fishing spot.¹⁰ Anglers using the pier often target large fish species like tarpon, grouper, and sharks.¹¹ The Skyway Fishing Pier is heavily trafficked, particularly on weekends. For example, 212,306 people used the pier over the course of 2013 alone.¹²

FDOT currently holds fee simple title to the Skyway Fishing Pier.¹³ In 1994, FDEP entered into a Lease and Maintenance Agreement with FDOT to operate a fishing pier and park facility.¹⁴ In

² *Skyway Fishing Pier State Park*, Fla. Dep’t of Env’tl. Prot., <https://www.floridastateparks.org/parks-and-trails/skyway-fishing-pier-state-park> (last visited Dec. 6, 2022) [hereinafter *Skyway Fishing Pier State Park*].

³ Fla. Dep’t of Environmental Protection, *Skyway Fishing Piers State Park Unit Management Plan 7* (Sept. 27, 2002), available at [hereinafter *Skyway Management Plan*].

⁴ The current Skyway Fishing Pier State Park was formerly the Sunshine Skyway Bridge, connecting St. Petersburg to Sarasota from 1954 to 1980. On May 9, 1980, the freighter *Summit Venture* collided with the bridge, causing 1,200 feet of bridge to collapse into Tampa Bay. A new Sunshine Skyway Bridge was constructed in 1987, and the remains of the old bridge were renovated and became the Sunshine Skyway Fishing Pier State Park in 1994. *Skyway Fishing Pier State Park, History*, Fla. Dep’t of Env’tl. Prot., <https://www.floridastateparks.org/parks-and-trails/skyway-fishing-pier-state-park/history> (last visited Dec. 6, 2022).

⁵ *Skyway Fishing Pier State Park*, *supra*.

⁶ *Skyway Management Plan* at 7.

⁷ Fla. Dep’t of Environmental Protection, *Skyway Fishing Pier State Park brochure*, available at <https://www.floridastateparks.org/sites/default/files/media/file/sky-brochure.pdf> [hereinafter *Skyway Pier Brochure*].

⁸ *Skyway Management Plan* at 5.

⁹ *Id.* at 3, 5, 12, A1-1.

¹⁰ To use the pier, there is a \$4 fee per vehicle, plus an additional \$4 fishing fee per person. Admission is \$2 per child ages 6-12, and free for children age 5 and younger. Annual passes are also available at a discount. *Skyway Fishing Pier State Park, Hours & Fees*, Fla. Dep’t of Env’tl. Prot., <https://www.floridastateparks.org/parks-and-trails/skyway-fishing-pier-state-park/hours-fees> (last visited Nov. 17, 2022).

¹¹ *Skyway Management Plan* at 8, 12.

¹² Terry Tomalin, *Skyway Fishing Pier gains top 10 rating*, *Tampa Bay Times* (May 29, 2014), <https://www.tampabay.com/sports/outdoors/skyway-fishing-pier-gains-top-10-rating/2182037/#:~:text=The%20center%20spans%20of%20the,lon%20and%20opened%20in%201996>.

¹³ Fla. Dep’t of Environmental Protection, *Audit of Pier Associates Inc. Concession at Skyway Fishing Pier State Park* (Jun. 16, 2016).

¹⁴ *Id.*

that same year, FDOT agreed to renovate the former Sunshine Skyway Bridge so that FDEP could operate it as a pier and park facility.¹⁵ According to the lease agreement between FDEP and FDOT, FDOT is responsible for maintaining the structure of the Skyway Fishing Pier, including the deck, beams, substructure, and the roadway approaches.¹⁶ Per the agreement, FDOT has continued to maintain the Skyway Fishing Pier.¹⁷

FDOT currently leases the property to FDEP's Division of Recreation and Parks.¹⁸ FDEP is the "primary operational manager" of the Skyway Fishing Pier.¹⁹ According to the lease agreement between FDEP and FDOT, FDEP must "manage the property only for a recreational site for activities compatible with FDEP's primary use of the premises as a fishing pier and park facility."²⁰ FDEP manages the Skyway Fishing Pier within its state park system; however, unlike other parks, FDEP entered a concession agreement with a private company, Pier Associates, Inc., to undertake the pier's day-to-day operations.²¹

In 1995, FDEP granted Pier Associates, Inc. ("Pier Associates"), an exclusive privilege to operate recreation and concession facilities and provide goods and services at the Skyway Fishing Pier, subject to FDEP oversight.²² Each end of the pier has a bait shop where visitors can rent equipment and purchase bait, tackle, and other fishing supplies.²³ Per the concession agreement, Pier Associates must keep minimum office operating hours of 8:00 a.m. to 5:00 p.m. 365 days per year, and one staff member is expected to be available for 24 hours at each pier.²⁴ Prior to operation, Pier Associates was required to provide a draft environmental protection plan, including natural resource impact minimization, for review and approval by FDEP.²⁵

Pier Associates' Environmental Protection Plan is less than two pages long and consists of six bullet points (See Appendix C). The Plan mentions birds briefly in the second bullet point, which states that anglers should be educated "on what to do in case a bird gets hooked, and how to

¹⁵ See generally Fla. Dep't of Trans., Lease and Maintenance Agreement between the State of Florida Department of Transportation and the Department of Environmental Protection (Dec. 20, 1994).

¹⁶ *Id.*; see Third Amendment to Lease and Maintenance Agreement Between State of Florida Department of Transportation and State of Florida Department of Environmental Protection Regarding Sunshine Skyway Fishing Piers (May 28, 2014).

¹⁷ See, e.g., Skyway Fishing Piers Maintenance, Fla. Dep't of Transportation, (Oct. 5, 2021) (describing "routine maintenance to the Skyway Fishing Piers in Pinellas and Manatee counties," carried out by FDOT between 2020-2021).

¹⁸ Skyway Management Plan at 1, A1-1.

¹⁹ Concession Agreement, DEP Agreement No. CA-0714 at 208 (Delegation of Authority Actions).

²⁰ *Id.* at 1, A1-1. If FDEP uses the Skyway Fishing Pier for any other purpose, FDOT has the right to immediately terminate the lease. *Id.* Fla. Dep't of Trans., Lease and Maintenance Agreement between the State of Florida Department of Transportation and the Department of Environmental Protection (Dec. 20, 1994) at 1-2.

²¹ Skyway Management Plan at A 1-1.

²² *Id.* at 1; see generally *Concession Agreement*, FDEP Agreement No. CA-0714. For example, the agreement authorizes Pier Associates to sell merchandise but states that it "shall not sell or rent any types of merchandise or equipment prohibited by the Department and shall sell or rent only the types of merchandise or equipment approved by the Department." *Id.* at 8.

²³ *Skyway Fishing Pier State Park, Fishing the Skyway Pier*, Fla. Dep't of Environmental Protection, <https://www.floridastateparks.org/learn/fishing-skyway-pier> (last visited Mar. 29, 2022).

²⁴ Concession Agreement, FDEP Agreement No. CA-0714 at 20.

²⁵ *Id.* at 22-23.

properly remove a hook from an accidentally hooked bird.”²⁶ The plan goes on to state that “Pier Associates will continue to work with Audubon Society and hold workshops on instructing our guests on bird handling,” and will have a “full time ‘bird man’ to assist guests in any bird handling situations.”²⁷

Pier Associates’ plan also states that it has “set a standard” that it expects “all piers and marinas to follow in regard to bird safety,” which includes not feeding birds, safely de-hooking birds, and encouraging proper sportsmanlike behavior.²⁸ The plan concludes by stating that Pier Associates operates “with the desire for environmentally correct business practices with regard to all conservation issues related to wildlife, sea-life . . . and the future health of Tampa Bay and the great state of Florida.”²⁹ Unfortunately, this environmental standard is not being met in view of the massive take of migratory coastal birds at the Skyway Fishing Pier, as described at length in Part VI of this letter.

b. Fishing Rules at the Skyway Fishing Pier

Once admission has been paid to fish on the pier, individual fishing licenses are not needed and are instead covered under the fishing fee, which is good for 24 hours from purchase.³⁰ The Skyway Fishing Pier holds an annual Saltwater Fishing Pier License through the FWC, which is a license that is issued to the owner, operator, or custodian of a pier and covers everyone who is saltwater fishing from that pier.³¹ The annual license fee is \$501.50, is valid for one year from the start date, and is available at the county tax collector’s office.³²

While the Skyway Fishing Pier does have rules regarding fishing activities and interactions with birds, there is no clear, comprehensive place to find those rules. FDEP’s website for the Skyway Fishing Pier does not provide specific information regarding fishing rules on the pier.³³ It states only that, “[a]ll fishing within the park must conform to regulations concerning size, number, method of capture and season” and “a fishing license may be required.”³⁴ Similarly, a park brochure generally advises: “[c]astnetting in designated areas only,” “[d]ispose of fishing line properly,” and “[d]o not feed the birds.”³⁵

Upon entry to the Skyway Fishing Pier, visitors receive an entrance pass, which includes a list of prohibited activities on the pier (See Figure 1, below). The pass states that “feedings birds [is] prohibited” but does not otherwise specify how anglers should interact with migratory birds on

²⁶ Appendix C.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Skyway Fishing Pier State Park, *supra*.

³¹ *Recreational Vessel and Saltwater Fishing Pier Licenses*, Fla. Fish and Wildlife Conservation Commission, <https://myfwc.com/license/recreational/saltwater-fishing/vessel-pier-licenses/> (last visited Nov. 7, 2022).

³² *Id.*

³³ Skyway Fishing Pier State Park, *supra*.

³⁴ *Skyway Fishing Pier State Park, Experiences & Amenities*, Fla. Dep’t of Env’t. Prot., <https://www.floridastateparks.org/parks-and-trails/skyway-fishing-pier-state-park/experiences-amenities-0> (last visited Mar. 29, 2022).

³⁵ Skyway Pier Brochure, *supra*.

the pier. While the pass requires that visitors “[o]bey all state fishing regulations,” it does not specify what those are.

On the north and south piers, there are sporadic signs that inform anglers of the limit of three fishing lines per person (See Figure 2, below). There is also an informational sign about how to extract hooks from pelicans on the side of the bait shop on the north pier.



Figure 1: Entrance pass with list of Skyway Fishing Pier rules (Credit: Elise Bennett)



Figure 2: Signs on bathroom on the north pier. The top sign says “hooked bird?” and provides a phone number to call for rescue assistance. The bottom sign states that only 3 fishing lines can be used per person. (Credit: Elise Bennett)

There are no other easily observable rules posted at the Skyway Fishing Pier. Although the FDEP website advises visitors to “[s]top by the bait shop to pick up your free copy of the latest fishing regulations,”³⁶ upon inquiry regarding fishing rules on the Skyway Fishing Pier, an attendant at the bait shop suggested going on FWC’s website.

³⁶ Skyway Fishing Pier State Park, *supra*.

III. Hooking and Entanglement of Migratory Birds at the Skyway Fishing Pier

As early as 2002, FDEP recognized that birds regularly feed or rest on the Skyway Fishing Pier and “frequently become entangled in fishing line and require medical attention or die from the injuries.”³⁷ This is still the case today. Coastal birds, particularly brown pelicans, are attracted to bait used by anglers at the pier, which increases angler-bird interactions, including hookings and entanglements.

Indeed, it appears that brown pelicans and other seabirds are hooked and entangled by recreational anglers at the Skyway Fishing Pier at a rate higher than any other pier in the state, resulting in “[s]evere or chronic injury or death.”³⁸ FWC affirmed this observation in a presentation on November 21, 2022, stating that “seabird entanglements [are] significantly more frequent [at Skyway Fishing Pier] than at other sites;” significantly greater, meaning “five to ten times greater” than other piers.³⁹ From 2011 to 2021, members of Friends of the Pelicans have rescued a total of 2,313 birds from the Skyway Fishing Pier. This year alone, from January 1 to November 30, members of Friends of the Pelicans have rescued 1,185 birds from the Skyway Fishing Pier (See Appendix D for table).

The seasonal increase of people and birds on the Skyway Fishing Pier in the fall and winter seasons results in even more drastic take.⁴⁰ For example, in January of 2021, Friends of the Pelicans rescued 383 birds from hooks and entanglements in the park (See Appendix D). In one week in February 2022, volunteers with Friends of the Pelicans rescued 41 birds, watched 2 entangled birds drift away on the current before they could be rescued, and observed 12 birds already dead on the rocks under the nearby Skyway bridge (See Appendix A for additional images of hooked and entangled birds).⁴¹ Notably, although the Skyway Fishing Pier is open 24 hours, 7 days a week, 365 days a year, Friends of the Pelicans’ volunteers and staff do not work on the pier every day and are unable to rescue and/or document every time a bird is hooked, entangled, injured, and/or killed at the pier. Many deaths also go unobserved because of the swift decay of bird remains. Therefore, these numbers do not capture the full scope of the problem at the Skyway Fishing Pier.

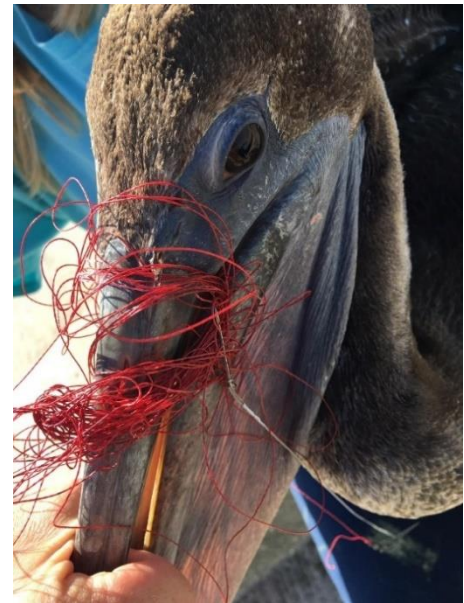


Figure 3: Entangled brown pelican, Mar. 2022 (Credit: Friends of the Pelicans)

³⁷ Skyway Management Plan at 6, 7.

³⁸ *Workshop on Potential Fishing Rules for Skyway Fishing Pier State Park to Reduce Angler-Seabird Interactions*, Fla. Fish and Wildlife Conservation (Nov.21, 2022) [hereinafter FWC Workshop].

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ J. Edwards, pers. comm. (2022).

A. Conditions Contributing to and Intensifying Harm to Migratory Birds at the Pier

Lack of resources to aid anglers during entanglements

There is a significant lack of resources present at the Skyway Fishing Pier to respond to entanglements. While FDEP did have Pier Associates hire a staff member in February 2021 to monitor pelican entanglements and respond quickly, this individual is no longer employed in this role.⁴² To our knowledge, neither FDEP nor Pier Associates has hired any additional rescuers as of the date of this letter, and there are currently no rescuers or FDEP rangers present on the pier. The lack of dedicated staff to address coastal bird entanglements has rendered the limited signage (*see* Figure 2) and camera surveillance on the pier ineffective. Anglers on the Skyway Fishing Pier have recently reported that when they call the posted number for the pelican rescuer, the phone rings incessantly and no one answers.⁴³ When no one comes to assist, they often opt to cut the line.⁴⁴

Multiple poles and line cutting

While the pier prohibits more than 3 poles per angler, many anglers find ways to work around the limit by bringing their children or friends and setting up multiple poles for them. Many of the anglers at the Skyway Fishing Pier cast multiple lines up to 150 feet from the pier, creating a maze of fishing line for seabirds to navigate.⁴⁵

If a bird becomes hooked, the length and height of the pier make it difficult for anglers to rescue and release birds, often leading them to cut the line as the bird flies or floats away with hooks and lines tethered to their bodies (See Appendix E, Friends of the Pelicans' Summary of Skyway Fishing Pier recreational fishing impacts to the brown pelican). The standard pelican rescue practice of "reel, remove, release" does not work at Skyway Fishing Pier, as, without a cast net or drop net and the skills to use them, anglers are unable to reach the entangled birds and instead cut them loose; a sure death sentence for these birds. Birds are also frequently run over by vehicles and are intentionally harmed by being cut or "rough-reeled" up to the pier surface by frustrated anglers.



Figure 4: Entangled brown pelican at Skyway Fishing Pier, Mar. 2022 (Credit: Friends of the Pelicans)

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

Use of Gear with Multiple Hooks

FDEP has acknowledged that “[f]requently, visitors are fishing for large fish species or sharks and use big treble hooks.”⁴⁶ Multi-hooks, such as treble hooks and sabiki rigs, are two or more fishhooks bound together to comprise a single unit, or any hook with a single shank and eye and two or more pointed ends.⁴⁷ Treble hooks have three hooks that point in different directions, which help to hook fish striking from any direction.⁴⁸ Sabiki rigs are most commonly used for catching bait such as crankbait, jerkbait, and topwater baits.

In addition to the life-threatening injuries that treble hooks cause when they become hooked to birds, they also pose danger to vulnerable fish species. This has led to treble hook bans in multiple states when fishing with live bait, and restrictions when fishing on trout streams.⁴⁹ In Florida, treble hooks are illegal to use on regulated and catch-and-release saltwater fish species when used in conjunction with live or dead natural bait.⁵⁰ For that reason, many anglers opt to not use treble hooks since they cannot be sure of what fish species will bite.



*Figure 5: Dead brown pelican at Skyway Fishing Pier, Mar. 2022
(Credit: Friends of the Pelicans)*

Regardless of the high risk, the use of multi-hook gear is currently allowed at the Skyway Fishing Pier. When they become hooked to seabirds such as the brown pelicans pictured in Figures 6 and 7 (below), it can be difficult to remove the hooks without causing further injury.

⁴⁶ Skyway Management Plan at 8.

⁴⁷ Fla. Admin. Code r. 68B-4.002 (2022).

⁴⁸ Treble Hook Guide, *Hooked in Fishing*, <https://hookedinfishing.com/fishing-hooks/treble-hooks/> (last visited Dec. 6, 2022).

⁴⁹ *Id.*

⁵⁰ Treble hooks can still be used when they are attached to an artificial lure, because fish are unlikely to swallow an artificial lure and suffer from a gut hook. Jennifer Paul, *Is a Treble Hook Illegal in Florida?*, *Tight Lines and High Tides* (Aug. 1, 2022), <https://tightlinesandhightides.com/is-a-treble-hook-illegal-in-florida/>. See also Fla. Admin. Code 68B-32.006 (2013).



Figure 6 and 7: Treble hook (left) and multi-hook (right) in wings of brown pelicans rescued on the Skyway Fishing Pier, Mar. 2022 (Credit: Friends of the Pelicans)



Figure 8: Many pelicans are observed at the Skyway Fishing Pier with torn and bloody pouches from being hooked by multi-hook gear. May 2022 (Credit: Friends of the Pelicans)

Rock Piles Under the Skyway Bridge

The rock piles located under the Skyway Bridge have been termed the “rocks of death” by pelican rescuers. These rocks exacerbate harm when the entangled or hooked seabirds land on the rocks, fall in between the boulders, and either drown or are unable to resurface and eventually starve to death.⁵¹ Representatives of Friends of the Pelicans have advocated for smaller rocks to be added to the piles to prevent pelicans from falling between the rocks, to no avail.



Figure 9: Dead pelican trapped in the rock piles, May 2022 (Credit: Friends of the Pelicans)



Figure 10: Royal Tern tied to rocks with fishing line, Jan. 2022 (Credit: Friends of the Pelicans)

⁵¹ J. Edwards, pers. comm. (2022).

IV. Threat to Nearby Rookeries and the Tampa Bay National Wildlife Refuge’s Trust Resources

A. Tampa Bay National Wildlife Refuges’ Trust Resources

The Tampa Bay Refuges, comprised of Egmont Key, Passage Key, and the Pinellas National Wildlife Refuges, are located in Tampa Bay, in close proximity to the Skyway Fishing Pier.⁵² The Tampa Bay Refuges are managed as part of the Crystal River National Wildlife Refuge Complex, and are a part of the National Wildlife Refuge System overseen by the U.S. Fish and Wildlife Service in order to protect the nation’s fish and wildlife and their habitat.⁵³

As shown on the map in Figure 11, the North Pier is approximately 1.78 miles from Pinellas National Wildlife Refuge, and 6.09 miles from the Egmont Key National Wildlife Refuge. The South Pier is approximately 6.42 miles from Passage Key National Wildlife Refuge.

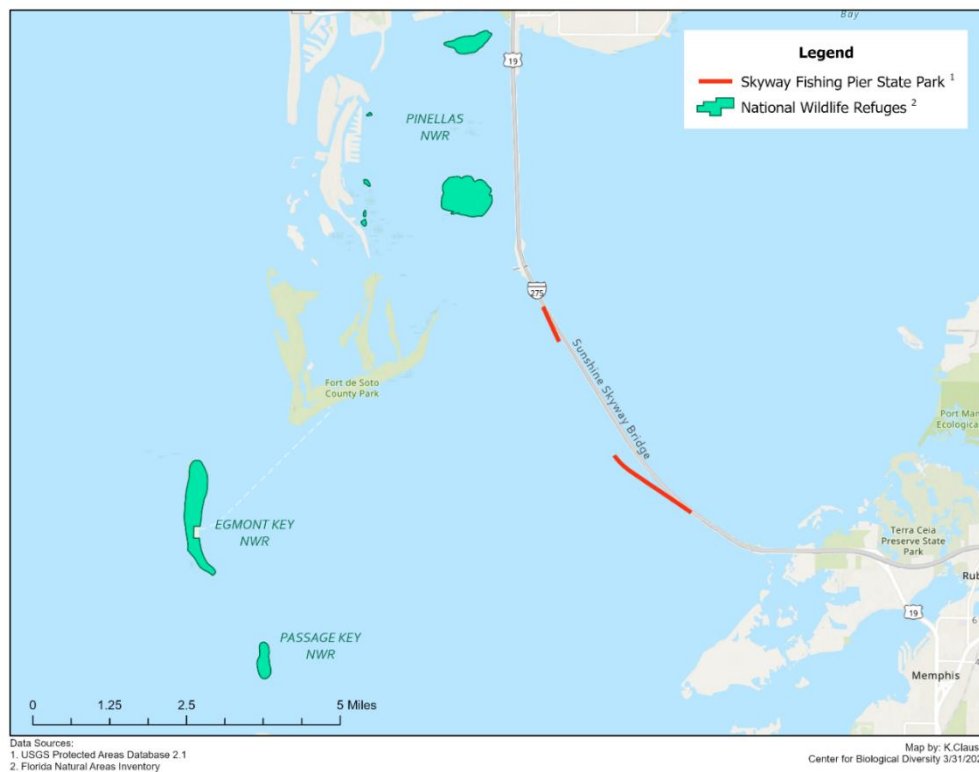


Figure 11: The north and south piers are highlighted in red, with the National Wildlife Refuges marked in green. (Map Credit: Kara Clauser, Center for Biological Diversity)

The Tampa Bay Refuges exist to provide vital habitat for colonies of birds and other wildlife threatened by human disturbance and predation.⁵⁴ While these refuges serve as a safe haven for many seabird species, many birds who are entangled or hooked at the Skyway Fishing Pier return to these refuges and later die of their injuries.

⁵² U.S. Fish and Wildlife Service. Tampa Bay National Wildlife Refuge. Visited Nov. 6, 2022. .

⁵³ *Id.*

⁵⁴ *Id.*

B. Rookies Near the Skyway Fishing Pier

The southern portion of the Skyway Fishing Pier is particularly close to rookeries in Miguel Bay in Manatee County, where coastal birds are frequently found dead or injured because of fishing gear. For example, in November 2017, Jeanette Edwards, founder of Friends of the Pelicans, Inc., documented 24 dead pelicans in a small rookery in Miguel Bay, all in various stages of decomposition and hanging in the mangroves. She was able to rescue 4 pelicans during that trip. On another trip to the Miguel Rookery in 2018, Ms. Edwards witnessed dozens of adult egret and cormorants hanging dead near their rests, some with their young still in the nest. More recently in June 2022, volunteers patrolling the mangroves of Miguel Bay rookery spotted a brown pelican with line coming out of its mouth. They removed as much of the line as possible before realizing that the bird had swallowed the hook and would need further medical assistance at the Peace River Wildlife Center; a near hour's drive from the Skyway Fishing Pier.

These rookery islands should be refuges. Instead, they are graveyards for seabirds that have been entangled or hooked anglers at nearby fishing locations like the Skyway Fishing Pier.



Figure 12: Dead, entangled brown pelican hanging in mangroves, Oct. 2018 (Credit: Friends of the Pelicans)



Figure 13: FWC acknowledged the close proximity of rookeries to the Skyway Fishing Pier in a November 2022 presentation. Some known pelican nesting sites are designated by a star on the map (Credit: FWC)

V. Legal Background

The Migratory Bird Treaty Act of 1918, as amended, 16 U.S.C. § 703 *et seq.* (MBTA), is intended to ensure the sustainability of all protected migratory bird species. It implements Conventions between the United States and four neighboring countries (Canada, Mexico, Japan, and Russia) for the protection of migratory birds.⁵⁵

To that end, the MBTA prohibits the take of protected migratory bird species without prior authorization from the Service.⁵⁶ Specifically, the MBTA provides that, “[u]nless and except as permitted by regulations . . . it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture or kill” migratory birds.⁵⁷ The Service defines “take” as “to pursue, hunt, shoot, wound, kill, trap, capture, or collect” a migratory bird, or to attempt to engage in any of those activities.⁵⁸ This prohibition extends to “incidental” take of migratory birds: activities and hazards that foreseeably lead to the deaths of migratory birds, regardless of whether the activities target birds or are intended to take or kill them.⁵⁹ The Service has regularly investigated causes of incidental takes and kills, such as oil pits, power-lines, contaminated waste pools, oil spills, commercial fishing lines and nets, and wind turbines.⁶⁰

The Service has used a range of strategies to ensure compliance with the MBTA’s prohibition on “incidental take,” including the use of notices, guidance, informally negotiated remediation, issuance of permits, and—when attempts to achieve voluntary compliance have failed—enforcement actions.⁶¹

Violations of the MBTA are sorted into two categories: criminal penalties and forfeitures. Any person, association, partnership, or corporation who violates the MBTA or its implementing regulations commits a misdemeanor punishable by a fine of up to \$15,000 and imprisonment for

⁵⁵ See Convention Between the United States and Great Britain for the Protection of Migratory Birds, Aug. 16, 1916, 39 Stat. 1702 (Canada Convention); Convention for the Protection of Migratory Birds and Game Mammals, Feb. 7, 1936, 50 Stat. 1311 (Mexico Convention); Convention for the Protection of Migratory Birds and Birds in Danger of Extinction, and Their Environment, Mar. 4, 1972, 25 U.S.T. 3329, T.I.A.S. No. 7990 (Japan Convention); Convention Concerning the Conservation of Migratory Birds and Their Environment, Oct. 13, 1978, 29 U.S.T. 4647, T.I.A.S. No. 9073 (Russia Convention); *see also* 50 C.F.R. § 10.13(a).

⁵⁶ There is, at present, no system for authorizing incidental take under the MBTA by permit; however, the U.S. Fish and Wildlife Service has indicated its intent to establish such a system. Migratory Bird Permits; Authorizing the Incidental Take of Migratory Birds, 86 Fed. Reg. 54,667 (Oct. 4, 2021).

⁵⁷ 16 U.S.C. § 703(a).

⁵⁸ 50 C.F.R. § 10.12.

⁵⁹ *NRDC v. U.S. Dep’t of the Interior*, 478 F. Supp. 3d 469, 473 (S.D.N.Y. 2020). From the early 1970s until 2017, the Department of the interior has interpreted the MBTA to prohibit incidental takes and kills. *Id.* For a brief period beginning in 2017, under the Trump administration, the Service stopped enforcing incidental taking under the MBTA based on a novel interpretation that the MBTA’s take prohibition only applies to actions specifically directed at birds; that interpretation was rejected in federal district court and the Biden Administration declined to appeal. *Id.*; Memorandum from Daniel Jorjani, Principal Deputy Solicitor, U.S. Dep’t of Interior, to Sec’y., *The Migratory Bird Treaty Act Does Not Prohibit Incidental Take* (Dec. 22, 2017). Subsequently, the Biden administration repealed the rule. Migratory Bird Permits; Authorizing the Incidental Take of Migratory Birds, 84 Fed. Reg. 54667 (Oct. 4, 2021); *see Incidental Take of Migratory Birds Once Again a Federal Crime; FWS Considering New Permitting Program*, Beveridge & Diamond (Oct. 6, 2021), <https://www.bdlaw.com/publications/incidental-take-of-migratory-birds-once-again-a-federal-crime-fws-considering-new-permitting-program/>.

⁶⁰ *NRDC*, 478 F. Supp. 3d at 473.

⁶¹ *Id.* at 473–74.

up to six months.⁶² It is a felony to “knowingly” take a bird with the intent to sell or to sell a bird with a penalty of a maximum fine up to \$2,000 or imprisonment up to one year, or both.⁶³ Criminal liability can be imposed on persons who violate MBTA under §707(a) of the Act.

The Service maintains a list of protected migratory birds,⁶⁴ which includes pelicans, gulls, egrets, herons, and many other coastal birds found in and around the Tampa Bay Estuary (See Appendix B for a list of migratory birds found in the Tampa Bay Estuary).

VI. Request to Enforce the Migratory Bird Treaty Act

Activities authorized at the Skyway Fishing Pier are causing repeated and continuous unauthorized take of protected migratory birds on a massive scale, in patent violation of the MBTA. As of the date of this letter, FDOT, FDEP, FWC, and Pier Associates, as owners, operators, and/or regulators of the Skyway Fishing Pier, have failed to effectively or adequately avoid, minimize, and mitigate take of coastal migratory birds on the north and south piers.⁶⁵ While FWC proposed new fishing rules on the Skyway Fishing Pier during a November 2022 virtual workshop, the current proposal will not adequately address the ongoing take of migratory birds occurring at the Skyway Fishing Pier. Furthermore, it is uncertain whether the proposal will be finalized and effectively implemented.⁶⁶ These inadequate actions and proposed actions are outlined below.

Actions by FDOT:

FDOT has inadequately addressed the massive take occurring at the Skyway Fishing Pier. FDOT has indicated that it “intends to explore grant options to fund the removal of the decommissioned bridge” and is “considering the possibility of redistributing some entry fee from [the] improvement fund to Pier Associates.”⁶⁷ We are aware of nothing to indicate that either of these initiatives have taken place.

Actions by FDEP:

FDEP has likewise failed to take reasonable steps to prevent, minimize, and/or mitigate migratory bird take at the Skyway Fishing Pier. FDEP states that it has increased oversight and site visits from park managers and staff, amended the park’s operating procedure to limit the number of fishing rods to three per angler, installed cameras on parking buildings and additional lighting to the end of the south pier, and replaced and updated signage on the pier.⁶⁸ While attempts to implement these actions are a step in the right direction, these initiatives alone do not

⁶² 16 U.S.C. § 707(a). “Person” as used in the MBTA has been broadly defined to include governmental entities. *See Humane Soc’y of the U.S. v. Glickman*, 217 F.3d 882, 886 (D.C. Cir. 2000).

⁶³ 16 U.S.C. § 707(b)-(c).

⁶⁴ 50 C.F.R. § 10.13(c).

⁶⁵ Email from R. Schneider, SW Regional Species Conservation Biologist, FWC, to Charlie Hunsicker, Director, Manatee Cty. Nat. Res. Dep’t, *Skyway Bridge Fishing Pier State Park* (Apr. 9, 2021).

⁶⁶ Fla. Fish and Wildlife Conservation, Workshop on Potential Fishing Rules for Skyway Fishing Pier State Park to Reduce Angler-Seabird Interactions (Nov. 21, 2022) [hereinafter FWC Workshop].

⁶⁷ Email from R. Schneider, SW Regional Species Conservation Biologist, FWC, to Charlie Hunsicker regarding Skyway Bridge Fishing Pier State Park (Apr. 9, 2021).

⁶⁸ *Id.*

do nearly enough to address the large-scale take at the pier. Furthermore, a lack of continued monitoring and follow-through has rendered these actions ineffective, with no significant decrease in the number of protected migratory birds taken at the Skyway Fishing Pier.

While FDEP instructed Pier Associates to hire a staff member in February 2021 to monitor and respond to pelican entanglements, this individual is no longer employed in this role. To our knowledge, neither FDEP nor Pier Associates has hired any additional rescuers as of the date of this letter, and there are currently no rescuers present on the pier. The numerous rescues Friends of the Pelicans completed, independent of the full-time rescuer who was temporarily employed by Pier Associates, demonstrates that one rescuer is not sufficient to respond to the prolific entanglement and hooking incidents on the pier.

Unfortunately, the fishing rod limit is not actively enforced on the pier, and attempts to limit the number of fishing poles to three per angler have been circumvented by the anglers, perpetuating the issue of pelicans and other seabirds flying into angler's lines and pulling poles into the water. Additionally, the limited signage on the pier is not effective, as anglers have reported that the phone number provided for seabird rescue assistance does not work.⁶⁹ Although anglers have been educated to not cut the line when a bird becomes entangled in it, they are often unable to get the entangled bird up to the pier surface without assistance from a rescuer.⁷⁰ Some anglers report that they have waited over an hour for assistance before cutting the line in defeat.⁷¹ Members of Friends of the Pelicans witnessed an angler explain that they had "hung" at least 10 birds because they had no way to reel in the birds, and no assistance was provided to them.⁷² Friends of the Pelicans reports being on the piers 5 days per week including Saturdays and Sundays, and its members rarely see the park manager or other staff.⁷³ They report that the park ranger for the Skyway Fishing Pier is not present full-time and does not rescue birds.⁷⁴

Accordingly, there are simply no regulations, resources, or necessary enforcement in place to ensure that anglers are provided emergency seabird rescue assistance when needed.

Actions by Pier Associates, Inc.:

Pier Associates' efforts to address the take of migratory birds on the Skyway Fishing Pier have been minimal, ineffective, and not in alliance with its own Environmental Protection Plan (See Appendix C). Pier Associates hired one paid staff member to monitor pelican entanglements and respond to angler calls, stopped the sale of sabiki rigs at the bait shop to mitigate/reduce changes of entanglement, and intends to improve oversight on the 5-mph speed limit on the piers. Unfortunately, multiple anglers have reported that the staff member responsible for rescuing pelicans is often not present or responsive to phone calls, many anglers bring their own sabiki rigs and multi-hooks, and speeding is still an issue on the pier.⁷⁵

⁶⁹ J. Edwards, pers. comm. (2022).

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Email from R. Schneider, SW Regional Species Conservation Biologist, FWC, to Charlie Hunsicker regarding Skyway Bridge Fishing Pier State Park (Apr. 9, 2021).

To uphold the standard that Pier Associates' offers in its own Environmental Protection Plan—to operate “with the desire for environmentally correct business practices with regard to all conservation issues related to wildlife, sea-life . . . and the future health of Tampa Bay and the great state of Florida”—Pier Associates must address the need for increased monitoring and responsive rescue assistance for its anglers.

Actions by FWC:

FWC's past actions and current proposals also fail to adequately prevent, minimize, and mitigate migratory bird take at the Skyway Fishing Pier.

During the workshop, FWC itself stated that “. . . despite past actions, severe entanglements still occur in large numbers.”⁷⁶ These past actions by the FWC include increased signage, angler education, and law enforcement patrolling.⁷⁷ Unfortunately, these actions have not proven effective in decreasing take of migratory birds at Skyway Fishing Pier. This is due to a combination of factors, including lack of oversight and follow-through on promised actions, and ineffective measures taken to prevent anglers from engaging in activities that inadvertently cause harm to the seabirds.

In the past, FWC has stated that it attempted to address the Skyway Fishing Pier bird entanglement issue through a variety of actions, including the launching of a series of social media posts that direct customers to online resources for unhooking seabirds and other wildlife, as well as regular communication within the Division of Habitat and Species Conservation (DHSC) to provide support and interagency guidance for how to remedy the issue. While education through social media and interagency communication may be well-intended, neither method has proven to be effective in saving pelicans and other birds protected under MBTA from entanglement, injury, and many times, death.

Additionally, FWC has cited its coordination of the Monofilament Recovery and Recycling Program through the Division of Marine Fisheries Management (DMFM), which facilitates the placement of monofilament recycling tubes throughout the park to properly dispose of fishing line. While this may be an effective way to ensure that fishing line is disposed of correctly, it does not address the take that is occurring when seabirds become entangled or hooked while fishing is actively taking place.

FWC has also stated that the Division of Habitat and Species Conservation (DHSC) provides angler education on best practice and what to do if a bird becomes hooked. FWC also states that “signs are posted along the Skyway Fishing Pier featuring guidance on preventing entanglement, what to do when a bird is hooked, and how to unhook a bird.”⁷⁸ FWC has also stated that DHSC and its Coastal Wildlife Conservation Initiative (CWCI) has a legacy of efforts to increase education and awareness through FWC's website, distribution of educational materials, and outreach in fishing publications. The CWCI also created an app to help people located the nearest seabird rehabilitator for an injured pelican, as well as a messaging campaign for kids at Kids Fishing Clinics called “Don't Cut the Line.” While angler education is a necessary

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

component to protecting seabirds, this education has proven ineffective without additional protective measures, as the length and height of the pier makes it difficult for anglers to rescue and release birds, often leading them to cut the line as the bird flies or floats away with hooks and lines tethered to their bodies (See Appendix E). The standard pelican rescue practice of “reel, remove, release” does not work at Skyway Fishing Pier, as, without a cast net or drop net and the skills to use them, anglers are unable to reach the entangled birds and have no option but to cut them loose.⁷⁹ As mentioned previously, anglers also report that the emergency number for seabird entanglement that is included on the signs does not work and will continuously ring with no answer.

FWC has stated that the Division of Law Enforcement (DLE) patrols the fishing pier with a regular detail to provide education and can offer help with rescues if needed.⁸⁰ When violations are observed, they state that an officer will respond accordingly. Unfortunately, according to Friends of the Pelicans, officers have only been sighted a couple of times in the park, and when they are present, they have not witnessed rule violations or entanglements.⁸¹

Most recently, on November 21, 2022, FWC held a virtual workshop during which staff presented proposed rules for the Skyway Fishing Pier.⁸² The proposals included:

- Prohibiting use and possession of the following if rigged for use: hook and line gear with more than one hook attached (e.g., sabiki rig, chicken rig, topwater plug), and any multiple hook (e.g., treble hook), and
- Limiting anglers to possession of no more than three sets of hook and line fishing gear with the park.⁸³

During the November 30, 2022 FWC Commission meeting that followed the workshop, commissioners urged staff to present a proposed rule at the next meeting in February 2023. While FWC’s stated commitment is laudable, the current proposal is unlikely to adequately address the ongoing take of migratory birds at the Skyway Fishing Pier, and the timely promulgation and implementation of new proposed rules is uncertain.

VII. Necessary Minimization and Mitigation Measures for the Skyway Fishing Pier

The State of Florida has authorized the taking of wildlife from Skyway Fishing Pier for more than 20 years, and has taken no effective, lasting action to mitigate the problem. For these reasons, we ask that the U.S. Fish and Wildlife Service intervene to enforce the MBTA and ensure the establishment of effective, long-term solutions for the massive take occurring at the pier. We suggest that FDOT, FDEP, FWC, and Pier Associates be required to individually and collectively take immediate action to prevent and mitigate hookings, entanglements, injuries, and death of migratory birds, including the following measures.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ J. Edwards, pers. comm. (2022).

⁸² FWC Workshop, *supra*.

⁸³ *Id.*

Necessary Actions

Necessary actions should focus on harm prevention and reduction at the Skyway Fishing Pier. These actions should include:

- Instituting rules limiting one pole per person on the Skyway Fishing Pier;
- Requiring that persons be aged 12 or older to hold a pole on the Skyway Fishing Pier;
- Prohibiting anglers from leaving baited poles unattended on the Skyway Fishing Pier;
- Prohibiting the possession and use of treble hooks, sabiki rigs, and other multi-hook gear *and* limiting gear to one single hook per line on the Skyway Fishing Pier;
- Prohibiting line-cutting when a bird has been entangled or hooked;
- Closing the north end of the south pier; and
- Arranging for periodic fishing line removal from under the pier.

Necessary actions should also include measures to mitigate harm that occurs, including by:

- Hiring or contracting with independent wildlife rescue organizations to have two full-time rescuers on the south pier and one full-time rescuer on the north pier; and
- Ensuring a full-time state park ranger is present on each side of the Skyway Fishing Pier when the pier is open to educate and ensure the enforcement of rules.

Additional Actions

Additional actions to address take of migratory birds at the Skyway Fishing Pier include:

- Prohibiting chumming the water with bait, which attracts birds;
- Reducing nighttime hours to reduce the enforcement burden;
- Using a portion of the park entrance fees to establish or help support nearby wildlife rehabilitation centers that care for birds injured at the Skyway Fishing Pier (currently, the closest rehabilitation center for injured seabirds is 45 minutes from the park);
- Providing transporters to collect injured birds and deliver them to rehabilitation facilities to ensure more migratory birds receive proper and timely care if their injuries exceed the expertise or resources of the rescuers located at the pier;
- Providing rescuers with a watercraft (such as a jet ski) and a lift to be kept at or nearby the Skyway Fishing Pier to make rescues more efficient and safer for both the birds and the rescuers;
- Developing staff-only access to the abandoned spans of the Skyway Fishing Pier so that bird rescues would also be possible there;
- Developing site-specific education materials for the Skyway Fishing Pier, which should be provided in multiple languages and posted clearly on the Pier and on the Florida State parks website; and
- Adding speed bumps to reduce vehicle collisions with pelicans, gulls, and terns.

We emphasize that these additional actions, alone, would not be sufficient to address take of migratory birds at the Skyway Fishing Pier.

VIII. Conclusion

Activities authorized at the Skyway Fishing Pier continue to injure and kill pelicans and other coastal birds that are protected under MBTA at an alarming rate. FDOT, FDEP, FWC, and Pier Associates have failed to adequately prevent, minimize, and mitigate these deaths and injuries, leaving thousands of birds to suffer in a tortuous and inhumane way. Absent the work of Friends of the Pelicans and other rescuers, many more protected migratory birds would be dying every week. For these reasons, we respectfully urge the U.S. Fish and Wildlife Service to intervene and, to the extent necessary to address the problem, enforce the MBTA to protect migratory birds at the Skyway Fishing Pier.

Thank you for considering our request. If you have any questions or would like copies of the sources cited, please contact Elise Bennett at ebennett@biologicaldiversity.org or (727) 755-6950. In any case, we respectfully request a response to this letter within thirty days so that we and other members of the interested public know whether migratory birds will be protected in the manner dictated by federal law.

Sincerely,



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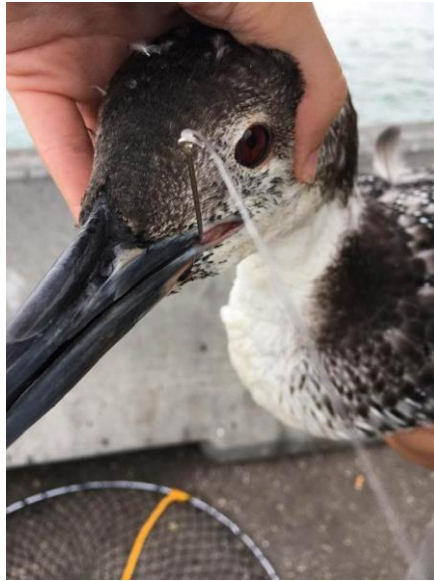
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**Appendix A: Photos of Entangled and Hooked Seabirds on Skyway Fishing Pier
(Credit: Friends of the Pelicans)**





Appendix B: List of Migratory Birds Found in the Tampa Bay Estuary

Common Name	Scientific Name
Anhinga	<i>Anhinga anhinga</i>
Double-crested cormorant	<i>Phalacrocorax auratus</i>
Short-billed dowitcher	<i>Limnodromus griseus</i>
Dunlin	<i>Calidris alpina</i>
Great egret	<i>Ardea alba</i>
Snowy egret	<i>Egretta thula</i>
Herring gull	<i>Larus argentatus</i>
Laughing gull	<i>Leucophaeus atricilla</i>
Ring-billed gull	<i>Larus delawarensis</i>
Great blue heron	<i>Ardea herodias</i>
Green heron	<i>Butorides virescens</i>
Little blue heron	<i>Egretta caerulea</i>
Tricolored heron	<i>Egretta tricolor</i>
White ibis	<i>Eudocimus albus</i>
Glossy ibis	<i>Plegadis falcinellus</i>
White-faced ibis	<i>Plegadis chihi</i>
Red knot	<i>Calidris tenuirostris</i>
Black-crowned night-heron	<i>Nycticorax nycticorax</i>
Yellow-crowned night-heron	<i>Nyctanassa violacea</i>
Osprey	<i>Pandion haliaetus</i>
American Oystercatcher	<i>Hematopus palliatus</i>
American white pelican	<i>Pelecanus erythrorhynchos</i>

Brown pelican	<i>Pelecanus occidentalis</i>
Black-bellied plover	<i>Pluvialis squatarola</i>
Piping plover	<i>Charadrius melodus</i>
Semipalmated plover	<i>Charadrius semipalmatus</i>
Snowy plover	<i>Charadrius nivosus</i>
Wilson's plover	<i>Charadrius wilsonia</i>
Sanderling	<i>Calidris alba</i>
Least sandpiper	<i>Calidris minutilla</i>
Western sandpiper	<i>Calidris mauri</i>
White-rumped sandpiper	<i>Calidris fuscicollis</i>
Spotted sandpiper	<i>Actitis macularius</i>
Solitary sandpiper	<i>Tringa solitaria</i>
Upland sandpiper	<i>Bartraima longicauda</i>
Baird's sandpiper	<i>Calidris bairdii</i>
Pectoral sandpiper	<i>Calidris melanotos</i>
Sharp-tailed sandpiper	<i>Calidris acuminata</i>
Purple sandpiper	<i>Calidris maritima</i>
Curlew sandpiper	<i>Calidris minutilla</i>
Stilt sandpiper	<i>Calidris himantopus</i>
Buff-breasted sandpiper	<i>Calidris subruficollis</i>
Black skimmer	<i>Rynchops niger</i>
Roseate spoonbill	<i>Platalea ajaja</i>
Black-necked stilt	<i>Himantopus mexicanus</i>
Wood stork	<i>Mycteria americana</i>

Common tern	<i>Sterna hirundo</i>
Royal tern	<i>Thalasseus maximus</i>
Sandwich tern	<i>Thalasseus sandvicensis</i>
Least tern	<i>Sternula antillarum</i>
Caspian tern	<i>Hydroprogne caspia</i>
Forster's tern	<i>Sterna forsteri</i>
Ruddy turnstone	<i>Arenaria interpres</i>
Willet	<i>Tringa semipalmata</i>
Greater yellowlegs	<i>Tringa melanoleuca</i>
Lesser yellowlegs	<i>Tringa flavipes</i>

Appendix C: Pier Associates, Inc. Environmental Protection Plan

ENVIRONMENTAL PROTECTION PLAN

- a. Pier Associates will continue to use recyclable or biodegradable materials when possible with preference given to use of non-disposable materials. Pier Associates will NOT use plastic bags, plastic straws, Styrofoam cups, sell Styrofoam coolers, balloons, etc...
- b. Pier Associates Natural Resource Impact Minimization -Continue to educate and encourage anglers to recycle monofilament line and nets. Educate guests on all laws regarding Saltwater Fishing Regulations, what fish may be kept and which fish are protected species. Educate anglers on what to do in case a bird gets hooked, and how to properly remove a hook from an accidentally hooked bird. Pier Associates will continue to work with Audubon Society and hold work shops on instructing our guests on bird handling. We have a full time "bird man", who may be called to assist guests in any bird handling situation. Pier Associates has set a standard that we would like all piers and marinas to follow in regard to bird safety, not feeding birds, how to de-hook a bird and encourage proper sportsmanlike behavior.
- c. Solid Waste Reduction and Recycling- North Pier uses Progressive Waste Solutions and South Pier uses Manatee County Utility Department for all garbage waste removal. We would like to request that DEP allow us to post signage that says something to the effect of "Keep our Waterways Clean, Pack it in, pack it out, please take your garbage with you or Leave nothing behind" . Upon approval of the DEP District Manager.
- d. Waste Management- Both piers have dumpsters that are emptied 3 times a week. We have approximately 150 garbage cans, which varies seasonally.
- e. Use of Cleaning Supplies, Maintenance Supplies, Insecticides, Herbicides- All cleaning materials and above listed products that Pier Associates uses are nontoxic to watershed. The Pest Control Products are applied by a

licensed professional. We choose green products from Armchem and Commercial grade products from numerous janitorial supply companies.

- f. Pier Associates Operates with the desire for environmentally correct business practices with regard to all conservation issues related to wildlife, sea-life, water quality, and the future health of Tampa Bay and the great state of Florida.

Appendix D: Friends of the Pelicans' Bird Rescues 2011-present

Year⁸⁴	Number of seabird rescues
2011	7 (beginning in June)
2012	7 (beginning in February)
2013	4
2014	96
2015	6
2016	11
2017	51
2018	77
2019	257
2020	593
2021	1204 (total)
	January 383
	February 265
	March 150
	April 67
	May 79
	June⁸⁵ 18
	July 8
	August 10
	September 10
	October 34
	November 66
	December 116
2022	1,185 (total, as of November 30)
	January 139
	February 107
	March 17
	April 25
	May 73
	June 65
	July 36
	August 83
	September 140
	October 176
	November 324

⁸⁴ The numbers from 2011-2017 reflect individual efforts to rescue seabirds at the Skyway Fishing Pier (no assistants or volunteers present).

⁸⁵ During June/July 2021, there was red tide at both the Skyway and Fort DeSoto pier, resulting in fewer anglers and hooked birds. August/September 2021 included lingering effects of red tide.

Appendix E: Friends of the Pelicans Statement Regarding Recreational Fishing Impacts to Brown Pelican at Skyway Fishing Pier State Park

FRIENDS OF THE PELICANS

Skyway Fishing Pier State Park Recreational Fishing Impacts to Brown Pelican

STATEMENT OF THE PROBLEM

Brown Pelicans and other seabirds are hooked and entangled by recreational fishermen at the Skyway Fishing Pier State Park at a rate higher than any other pier in the State. These entanglements and the resultant injuries and deaths due to recreational fishing are contributing to the decline of the Brown Pelican population of the Tampa Bay Region.

- It is estimated that between 1500 and 3000 seabirds, mostly Brown Pelicans are hooked and entangled at the Park each year.
- In December of 2020 Friends of the Pelicans rescued 169 birds from hooks/entanglements at the Park.
- In January of 2021 Friends of the Pelicans rescued 383 birds from hooks/entanglements at the Park.
- The number of seabirds needing rehabilitation frequently overloads the regional wildlife rehabilitation centers, to the extent that some of the facilities are refusing admission of pelicans. In January of 2021, over 160 birds from the Park and outlying areas were sent to wildlife rehabilitation centers.

PHYSICAL SCENARIO

The Skyway Fishing Pier State Park (south pier) is the self proclaimed "longest fishing pier in the world". The south pier is about 1-1/2 miles long, the north pier is a little over 1/2 mile long. The distance from the water surface to the top of the railing is 15'-19' depending on tides. The park is open 365 days per year 24 hours per day. The recreation use at the state park is almost exclusively pier fishing. This combination of the physicality of the piers, the number of fishermen and fishing lines, and the number of seabirds attracted to the site is a lethal combination for birds. Many fishermen use multiple poles and lines that are cast out anywhere from 10' to 100'. This creates an obstacle course of fishing lines for seabirds. Because of the length and height of the pier, hooked birds cannot easily be rescued and released. If a fisherman does not have a cast net or drop net, and the skills to use them, rescuing the hooked bird is not a realistic option. Standard pelican rescue practices of "reel, remove, release" do not work at this facility. As a result if someone experienced at seabird rescue is not present, the line is typically cut and the birds fly or float off with hooks and lines tethered. This is frequently a death sentence for birds. Birds are also run over by vehicles and intentionally harmed by cutting them or rough reeling them up to the pier surface.

STATEMENT OF RESPONSIBILITY

The Skyway Fishing Pier State Park is a state facility overseen by the Florida DEP and Florida Park Service. Overseeing its operation and protecting wildlife is the responsibility of the State.

- The Florida DEP mission statement is - "*The Florida Department of Environmental Protection protects, conserves and manages the state's natural resources and enforces its environmental laws.*"
- The Florida Park Service mission statement is - "*The mission of the Florida Park Service is to provide resource-based recreation while preserving, interpreting, and restoring natural and cultural resources.*"
- The State has been remiss in allowing this taking of wildlife to go on for over 20 years.
- The State has taken no successful, lasting action to mitigate the problem at this state park facility.
- The Unit Management Plan (2002) for the Park does not address mitigation of this recreational fishing problem.

SOME SUGGESTED MITIGATION MEASURES

Friends of the Pelicans is asking the DEP and FPS to take responsibility for the impacts to wildlife caused by recreation at a State facility, and implement the following measures in order to mitigate the injuring and or killing of seabirds on the both the north and south fishing piers of the Skyway Fishing Pier State Park. In order to enact a sustainable and lasting mitigation program the Unit Management Plan (2002) should be updated to include a comprehensive program for mitigation measures. The Concession Agreement should also be updated as needed. Some suggested measures are:

- Institute a yearly seasonal 4-month closure of the north end of the South Pier from the length of the last restroom to the end of the pier from November-February. This area is where the most entanglements and hookings occur.
- Use a portion of (or addition to) the entrance fees to help support existing wildlife rehabilitation centers in the area, and to develop a rehab center in Manatee County closer to the problem site. The closest existing rehabilitation center is 45 minutes away.
- Provide a full-time State Park Ranger at the pier.
- Provide two full-time rescuers on South Pier, and one full-time rescuer on North Pier.
- Provide transporters to collect injured birds and deliver to rehabilitation facilities.
- Limit poles to 3 per person.
- Prohibit the use of treble hooks on the piers.
- Prohibit the use of 'sabiki' rigs on the piers.
- Reduce hours at night; we know of no other State Park that is open 24 hours.
- Provide a water craft and lift to be kept at the pier (or nearby) to rescue birds in the water.
- Work with FDOT to develop a staff-only access to the abandoned spans so that bird rescue is possible there.
- Develop site specific education materials for the State Park, standard materials are not suitable to the situation.

end