

# Judge orders NPS to dive deeper into proposed Miami water park

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12/11/2023 04:08 PM EST

A proposed Florida water park has hit another rough patch, with a federal judge's decision Monday invalidating a National Park Service action required for the controversial project to proceed.

In a victory for several environmental groups, U.S. District Judge [Patricia Seitz ruled](#) that the park service failed to meet an obligation to consult with the Fish and Wildlife Service over endangered species that inhabit the Miami Wilds project site. Seitz determined that the consultation should have taken place before the park service agreed to lift land-use restrictions on the property it once owned.

"Despite its responsibilities to preserve endangered species and their habitat, NPS failed to consult with FWS formally or informally as to the development prior to taking the final agency action of executing [an] agreement and release," Seitz wrote. "In short, NPS put the cart before the horse."

Instead of the kind of in-depth consultation required under the Endangered Species Act, Seitz said that "at best, there was a vague exchange of listed species in the rudimentary beginnings of a biological assessment."

A Clinton administration appointee to the U.S. District Court for the Southern District of Florida, Seitz added that this failure "represents a clear" violation of the Endangered Species Act and therefore required that the park service's agreement be vacated, struck down so that it is no longer in effect.

"The court's ruling rights an outrageous wrong that put endangered bats and other species at risk, but more needs to be done to ensure their future," said attorney Elise Bennett, Florida and Caribbean director at the Center for Biological Diversity.

Mitchell Jagodinski, an attorney for Miami Wilds, said in an interview that Seitz's decision had been expected and that he now expects the required environmental consultation to move forward.

"We've submitted everything that we can to the federal government, and now we're kind of just waiting so we can let that process take place," Jagodinski said.

Jagodinski added that it may now take a few months for the federal government to "determine if there's any alternative measures that need to be put in place, or determine whether the project can happen at all, and then it's going to render a decision and we'll take it from there."

The Center for Biological Diversity had joined with Bat Conservation International, the Tropical Audubon Society and the Miami Blue Chapter of the North American Butterfly Association in the lawsuit filed last February.

The organizations contend that construction of Miami Wilds, planned as a 27.5-acre water park along with other developments next to Zoo Miami, will threaten endangered species including the Florida bonneted bat, Miami tiger beetle and Bartram's scrub-hairstreak butterfly.

In a Sept. 22 court filing, a Miami-Dade County attorney stated that Miami Wilds' ability to develop the commercial waterpark, hotel and retail entertainment district "would be impossible and such purpose frustrated" if the 2022 park service agreement were voided.

"The plan for Miami Wilds is not only highly controversial, it is also falling apart legally," said Mike Daulton, executive director at Bat Conservation International.

Jagodinski disputed that characterization and noted that the Miami-Dade County Commission is scheduled to consider amending the Miami Wilds development lease agreement at a Tuesday hearing.

In the 1970s and '80s, Miami-Dade County received the lands in question from the federal government. The land came with requirements, including that the property be used for a public park or public recreational purposes. In June 2022, the park service signed the agreement releasing the land proposed for the project from the land-use restrictions.

This set the stage for the project proponents to reach the original development lease agreement with the county, until the environmentalists went to court.

In her opinion today, Seitz noted that "long before" the park service signed the 2022 agreement, it had been put on notice that the Miami Wilds development could "adversely affect federally listed species and their habitat."

For instance, Seitz recounted, FWS advised the county in October 2020 that it had identified 17 ESA-listed species in the project area. The next year, Seitz added, FWS sent a letter to a county official, highlighting "primary concerns" stemming from the development as to federally listed species, as well as the potential for "unavoidable adverse effects."