# CENTRAL AND SOUTHERN FLORIDA PROJECT
# MODIFIED WATER DELIVERIES TO
# EVERGLADES NATIONAL PARK, FLORIDA

## 8.5 SQUARE MILE AREA

## APPENDIX H
## PUBLIC COMMENTS TO THE
## DRAFT GRR/SEIS
## AND
## RESPONSES


**DEPARTMENT OF THE ARMY**
**JACKSONVILLE DISTRICT, CORPS OF ENGINEERS**
**JACKSONVILLE, FLORIDA**


**July 2000**


HDR Engineering, Inc.

D1

4 3 00

4-9-2

Dear Sir

Received your letter about my 2 Tracts of land 20 acres Tracts 57709 and 57713 I invested my money for my Grand Children college Education I have 12 Grand Children and 14 Great Grand Children.

I put 32 1/2 years on the Chicago Fire Dept my job was to save lives at the risk of my own and save Real Estate property Plus Commercial buildings. My son Chester Stefan Jr. is a Captain in the U.S. Army Reserve and my Grandson Craig Stefan is Jet Air Capt. in the U.S. Army he flew 11 Trips to Kosovo, now at Shreveport air force back in Louisiana Commander of 100 Jet Pilots, I want you to visit him there. They are expecting in November that will make it another grand son for me

You mentioned in your letter that FWS has prepared a General Reevaluation Report and draft Supplement

Wall St Journal had this article see enclosed statement. United Air Lines plans to build a 75 million aviation training campus

D1.a. Comment noted

I had an offer of $61,000 for my 20-acres The Panamanians got their land back plus the canal and all buildings structures machines & Tools & Dies & shops President Carter gave it back December 31-99 so Homestead Florida needs a much larger airport.

Yours Truly

Chester Stefan
6041-N. NEVA Ave
Chicago Ill. 60631
Retired Chicago Fire Dept.
after 32½ years of service.
Title Engineer.

Mr. & Mrs. Chester Stefan
6041 N Neva
Chicago, IL 60631

APR-11-00 TUE 2:02 PM COE PLAN DIV. FAX NO. 3042323442 NO.622 P.2
APR.11.2000 12:17PM DERM

P2

METROPOLITAN DADE COUNTY, FLORIDA

METRO-DADE

STEPHEN P. CLARK CENTER

OFFICE OF COUNTY MANAGER
SUITE 2910
111 N.W. 1st STREET
MIAMI, FLORIDA 33128-1994
(305) 375-5311

APRIL 11, 2000

Colonel Joe Miller, District Engineer
Jacksonville District
U. S. Army Corps of Engineers
P. O. Box 4970
Jacksonville FL, 32232

Dear Colonel Miller:

On several occasions during the past few months, Miami-Dade County staff has been asked to describe the assumptions that the County will use in reviewing the Supplemental Environmental Impact Statement (SEIS) for the 8.5 Square Mile Area of the East Everglades. County staff had hoped to provide information prior to the Corps' finalizing the draft SEIS, but given the extremely tight deadlines, that was not possible.

The County is currently reviewing the model outputs in the SEIS for each of the nine alternatives to determine if one in ten year flood protection would be achieved, either deliberately or incidentally. In making this determination, the County will use the methodology that is described in the attached letter dated February 18, 2000. The County will evaluate all areas that would be provided with one in ten year flood protection, in accordance with the County criteria, to determine if they would qualify for one unit per five-acre zoning under the provisions of Chapter 33B of the Code of Miami-Dade County. If any area meets the standards included in 33B-28, County staff will assume that property owners would be entitled to one unit per five acres as provided by 33B-27(b) of the Code.

During the past three decades, the residents of the 8.5 SMA have repeatedly sought road and drainage improvements, and have benefited from the enhanced drainage of the area and its surroundings provided by the "experimental" operation of the South Dade Conveyance system. We have no reason to believe that the desire for similar improvements and operations will be any less in the future than they have been in the past.

Even though the Corps' purpose in seven of the nine alternatives is to provide "flood mitigation", past experience has shown that there will be acute pressure to operate the system to provide flood protection. It is the County's position that construction of a system of canals, levees and pumps will further exacerbate the perception and heighten the expectation that flood protection could be provided and increase the pressure for roads and secondary drainage. 2

If the entire area, or any portion of the area, is provided with flood mitigation, the County will assume that most of the parcels will be developed as five-acre homesites with ancillary agricultural uses over the fifty-year life of the project. Implicit in this, is the assumption that the County will enforce the five acre-minimum lot size and the aggregation of smaller parcels to that

D2 a. Comment noted

4-11-00 TUE 2:02 PM PLAN DI
APR.11.2000 12:17PM DERM NO.622 P.3

minimum if any Alternative other than full buyout is implemented. This is also supported by the County's residential land "supply and demand" situation under its current master plan and zoning. b

Currently adopted County population projections do not extend past the year 2015. Therefore, they cannot be used to predict population growth in the 8.5 SMA throughout the 50-year life of the proposed project. Moreover, they assume that the 20- and 40-acre zoning unique to the area west of Levee 31-N will remain in place. If the 8.5 SMA is provided heightened perception of flood protection or rezoned for 5-acre home sites, the population projections for this area must, and will be revised. Given the inability of the projected Countywide population to be readily accommodated in the County as it is currently zoned and master planned, we must assume that the 8.5 SMA will be developed to its build-out potential within the 50-year time horizon of the proposed project.

We are encouraged by the fact that the Corps has included local secondary costs in the suite of performance measures that will be used to evaluate the alternatives in the SEIS. However, the exclusion of local secondary cost figures in the summary tables for all the Alternatives except Alternative 6, is a matter of great concern to Miami-Dade County. The County continues to maintain that induced local obligations and costs to provide additional public facilities in the area must be counted in the evaluation of all alternatives. We believe that this significant exclusion was based on flawed assumptions. c

It is the County's intention to expedite its presentation of information on the local secondary costs so that all interested parties will be able to evaluate the alternatives on a more informed basis. The County's evaluation will include an estimation of future residential development in the 8.5 SMA, its tax base, and its capability of generating sufficient tax revenue to provide essential services and facilities, including roads and secondary drainage. We believe that the secondary cost information associated with the both the flood protection and flood mitigation alternatives must be available to, and considered by, the members of the SFWMD Board when they make their decision regarding the choice of a locally preferred alternative for the 8.5 SMA.

Sincerely,

Merrett R. Stierheim
County Manager

Attachment

b. Comment noted

c. The assumptions used by USACE in determination of local costs are contained in Appendix F (Local Cost Analysis) to the Final GRR/SEIS. By definition, the goal of flood mitigation for this project is to allow no increase in flooding above what existed prior to the MWD project. It does not necessarily provide an increased level of flood protection. Only Alternative No. 6B provides flood protection as defined in the February 18, 2000 letter from Miami-Dade County.

APR-11-00 TUE 2:05 PM CUE PLAN DIV.
APR.11.2000 12:18PM DERM NO.622 P.4

MIAMI-DADE COUNTY, FLORIDA

MIAMI-DADE DERM

ENVIRONMENTAL RESOURCES MANAGEMENT
NATURAL RESOURCES DIVISION
33 S.W. 2nd AVENUE
MIAMI, FLORIDA 33130-1540
(305) 372-6789
FAX (305) 372-6630

Mr. Richard Bonner
U.S. Army Corps of Engineers
Jacksonville District
P. O. Box 4970
Jacksonville FL. 32232

February 18, 2000

Dear Mr. Bonner

During several meetings, the question has been posed to Miami-Dade County staff on how the County would determine when some, or all of the 8.5 SMA would be deemed to have one in ten year flood protection. The attached document describes how this determination would be made. Unlike the calculations contained in the PEER Report or the calculation that the Corps has stated that it will use in the Supplemental Environmental Impact Statement for the 8.5 Square Mile Area, the County would base its determination upon on the following:

Providing flood protection for the 10 year, 24-hour storm for roadways;
Providing flood protection for the 100 year, 72-hour storm for building pad and finished floor elevations; and
Providing full on-site retention of the 5 year storm.

Please contact me at (305) 372-6796 if further clarification is needed.

Sincerely,

Carlos Espinosa, P.E.
Assistant Director

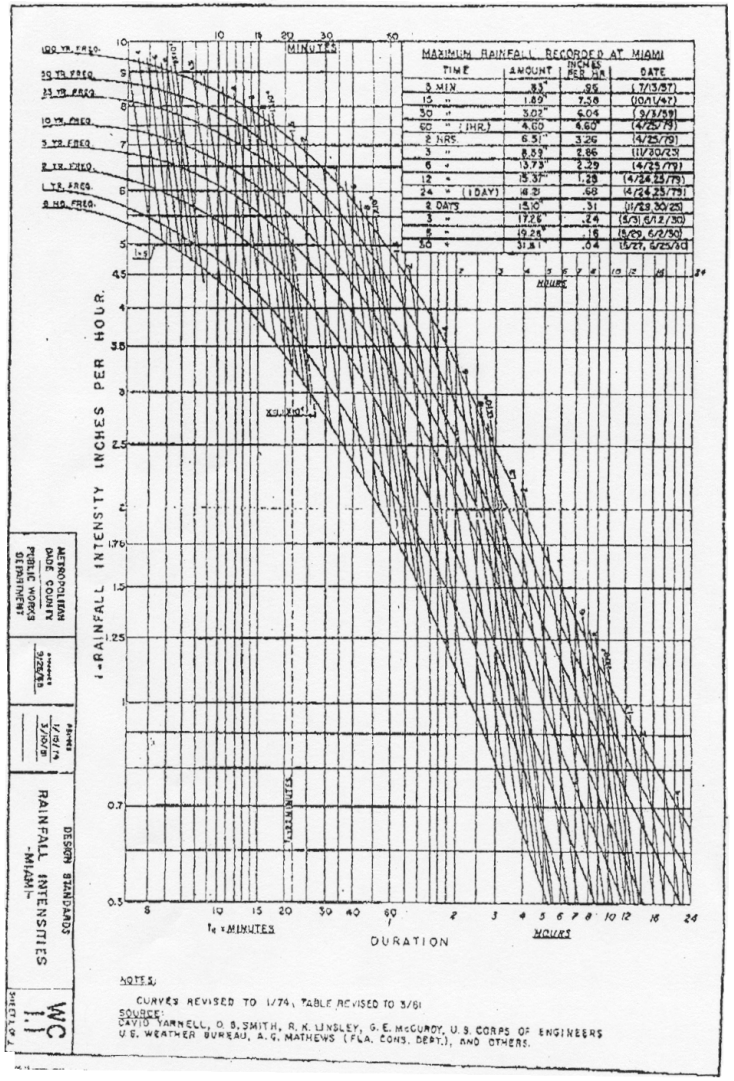
Attachments

APR-11-00 TUE 2:03 PM FAX NO. 9042523442 NO.622 P.5
APR.11.2000 12:18PM

Drainage Design Criteria for the 8.5 Square Mile Area

- Provide flood protection for the 10-year, 24-hr storm in roadways.
- Provide flood protection for the 100-year, 72-hour storm in the building pad and building finished floor elevation.
- Provide full onsite retention for the 5-year storm in all sites.
- For water quality treatment and flood protection of open areas, runoff may be conveyed through system of secondary ditches and pumped into an area adjacent to L-31N Canal for detention before emergency overflow into the canal, subject to approval by all agencies involved in this area.

NO. 622 P. 6




MAXIMUM RAINFALL RECORDED AT MIAMI

| TIME | AMOUNT | INCHES PER HR | DATE |
|---|---|---|---|
| 5 MIN | .83" | 9.96 | (7/13/57) |
| 15 " | 1.89" | 7.56 | (10/11/47) |
| 30 " | 3.02" | 6.04 | (9/3/59) |
| 60 " (1 HR.) | 4.60 | 4.60" | (4/25/79) |
| 2 HRS. | 6.51" | 3.26 | (4/25/79) |
| 3 " | 8.59" | 2.86 | (11/30/23) |
| 6 " | 13.73" | 2.29 | (4/25/79) |
| 12 " | 15.37" | 1.28 | (4/24,25/79) |
| 24 " (1 DAY) | 16.31 | .68 | (4/24,25/79) |
| 2 DAYS | 15.10" | .31 | (11/29,30/20) |
| 3 " | 17.26" | .24 | (5/31,6/12/30) |
| 5 " | 19.24" | .16 | (5/29, 6/2/30) |
| 30 " | 31.61" | .04 | (5/27, 6/25/30) |

APR-11-00 TUE 2:01 PM COE PLAN DIV FAX NO. 9042323442 NO.622 P.1
APR.11.2000 12:16PM DERM

Fax Cover Sheet

DERM
MENTAL RESOURCES MANAGEMENT

Fax Cover Sheet

OPTIONAL FORM 99 (7-90)
FAX TRANSMITTAL # of pages ▶

| | |
|---|---|
| To Cheryl Ulrich | From Martin G. |
| Dept./Agency USACE | Phone # 904 232-1117 |
| Fax # 904-452-4825 | Fax # 904 232-3442 |

NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

CF: Cheryl ULRich 4/11/00 JA

Date: 4/11/00

Company/Department: USACOE

Fax #: (904) 232.1213

Number of Pages (including cover): 6

Message:

From: Carlos Espinosa

33 S.W. 2nd Avenue
Miami, Florida 33130
(305) 372-6796 ♦ (305) 372-6759 (fax)

904/452-4825

Miami-Dade County
Miami-Dade County

D3 RCVD in Planning Division 4-17-00

April 10, 2000
Robert W. Harvey
12800 S. W. 7th Court
Apt. 407 G
Pembroke Pines, Fla.
33027

Department of the Army
P.O. Box 4970
Jacksonville, Fla. 32232-0029

ATTENTION of: Mr. Elmar Kurzbach,

Dear Mr. Kurzbach,

This is in regard to the draft I have received , pertaining to the 8.5 Sq. miles in the Florida Everglades!

I/We strongly object to the offer of $5,000.00 for the 10 acres that we own, which in essence is $500.00 per acre!! When we contracted for the land, we paid $2800.00 for one (1) acre for a total of $28,000.00 back on December 7, 1978.

It was not easy to pay $250.00 per month plus interest to pay the land down, (times were tough), however we were looking ahead to when we retired that it would be a nest egg and we could enjoy our retirement with a little extra money? Now if you offered more like, $48,000.00 to $50,000.00, then we would be more willing to sell! After we have paid , Principal,interest, and taxes each year from December 1978 to the present time December 1999, (We have records to show if needed) this is not a great amount of money to request!

We are in retirement and the requested amount would surely give us a little more security and enjoyment in the years that we have left.

Sincerely yours,
Robert W. Harvey
Charlotte B. Harvey
Robert W. Harvey
Charlotte B. Harvey

Implied Lands are undervalued

D3. No offers have been made to purchase the land noted.

D4

4-24-00

Mr. Frank Finch,

I'm addressing the project of water supply and the organizations and persons who request that report.

I would like to let you know that the alternatives are ideal, but what we would like to do is sell, since we've been paying taxes (on the property) year after year without any benefit to show for it.

Rafael Celida Lamorena

4-24-2000

RCVD in Planning. Division 4-26-00

Mr Frank R Finch

Me dirijo a ustedes sobre el proyecto suministro de agua, La organizacion y personas que solicitan dicho informe me dirijo a ustedes para hacerle saber que las ideas son ideales pero nosotros lo que queremos es bender pues estamos pagando impuestos todo los años y no tenemos ninguno beneficio todos los años que hemos pagado impuestos

Rafael Celida Lamorena

D4. No offers have been made to purchase the land noted.

VED: 5-30- 0; 20:48; 54 321 0244 => GERMS CESAJ;
MAY-30-00 10:10 PM SHANNON ESTENOZ 954 321 0244 P.02

D-5

**Environmental & Land Use Law Center, Inc.**

Shepard Broad Law Center · Nova Southeastern University · 3305 College Avenue · Ft. Lauderdale, Florida · 33314
(954) 262- 6140 · FAX (954) 262-3992
A tax exempt, Florida not for profit corporation pursuant to Section 501(c)(3) of the Internal Revenue Code.
Dedicated to representing the public interest in environmental and land use matters.

Board of Directors
Thomas T. Ankersen, President
Joel A. Mintz
Laurie Ann Macdonald
Richard Hamann, Treasurer
David White

Executive Director \ General Counsel
Richard J. Grosso

Regional Director \ Senior Attorney
Susan H. Daniels

**Via Facsimile 904-232-3442**

May 30, 2000

Mr. Elmar Kurzbach
USACOE, Jacksonville District
Planning Division
400 West Bay Street
Jacksonville, Fla. 32232-0019

Re: SEIS for 8.5 Square Mile Area

Dear Mr. Kurzbach;

Please accept, and place into the record, the following as the formal comments on the Draft EIS. These comments are made on behalf of the Environmental and Land Use Law Center, the Natural Resources Defense Council, the World Wildlife Fund, and the Florida Sierra Club.

The attached 3 page letter, dated May 5, 2000 and signed by Richard J. Grosso and Bradford H. Sewell, is hereby adopted by reference as our comments

Sincerely,

Richard Grosso
General Counsel

cc: Bradford H. Sewell, NRDC
Shannon Estenoz, WWF
Barbara Lange, Florida Sierra Club

May-05-00 02:56P World Wildlife Fund 954 921 7810 P.01

Ds

**Environmental & Land Use Law Center, Inc.**

Shepard Broad Law Center · Nova Southeastern University
3305 College Avenue · Ft. Lauderdale, Florida · 33314
(954) 262-6140 · FAX (954) 262-3992

A tax exempt, Florida not for profit corporation pursuant to Section 501(c)(3) of the Internal Revenue Code.
Dedicated to representing the public interest in environmental and land use matters.

# FAX MEMO

TO: **Col. Joseph Miller** 904-232-2237

CC: **SFWMD Governing Board members** 561-682-6200
**Michael Davis, Asst Secretary of the Army** 703-697-3366
**Bill Leary, CEQ** 202-456-6546
**Dick Ring, ENP** 305-242-7710
**Frank Finch, SFWMD** 561-682-6200
**John Fumero, SFWMD** 561-682-6276
**Dennis Duke, USACOE** 904-232-1368
**Cheryl Ulrich, USACOE** 904-232-1368
**Dewey Worth, SFWMD** 561-682-6729
**Allison Defoor, Office of the Governor** 850-922-6200

FROM: Richard Grosso

DATE: Friday, May 05, 2000

RE: Letter

---

**MESSAGE:**

May-05-00 02:56P World Wildlife Fund 954 921 7810 P.02

**Environmental & Land Use Law Center, Inc.**

Shepard Broad Law Center · Nova Southeastern University
3305 College Avenue · Ft. Lauderdale, Florida · 33314
(954) 262- 6140 · FAX (954) 262-3992
A tax exempt, Florida not for profit corporation pursuant to Section 501(c)(3) of the Internal Revenue Code.
Dedicated to representing the public interest in environmental and land use matters.

May 5, 2000

**VIA FACSIMILE**

Col. Joseph Miller
ACOE Dist. Office
Regulatory Program
PO Box 4970
Jacksonville, Fla.
32232-0019

Re: 8.5 SMA SEIS/GRR

Dear Col. Miller;

We write on behalf of World Wildlife Fund, The Everglades Trust, Environmental & Land Use Law Center, the Natural Resources Defense Council, Friends of the Everglades, Tropical Audubon Society, and Sierra Club, Miami Chapter. We write to express these organizations' great concern that the Corps of Engineers is not providing complete and unbiased information to agency decision makers and the public concerning the mitigation component of the Project for Modified Water Deliveries to Everglades National Park. Specifically, we believe that the draft Supplemental Environmental Impact Statement ("SEIS") recently issued by the Corps is incomplete, analytically-flawed and biased in favor of Alternative 1, the Corps' original alternative. Further, we believe that the Corps' statements concerning the draft SEIS at the May 1st meeting of the Governing Board of the South Florida Water Management District ("Board") were frequently non-responsive, confusing, and even sometimes misleading. For example:

* The draft SEIS emphasizes that all the alternatives improve water flows in Northeast Shark River Slough ("NESRS") but does not provide an easily-comprehensible response to the obvious question: which alternative provides the greatest improvement in water flows? Similarly, the Corps has provided wetland benefit charts that are extremely difficult to interpret, and has failed to include graphs or tables that otherwise clearly compare the hydrologic effectiveness of each alternative in restoring NESRS.

* The draft SEIS emphasizes the number of homes to be relocated under each alternative but asserts that costs to the local government from making flood mitigation available to remaining residents are not relevant.

* Corps representatives at the hearing minimized the consequences of several alternatives, including Alternative 1, in terms of potentially resulting in density increases in the 8.5 square mile area ("SMA"), including by portraying such increases as requiring a "variance", which is discretionary on the part of the local government, instead of a "conditional use", which must be granted if the relevant criteria are met.

We understand that the draft SEIS may be modified and augmented before appearing in final form. As you know, however, the draft SEIS serves a very important function currently. It has long been intended to be the informational basis on which the District Governing Board would make its decision concerning a Locally Preferred Alternative for the mitigation component. In turn, the Board's decision may influence the subsequent decision by the involved federal agencies.

D5. The USACE stands behind the Final GRR/SEIS as containing a satisfactory level of analysis and information in full compliance with the NEPA process. In addition, the USACE has responded promptly and completely to requests by the Governing Board of the SFWMD for additional information regarding the alternatives since the release of the original document. The USACE will continue to cooperate with the SFWMD, as the local sponsor.

May-05-00 02:56P World Wildlife Fund 954 921 7810 P.03

Accordingly, we request that the draft SEIS be immediately supplemented to provide detailed responses to the questions set forth below. We believe that this must be done significantly prior to the date on which the District Governing Board will next consider this issue. We strongly believe the Board needs this information for appropriate decision-making, as does the public for its input into the process.

Which alternative provides the greatest potential for compatibility with the Comprehensive Everglades Restoration Plan ("CERP"), as measured in terms of CERP's intended hydrologic performance, construction features, and overall ecological goals. a.

2. What is the compatibility of each alternative with the specific requirements of the Reasonable and Prudent Alternative contained in the February 1999 Biological Opinion? b.

3. Explain how the alternatives compare in terms of their achievement of restored hydrologic conditions (i.e., Natural System Model or comparable measures) in NESRS. c.

4. The draft Coordination Act Report ("CAR") included with the draft SEIS shows that the hydrologic connection between NESRS and Taylor Slough (i.e., the Taylor Slough headwaters) is inside the impact area of Alternative 1. The CAR shows that Alternative 1 will decrease average water depths in the headwaters within a range of 0.3 to 0.9 feet. In light of this finding, why does the draft SEIS conclude that Alternative 1 will have no impact on Taylor Slough? This question similarly applies to all alternatives that the draft CAR determined would impact average water depths in the Taylor Slough headwaters. d.

5. Explain why the Corps decided not to assess how well each alternative provides hydrologic improvement in Taylor Slough and Florida Bay. e.

6. Explain how the draft EIS method of analysis (which compared each alternative to Alternative 1, but did not specifically compare each alternative to long-term restoration goals for Everglades National Park and NESRS) complies with NEPA's requirements to assess direct, indirect, and cumulative environmental impacts, including those impacts that will result from the action in combination with reasonably foreseeable actions? f.

7. Explain how the purposes of NEPA to provide for informed public input and decision-makers will be satisfied if the critical information for determining the environmental impacts of an alternative, i.e., hydrologic and ecological modeling information, is not available to the Governing Board and public significantly prior to any Board decision? g.

8. Explain how the "incidental flood control benefit" which the Corps acknowledges will be provided by Alternative 6D will not trigger local costs and density increases. h

9. Does the Corps intend to incorporate into the draft SEIS Miami-Dade County's interpretation of its Comprehensive Plan, including local cost requirements, concerning the consequences of each alternative that make flood protection "available"? Will this be done before the Governing Board votes? i.

10. Will the Corps alter the current levee alignment in Alternative 6B that would result in privately held lands not receiving flood mitigation, and accordingly adjust the cost estimates for this alternative to reflect increasing acquisition costs? Will this information be available prior to the Governing Board's vote? j.

11. If Alternatives 6C and 6D do not provide flood protection to those residents who would remain east of the levee, explain the agencies' intended future policy concerning complaints from these residents concerning flooding impacts and how such a policy will be implemented. k.

2

a. The results of an assessment of the compatibility of each alternative to CERP are included in Table 8 of the GRR. In addition, Table 10 of the GRR contains the results of the comparison of each alternative to Alternative No. 1 (the Authorized Plan). This analysis has been reevaluated based on comments received and additional information included as appropriate in the Final GRR/SEIS. It should be noted that Alternative 6D, with conditions, has been selected by Federal agancies as the Recommended Plan.

b. The reasonable and prudent alternatives contained in the Biological Opinion require implementation of the entire MWD project by December 2003. All considered alternatives (1,2, 3, 4, 5, 6B, 6C, 6D, 7, 8 and 9) were designed to be compatible with the RPA in the 1999 Biological Opinion. There are no special features in any of the alternatives that would make them more or less compatible. There are no nesting habitat areas in the 8.5 SMA or within the likely area of influence of the specific MWD alternatives developed for 8.5 SMA. A Biological Assessment has been prepared for the Recommended plan and included in the FSEIS.

c. The USACE has provided the results of the hydrologic analysis for NESRS in the Final GRR/SEIS (contained in Appendix A, and summarized in Table 8 of the GRR). Alternative No. 1 represents the 8.5 SMA component of the MWD Plan contained in the 1992 GDM in accordance with P.L. 101-229. As such, it is the "future without project" condition and is the basis for which all other alternatives are compared. The results of the comparison of all alternatives to the Authorized Plan (Alternative No. 1) are contained in Table 10 of the GRR. Section 6 of GRR provides a discussion of the performance for the various alternatives.

d. We have found no reference to performance measures regarding Taylor Slough evaluated by DOI in the DCAR.

e. Analysis of flows to Taylor Slough and Florida Bay via ground water, overland flow, and canal flow were performed and are included in Appendix A. Results show that there are no significant impacts on either for any of the plans. Additional analyses of stage at points in the vicinity of Taylor Slough headwaters are included in the final appendix and the results discussed in the Final GRR/SEIS.

f. The Final SEIS complies fully with NEPA, and contains an assessment of direct, indirect and cumulative impacts of each of the alternatives and affords a comparison of the alternatives to restoration flows to ENP. Recent activities for other components of MWD as well as other related projects were considered during preparation of the Final GRR/SEIS and modifications made to the document as appropriate to reflect the Recommended Plan.

g. The USACE asserts that the process used in the development and presentation of the Final GRR/SEIS is fully compliant with NEPA. The Draft document , containing a comprehensive discussion of information available relating to the environmental impacts of each alternative, was made available to the public on April 3, 2000, and an Addendum to the document was made available on May 16, 2000. In addition, the USACE has provided information directly to the public in 4 public meetings/workshops during April and May 2000. A Governing Board resolution on this project was passed on June 15, 2000. The additional information generated by this process is included in the final SEIS in full compliance with NEPA. A Record of Decision by the USACE will be filed only after the Final document is submitted.

h. The assumptions used by USACE in determination of local costs are contained in Appendix F (Local Cost Analysis) to the Final GRR/SEIS. By definition, the goal of flood mitigation for this project is to allow no increase in flooding above what existed prior to the MWD project. It does not necessarily provide an increased level of flood protection. Only Alternative No. 6B provides flood protection as defined in the February 18, 2000 letter from Miami-Dade County.

i. That information was received after the Draft GRR/SEIS was published. It has been made part of the official record of comments for the Draft GRR/SEIS and is included in the Final documents.

May-05-00 02:57P World Wildlife Fund 954 921 7810 P.04

12. Explain the Corps' position concerning the argument heard from proponents of Alternative 1 that constitutional prohibitions prevent exercise of eminent domain or other condemnation vehicles in this instance? l.

Again, we believe that the Corps must provide a timely response to these questions in order to ensure an adequate decision-making process on this very important matter and to satisfy the agency's legal responsibilities.

Sincerely,

Richard J. Grosso
General Counsel
Environmental and Land Use Law Center

Bradford H. Sewell
Senior Attorney
Natural Resources Defense Counsel

cc: SFWMD Governing Board members
Michael Davis, Assistant Secretary of the Army
Bill Leary, CEQ
Dick Ring, ENP
Frank Finch, SFWMD
John Fumero, SFWMD
Dennis Duke, USACOE
Cheryl Ulrich, USACOE
Dewey Worth, SFWMD
Allison Defoor, Office of the Governor

3

j. The Corps will not "alter" the levee alignment of 6B, but it has considered and evaluated two additional potential alignments under the "Alt 6" concept. They are called "Alternative No. 6C" and "Alternative No. 6D". The consequences of each alignment on properties in the 8.5 SMA, their effectiveness in flood mitigation, and their other effects on the environment, as well as costs, were evaluated as for the original set of alternatives. Information on these variants on the Alternative No. 6 concept were coordinated in Addendum A to the GRR/SEIS, and were provided to the SFWMD Governing Board. All of the levee alignments, and other conceptual solutions to mitigation of increased flooding in the 8.5 SMA area due to full implementation of the MWD project, were developed in public meetings, workshops and information exchanges with affected parties, government agencies and interested public. The Governing Board had sufficient information to recommend the selection of Alternative 6D, with conditions as the Recommended Plan.

k. As with the other flood mitigation alternatives developed for this analysis, the only commitment for Alternative No. 6C and 6D is to not allow increased flooding above what existed prior to the MWD project. The SFWMD, the local sponsor who will be operating the project feature, adopted a resolution on June 15, 2000 stating:

> "The potential for flooding of landowners which are east of the proposed levee, before and after project implementation is unchanged consistent with the federal Supplemental Environmental Impact Statement. Flood mitigation, not flood protection, should be provided by the design, construction and operation of Alternative No. 6D as enhanced herein."

The policy concerning flooding impacts will not change.

l. There are many constitutional arguments concerning eminent domain or other condemnation vehicles, some based on the United States Constitution and some based on the constitution of the State of Florida. Those arguments were often questions about which level of government would actually be empowered to exercise the power of eminent domain over parcels required to implement MWD. The Corps has always maintained it could exercise eminent domain to implement the federally selected plan. Locally preferred plans may require the exercise of powers granted by the State Constitution. The Federally selected Recommended Plan, Alternative 6D,with conditions, carries with it, eminent domain authority over parcels required to implement the Recommended Plan.

RECEIVED: 5-30- 0; 20:48; 954 321 0244 => CEFMS CESAJ;
MAY-30-00 10:09 PM SHANNON ESTENOZ 954 321 0244 P.01

D-5

Environmental & Land Use Law Center, Inc.

Shepard Broad Law Center
Nova Southeastern University
3305 College Avenue
Ft. Lauderdale, Florida 33314
(954) 262-6140 · FAX (954) 262-3992
A tax exempt, Florida not for profit corporation pursuant to Section 501(c)(3) of the Internal Revenue Code.
Dedicated to representing the public interest in environmental and land use matters.

# FAX

Date: 5/30/00
Number of pages including cover sheet:

To: Elmar Kruzback

Phone:

Fax: 904-232-3442 (904) 232-1368

From: R. Grossa
Phone: (954) 262-6140
Fax: (954) 262-3992

Remarks:

Cover + 4 page
8.5 SMA EIS Comment Letter

CONFIDENTIAL. The information contained in this fax is subject to ATTORNEY CLIENT privilege and is considered confidential. If you experience trouble receiving this fax please call the above number.

May-17-00 12:27P P.02

D6

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

ER 00/377

Mr. Elmar Kurzbach
Department of the Army
Corps of Engineers
P.O. Box 4970
Jacksonville, FL 32232-0019

MAY 17 2000

Dear Mr. Kurzbach:

This is in regard to the request for the Department of the Interior's comments on the draft environmental statement concerning the Modified Water Deliveries to Everglades National Park, 8.5 Square Mile Area, Florida.

This is to inform you that the Department will have comments, but will be unable to reply within the allotted time as we have just learned of the document's availability. A request for Interior comments is initiated by forwarding 12 copies of the document to this office for internal coordination and scheduling. According to our records, no such shipment reached this office. I have enclosed a copy of our guidance on this process for your future use.

Please consider this letter as a request for an extension of time in which to comment on the document. Our comments are scheduled to be forwarded by June 16, 2000.

Sincerely,

Terence N. Martin

Terence N. Martin, P.E.
Team Leader, Natural Resources Management
Office of Environmental Policy and Compliance

Enclosure

TOTAL P.05

D6. Comment Noted. Commentor notified that an extension of time to submit comments could not be granted (response attached).

May-17-00 12:27P P.01

# FAX TRANSMISSION

U.S. FISH AND WILDIFE SERVICE
State Supervisor's Office
South Florida Ecological Services Office
P.O. Box 2676
Vero Beach, FL 32961-2676
561-778-0896
Fax: 561-564-7393

01

**To:** Elmar Kurzbach **Date:** 5-17-2000
**Fax #:** 904-232-3442 **Pages:** 2, including this cover sheet.
**From:** Dave Ferrell
**Subject:**

COMMENTS:

To report any problems with this facsimile transmission, please call (561) 778-0896.

D6 - R

MAY 30 2000

Planning Division
Environmental Branch

Mr. Terence N. Martin, P.E.
Director, Office of Environmental Policy and Compliance
Team Leader, Natural Resources Management
Department of Interior
Main Interior Building, MS 2340
1849 C Street, NW
Washington, D.C. 20240

Dear Mr. Martin:

This is in response to your letter of May 17, 2000, regarding your agency's comments on the Draft Supplemental Environmental Impact Statement prepared relative to the Modified Water Deliveries to Everglades National Park, 8.5 Square Mile Area. Your letter requested an extension of time to submit Department of Interior (DOI) comments, providing them by June 16, 2000 instead of May 30, 2000.

Members of my staff have spoken with you, and Ms. Shannon Cuniff, also of your agency, to discuss our schedule and your request. During a May 18, 2000, telephone conversation, Ms. Cuniff advised that the extension of time would not be required since DOI staff were actively involved in this effort at all levels, and would indeed submit agency comments within the currently established 45-day comment period as scheduled.

The ambitious schedule we are following is being implemented in accordance with specific guidance and direction provided by our Washington level Headquarters, U.S. Department of Interior, and Council on Environmental Quality. In this schedule, we are directed to accomplish the evaluations, interagency and public coordination necessary to satisfy National Environmental Policy Act requirements, with a completion of this process as expeditiously as possible.

-2-

We regret that we cannot extend the comment period and look forward to receiving your comments on this very important aspect of the Modified Water Deliveries to Everglades National Park project.

Sincerely,

Joe R. Miller
Colonel, U.S. Army
District Engineer

CESAJ-PD-ES/Kurzbach/2325/slw
CESAJ-PD-E/Smith
CESAJ-DP-I/Ulrich
CESAJ-PD/Duck
CESAJ-DX/Burns
CESAJ-DD/LTC Boruch
CESAJ-DE/COL Miller

D7

# Miccosukee Tribe of Indians
of Florida

**Business Council Members**
Billy Cypress, Chairman
Jasper Nelson, Ass't. Chairman
Max Billie, Treasurer
Andrew Bert Sr., Secretary
Jerry Cypress, Lawmaker

May 23, 2000

Colonel Joe Miller
U.S. Army Corps of Engineers
Jacksonville District
P.O. Box 4970
Jacksonville, Florida 32232

VIA FAX

Re: **Addendum A to the Draft GRR and SEIS on the 8.5 Square Mile Area**

Dear Colonel Miller,

I received Addendum A to the Draft GRR and SEIS on the 8.5 Square Mile Area dated May 9, 2000 about two days ago. Today, I called Elmur Kurzbach at the Corps to see if the comment period for the Draft SEIS had been extended. I was told that it has not because alternatives 6C and 6D, which were never identified until after the Draft was mailed out, are allegedly a variation of alternative 6B. This technical document, also includes a Supplement to the Fish and Wildlife Coordination Act Report.

When I received the Draft GRR and SEIS in April, it did not include the new alternatives. I do not believe that it is fair, nor does it meet the purpose and intent of NEPA, to have the SEIS be a moving target that does not incorporate a revised comment period for a revised document. But then, what can one expect from an agency that produced a Draft SEIS that does not even identify the requisite preferred alternative?

I understand that the reason for not extending the comments date is because of the DOI induced CEQ requirements for the alleged sparrow "emergency." It is ludicrous for the same agencies responsible for delaying the Modified Water Deliveries Project to now prohibit a revised public comment period based on the delay they have caused.

On behalf of the Miccosukee Tribe, I object to the Corps failure to follow the procedural requirements of NEPA. These procedures were put into place to allow the public to fully participate in the NEPA decision making process. It is impossible to do that when the proposed alternatives and information changes and the comment deadlines do not. Please advise us in writing as to whether or not the Corps will extend the comment deadline on the SEIS.

Sincerely,

Joette Lorion

Joette Lorion

P.O. Box 440021, Tamiami Station, Miami, Florida 33144, (305) 223-8380, fax (305) 223-1011
Constitution Approved by the Secretary of the Interior, January 11, 1962

D7. Comment Noted. Commentor notified that an extension of time to submit comments could not be granted (response attached).

D7-R

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P. O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO
ATTENTION OF

MAY 30 2000

Planning Division
Environmental Branch

Ms. Joette Lorion
Miccosukee Tribe of Indians
P.O. Box 440021, Tamiami Station
Miami, Florida 33144

Dear Ms. Lorion:

This responds to your letter of May 23, 2000 regarding an extension of the public comment period for the Draft GRR/SEIS on the 8.5 Square Mile Area feature of the Modified Water Deliveries to Everglades National Park project.

The ambitious schedule we are following is being implemented in accordance with specific guidance and direction provided by our Washington-level Headquarters, US Department of Interior, and the President's Council on Environmental Quality. This directs us to accomplish the evaluations and public coordination necessary to satisfy the National Environmental Policy Act requirements, with a completion of the process by August 31, 2000.

We regret that we cannot extend the comment period, and look forward to receiving your comments on this very important project by May 30, 2000.

Sincerely,

Joe R. Miller
Colonel, U.S. Army
District Engineer

Forwarded 5/3/00

| FACSIMILE TRANSMITTAL HEADER SHEET | | | |
|---|---|---|---|
| COMMAND | NAME OFFICE SYMBOL | TELEPHONE NUMBER | AUTHORIZED RELEASER'S SIGNATURE |
| FROM: Jon Moulding | CESAJ-PD-ES | 904-232-2286 | Sue Wilfong |
| TO: Joette Lorion | | 305-223-8380 | DAY-TIME MONTH YEAR 31 12:30 May 00 |
| CLASSIFICATION: | NO. PGS. 1 + cover | PRECEDENCE | REMARKS: |
| | | | |
| SPACE BELOW FOR COMMUNICATIONS CENTER USE ONLY | | | |
| DA Form 3918-R 1-Aug-72 | | | |

U.S. ARMY CORPS OF ENGINEERS

JACKSONVILLE DISTRICT

D8

May 2, 2000

Mr. Kurzback,

Lawrence Gillem paid $6000.00 for this property Jan. 20, 1972 thinking it would make some money when he got ready to sell or build, then later he finds out it is nothing like he thought it would be

We don't want you sending us any more papers, we want cash so get your act to gether and do just that, because that was a lot of money for us in 1972

Lawrence C. Gillem

Land undervalued

REW

D8. Comment Noted.

D 9

May 24, 2000

Dear Mr. Kurzbach,

In behalf of the residents of West Red land Glades in the Rocky Glades now known as the 8.5 Square Mile Area. Under due process of law by Congress in the 1980's and now under the protection of the 1989 act.

I question your intent to condemn what you are responsible to protect. Is it legal or is this another bay of pigs? With a mandate to build a levee, your own approved project. To b build for our protection without qualification as a condition to the Modified Water Delivery Project. Public law 101-229 in section 104(c).

I ask, who gives you the right to choose an alternative other than protection under law, that breaches the trust of Congress with our community? Certainly not the Interior or the District. How can the Army Corps. in the light of day justify their future actions to condemn when mandated to protect under due process and existing law.

We will not let you forget the past, already under due process this issue was settled before Congress acted and pass the 1989 act. What is happening in Dade County with the S.F.W.M.D, the Dept. of Interior and the park under the guise of Everglades Restoration is a pre-determined self interest and dictatorial point of view and process

D9. Comment Noted.

If your justification is that this would constitute due process, get real. Subquesting existing law with another to take place of the one is illegal and not consider due process. It will be fought for this is nothing but a sham and to us already deja vu.

I erge and plea, fofill under due process your present duty to Congress, the people and the law. Inforce the Secretary of the Army's authorization to implement existing law over the illegal ruling to cancell public law 101-229 in your 1994 Contract with the S.F.W.M.D. (YOU CAN)

Everglades restauration should be viewed as a just act not a land grab inforced by prejudices, males and greed. In view of our problems with discrimination in our nation this is both bad for both us and the enviroment.

With all due respect as an American, a Cuban American Citizen I plea to the secretary through your person to fix the fiction against the 8.5 S.M.A., not to waste more time and needed ese were money on an ill-founded and ill-conceived and if condemn illegal act against my power-less Community, this I ask in whis name you know

Thank you
Truly (305) 448-4554

D-10

National Audubon Society

FLORIDA AUDUBON SOCIETY

# AUDUBON OF FLORIDA

**A strategic alliance of the Florida and National Societies in partnership with 45 Local Audubon chapters**

Comments Pertaining to:

United States Army Corps of Engineers
April 2000 Draft General Reevaluation Report and Supplemental Environmental Impact Statement
Central and Southern Florida Project
Modified Water Deliveries to Everglades National Park, Florida
8.5 Square Mile Area Component

***May 2000***

**Audubon of Florida**
Florida State Office • 444 Brickell Avenue • Suite 850 • Miami, FL • 33131-2405
(305) 371-6399 • (305) 371-6398 *fax*

Everglades Conservation Office • Winter Park Office • Tallahassee Office • Center for Birds of Prey • Corkscrew Swamp Sanctuary
Florida Coastal Islands Sanctuaries • Lake Okeechobee Sanctuaies • Ordway-Whittell Kissimmee Prairie Sanctuary • Tavernier Science Center

*Only a portion of the document is displayed here, the rest is on file.

### *8.0 Recommendations*

In addition to the above observations and conclusions, we recognize that the USACE seeks recommendations to help improve the report, and/or to improve the overall project. Based on our review of the draft GRR/SEIS, we offer the following recommendations for consideration:

Because arguments have been made that Miami-Dade's permit issuance are inaccurate, all permits not accounted for in Miami-Dade's records should be brought forward for documentation and inclusion in the analysis of each alternative. a

Considering the level of funding required for the acquisition of flowage easements (purchase, legal costs, etc.), we recommend that the extra 5% be spent on acquisition of fee-simple titles. b

Land value determinations should note whether similar sales/purchases occurred under similar land-use designation, zoning, and development potential conditions. c

- Water quality impacts should be addressed on an alternative-specific basis due to the potential differences in basin characteristics (shallow groundwater flow patterns relative to land use and local hydrological features such as canals and pumps). d

Because different assumptions related to adherence of zoning and land-use ordinances can result in different land-use patterns, the USACE should work closely with Miami-Dade County to ensure that assumptions are correct, accurate, and reasonable. e

Model results posted onto the Internet by the South Florida Water Management District[20], show different values for average monthly overland flows just south of the Tamiami Trail. For months July through November, the Modified Water Deliveries project regional conveyance modeling predicts average monthly flows to be approximately 20,000 to 50,000 acre-feet greater than those anticipated under D13R conditions (conditions used for the 8.5 SMA Alternative modeling). f

We encourage the USACE to evaluate the impacts of these differences and to merge the Modified Water Deliveries project regional conveyance and 8.5 SMA alternative evaluation processes into one process as soon as possible.

Stages in Taylor Slough and flows to northeastern Florida Bay appear not to have been addressed in the GRR/SEIS. Furthermore, no indicator cells and associated performance measure graphics (i.e. stage hydrographs) are presented for areas west of L-31W and south of the State Road 9336, in Taylor Slough. g

For the purposes of evaluating impacts of Alternatives on temporal and spatial aspects of hydroperiods and water stages in Taylor Slough, it would be desirable to have a few indicator cells south and southeast of indicator cell 24577 near/in Taylor Slough.

When comparing results, it appears that the structures of Alternative 1 behave as a constraint to water levels in the vicinity of the 8.5 SMA. This conclusion can be drawn from indicator cells near the 8.5 SMA including 20206, 20357, 20378, 20457, 20726, and 21271. At indicator cells 20206 and 20378 (areas northwest of the 8.5 SMA), high-stages provided by 1995 base conditions are not achieved, and for the other indicator cells, water levels modeled for Alternative 1 tend to be approximately 0.3-1.0 ft lower than those achieved by non-structural Alternatives. h

[20] Central and Southern Florida Project Comprehensive Review Study Hydrologic Performance Measures (http://www.sfwmd.gov/org/pld/restudy/hpm/index.html ) and the Modified Water Deliveries Project South Florida Water Management Model Regional Hydrologic Performance Measures (http://www.sfwmd.gov/org/pld/hsm/reg_app/mwd/index.html) web-pages.

24

D10 a. Permits at properties within the study area are not pertinent to evaluating the various alternatives.

b. The purpose of the flowage easement is to allow the landowners to maintain ownership of their property. However, it is the policy of the corps that the cost of such easements cannot exceed the fee simple value of the property. Should that occur, it will be best to acquire fee simple title.

c. Prior to acquisition of individual tracts of land, an appraisal will be obtained to determine the fair market value of the property. All of the factors mentioned here are part of that appraisal process. The land values used in the Final report were determined using unit values (such as per acre) for properties with similar zoning & development potential, land use designation, and comparable market (sales/purchases) data. Individual appraisals were not completed on a per tract basis.

d. The analysis of water quality impacts of each alternative has been included in the Final GRR/SEIS as appropriate.

e. The USACE is continuing its coordination with Miami-Dade County regarding this issue. Additional analysis and/or alternative results based on this coordination have been included in the Final GRR/SEIS as appropriate.

f. This comment, we believe, is based on a technical misunderstanding of the data. The numbers do not represent the same values. The aboveground storage (ac-ft) presented in the Final GRR/SEIS are a volume, and the results posted by the SFWMD represent a flow rate.

g. The objectives and performance measures used for the analysis were developed through a series of technical meetings made up of representatives of various agencies, environmental groups and other interested stakeholders. Hydrologic improvements to Taylor Slough and Florida Bay were not identified during this process as a desired performance measure.

h. This comment, we believe, is based on a technical misunderstanding of the data. These two cells are adjacent to the seepage canal, which is used in all of the structural plans including Alternative No. 1. Currently, no canal exists in these locations (under Base 95 conditions). The canal is operated lower than ground level to mitigate against flooding. Lower water levels in the canal will lower ground water levels on both sides of the canal. These results are consistent with the operations of Alternative Nos 1, 2B and 9.

# AUDUBON OF FLORIDA

Florida State Office
Everglades Conservation Office
444 Brickell Avenue, Suite 850
Miami, FL 33131

Tel: 305/371-6399
Fax: 305/371-6398

May 24, 2000

Mr. Elmar Kurzbach
Department of the Army
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

Dear Mr. Kurzbach:

Audubon of Florida has prepared and is submitting for consideration the enclosed comments on the **United States Army Corps of Engineers April 2000 Draft General Reevaluation Report and Supplemental Environmental Impact Statement Central and Southern Florida Project Modified Water Deliveries to** Everglades National Park, Florida, 8.5 Square Mile Area Component (GRR/SEIS). **Whereas the referenced** GRR/SEIS is a draft document, **we request to receive a copy of the final document upon its completion.**

Once again, we thank the United States Army Corps of Engineers and cooperating agencies for this **opportunity to provide comments and recommendations. Likewise, we express our continued commitment to working with United States Army Corps of Engineers and cooperating agencies in efforts to restore and protect America's Everglades and Florida's natural resources.**

Sincerely,

Mark Kraus

**Mark Kraus, Ph.D.**
**Director of Restoration**

**Enclosure**

cc: **Frank Finch, South Florida Water Management District**
**Steve Forsythe, United States Fish and Wildlife Service**
**John Hankinson, Environmental Protection Agency, Region 4**
**Richard Harvey, Environmental Protection Agency, Region 4**
**Bill Leary, Council on Environmental Quality**
**Dick Ring, Everglades National Park**
**Cheryl Ulrich, United States Army Corps of Engineers**

D-11

Elmar G Kurzbach
05/30/2000 12:16 PM

To: Joe R Miller/CESAJ/SAJ02@CESAJ, Dennis R Duke/CESAJ/SAJ02@CESAJ, Cheryl P Ulrich/CESAJ/SAJ02, Richard E Punnett/CESAJ/SAJ02@CESAJ, Susan A Bullock/CESAJ/SAJ02@CESAJ, Jon Moulding/CESAJ/SAJ02
cc:
Subject: Response to Corps EIS for 8.5 SMA

FYI - 8.5 SMA DSEIS comment from Ms. Fortin Elmar.

Forwarded by Elmar G Kurzbach/CESAJ/SAJ02 on 05/30/2000 12:13 PM
---

From: Madeleine Fortin <mfortin@bellsouth.net> on 05/30/2000 11:11 AM
To: Elmar G Kurzbach/CESAJ/SAJ02@CESAJ
cc:
Subject: Response to Corps EIS for 8.5 SMA

UNITED FRIENDS AND PROPERTY OWNERS OF THE 8.5 SQUARE MILE AREA

Col. Joe Miller
PO Box 4970
Jacksonville, FL 32232

RE: "DISSERTATIONS STOOD IN THE PLACE OF ACTION ." THE CORPS DOES YET ANOTHER ENVIRONMENTAL IMPACT STATEMENT!

"France he said, went to ruin despite this array of documents! Dissertations stood in the place of action, a million reports were written every year. Bureaucracy was enthroned! Records, reports, statistics, failing which France would have gone to ruin, increased, multiplied and grew majestic!" (Balzac, "The Bureaucrat")

Col. Miller;

The above quote from Balzac, written just after the French Revolution, accurately describes the Corps of Engineer's orientation towards the completion of the Modified Water Delivery Project. Since the early 1980's the following studies have been done on the 8.5 Square Mile Area:

1. 1980-East Everglades Resources Planning Project
2. 1985-East Everglades Resource Planning & Management Implementation Plan commissioned by Gov. Graham
3. 1988-East Everglades Land Acquisition Task Force commissioned by Gov. Martinez
4. 1992-An Environmental Impact Statement done by the Corps of Engineers as part of the Modified Water Delivery Project
5. 1995-East Everglades 8.5 Square Mile Area Study Committee commissioned by Gov. Childes
6. 1998- PEER report
7. 1998- the District Review Team (DRT) Report compiled by an inter-agency group

The first 6 reports recommended against buying the 8.5 SMA. The DRT Report is the only report that recommended acquisition of the area and

that report was thrown out due to Sunshine Law violations committed by group members. Now, the Corps has finished yet another Environmental Impact Statement on what amounts to digging a drainage ditch! I understand that this report cost over $1.2 million and has taken almost one year to complete. As a result of the Corps inability to complete one small project, ground water levels have been kept unnaturally high throughout the County. The result has been the death of the state owned Everglades in the Water Conservation Areas and massive flooding from one heavy rainstorm. The Department of Agriculture estimates that Hurricane Irene resulted in over $230 million in crop losses alone!

The document gets off to a poor start. The photograph used on the front cover shows a small strip of unimpacted wetland on the very edge of the community. Looking at this picture gives the viewer the inaccurate impression that the entire community is unimpacted wetlands. a
Either the person who choose the picture did so intentionally to give this inaccurate impression or they are incredibly insensitive. It would be more appropriate to show an aerial photograph of the homes, farms, orchards, pastures and nurseries that this project component is designed to protect.

I also object strongly to the way this document was put together. There was little input from impacted residents or the Miccosukee Tribe b.
included in the document. For some reason, HDR Engineering, the authors of this report, choose to accept data from the Miami-Dade County Department of Environmental Resource Management (DERM). It is unclear why they did this. It appears that some of the information DERM used comes directly from the above mentioned DRT Report. The legal implications of this are obvious. HDR could have gotten all of the necessary information directly from the Miami-Dade County information service for under $200. s.

It is my understanding that NEPA stipulates that the public must be involved in the decision making process. God knows residents of the 8.5 SMA tried to be involved, but the data we gave to HDR was not included. Consultants hired by the Miccosukee Tribe also presented data to HDR, but their information was not used either. For example, I took HDR staff around myself and showed them many of the businesses present in the community. This information was not used and the EIS lists only 2 businesses in the community! Apparently the man I took on the tour doesn't believe what he sees with his own eyes. t.

The Corps had no difficulty including options for evaluation that were suggested by the environmental lobbying groups but refused to evaluate options suggested by community residents. I requested that the Corps evaluate the effect of including a small internal secondary drainage component with options 1, 2, 3, and 9. The Corps refuses to do this c.
saying their computer model can't model something so small. I would like to have this secondary drainage system evaluated and it isn't necessary to use a computer model to do it. I have included a copy of this secondary drainage system with this letter and I want it printed with my comments. It appears to community residents that the only way to have access to the Corps decision-making process is to give major donations to the Democratic Party. Then Al Gore and the Assistant Secretary of the Army, Michael Davis, will see to it that your ideas are included.

In section 1 of the EIS, on the first page, second paragraph, it states that PL 101-229 says that the Corps was authorized to "construct a flood mitigation system." Please quote the exact legislative language- "The

D11 a. Comment noted. The picture on the front cover was not intended to reflect that the entire community is unimpacted wetlands.

b. All input from stakeholders and interested parties was considered equally in the development of the Final GRR/SEIS. There have been numerous public meetings and workshops in which all input was encouraged from the residents, cooperating agencies and other project stakeholders. In total, 19 workshops and technical meetings were held to specifically discuss this project between April 1999 and May 2000, including 4 public workshops and technical meetings in April/May 2000 alone. The extensive public coordination resulted in the identification of the various alternatives as well as the requirements, objectives and performance measures for evaluation of each alternative. Other topics of discussion included project-scoping requirements, modeling requirements, environmental issues, and local cost issues.

s. The sources of all data used in the preparation of the Final SEIS, including any data provided by DERM, were fully identified in Section 10.0 – References Cited.

t. Commercial land uses in the study area were initially identified in DERM's 1999 land use survey. The USACE contractor (HDR) conducted limited ground-truthing in March 2000. In so doing, a reasonable effort was made to identify all potential commercial enterprises in the study area. The Final SEIS identified four commercial land uses in the study area, although several parcels that were identified as residential or agricultural in nature seemed also to have included commercial or quasi-commercial nature activities.

c. The USACE analyzed a small internal secondary drainage system and determined that it would not be adequate to solve the problem.

secretary of the Army is authorized and directed to construct a flood protection system." While there may be disagreements about what level of protection is required by law, that's no excuse to misquote a Congressional Act. d

The Corps continues to maintain that they only have to provide the community with "flood mitigation." I am told that this means that they must provide our community with "pre-project conditions." So far I have not seen any mention of exactly what this means. I have filed a FOIA request for a definition of just what is meant by the phrase "pre-project conditions" ie, what would be the average ground water levels for the wet and dry seasons that the Corps would have to provide us with, but so far I have not received any written answer to my FOIA request. I have been told verbally that the Corps doesn't want to tell us what levels of ground water they will provide us with because it "would limit their project flexibility." Indeed-that's the whole point! Unlimited possibilities are inappropriate for a federal agency with as much power as the Corps of Engineers.

At one point, the EIS lists this level of ground water that the Corps would have to provide my community with as the level appearing in a 1983 computer model run, but I have not seem any actual ground water levels listed.

On page 3 it states, "The 8.5 SMA is prone to frequent flooding due to its location along the eastern periphery of the historic Everglades." This statement is incorrect. The 8.5 SMA is not "prone to flooding". Our community floods for the same reason that urban Miami-Dade County had 4 feet of flooding from the 9 inches of rain we received during Hurricane Irene-the unnaturally high levels of ground water that have resulted from Iteration 7 of the Experimental Program and the Corps inability to complete the Modified Water Delivery Project. Flooding is the direct result of mismanagement of the canal system, not our location. To state in a public document that our community's location is the reason we flood perjures people against the community as well as relieving the Corps of it's responsibility to see that the canal system is operated correctly. e

On pages 22 and 23 the EIS makes many incorrect statements concerning the hydrology of the area. It states that "..freshwater sheet flow traversed portions of this area on its way towards the Everglades and its eventual discharge to Florida Bay." This is grossly inaccurate. f Shark River Slough discharges into Whitewater Bay, not Florida Bay. Taylor Slough discharges into Florida Bay but the 8.5 SMA does not contribute sheet flow to Taylor Slough. There was no sheet flow over the area because it is too high to accommodate sheet flow.

On page 23, our community's secondary drainage system is mentioned. "Although along the southern boundary of the 8.5 SMA a series of surface water flow channels have been constructed within the upper few feet of the limestone bedrock, these channels do not appear to augment drainage of the area to any significant degree. Information provided by Miami-Dade County Department of Environmental Resources Management (DERM) indicates that these channels are not part of a system that drains the water downgradient to a positive outfall." This is grossly inaccurate. Our community's secondary drainage canals have the capacity to remove 100 cfs, or 200 acre feet of water a day from our community. Prior to the completion of L-31 N, these secondary canals drained into g

d. Comment noted. The text has been modified to more fully reflect the legislative language and intent.

e. Historical and contemporary environmental data clearly indicate that the study area is subject to flooding (inundation). The flood proneness of the study area is due in part to its geographic position on the periphery between the Everglades and Atlantic Coastal Ridge. The 8.5 Square Mile Area was originally mapped as "Wet Rocklands" in a 1940s land capability study (Jones, 1948, Fla. Agri. Exp. Stat. Bull. 442, Sheet No. 34). Soils maps published in 1958 and 1996 show the study area dominated by hydric or very poorly drained soils (except where rock-plowing has occurred).

f. Comment noted. The text has been modified.

g. According to Miami-Dade County's DERM, Water Management Division, Water Control Section (Isaac Sznol), there are currently no secondary canals in or immediately adjoining the 8.5 Square Mile Area. A Water Control Plan map dating to the 1970s did include some of the roadside ditches along Richmond Drive and 197th Avenue in the County's secondary canals system but these were long ago declassified and no longer considered part of the system.

C-102. They were supposed to be connected to L-31 N when it was completed but this was not done. There has been no authorization to deauthorize these canals. They're clearly shown on a map from the South Florida Water Management District titled, "Dade County Canal Maintenance."

The second paragraph on page 23 states that "Because the 8.5 SMA was historically considered to be west of the development area, formal flood protection levels of service within the area were never established." The 8.5 SMA was in existence before "development area(s)" were established. Our community was here before L-31 N was constructed. The first road into the area was constructed in 1936. The area has been farmed since the early 1950's. This paragraph then goes on to say, "At times, when flooding in the 8.5 SMA was at its worst, Canal L-31N and its associated pumping stations have been operated in opposition to the normal operating procedures in an effort to reduce this flooding." This is incorrect. At no time was L-31N "operated in opposition to normal operating procedures" to provide us with flood protection. G-211 was not operated according to operating criteria for months prior to Hurricane Irene and was the major cause of the flooding in the urban areas of the County. In the fall of 1994, water levels were raised 18 inches above operating criteria north of S-331 and held there for 13 months. h

On page 37 it states, "The possibility exists that elevated levels of pesticides occur but have not been documented." Give me a break! What you're saying is, "We can't find pesticides in your ground water, but we know they're there!"

On pages 43 and 44 plant community classifications are listed. "Forested Exotic Wetlands" is noted to be over 50% dominated by exotic species while "Upland Forest Shrub Complex" is listed as land that has been cleared but which is currently abandoned. If land has been used and then abandoned it will be covered with over 50% exotic species and should be labeled as such. "Fallow, 50% covered with exotics" would be appropriate. An "upland forest shrub complex" label gives the reader the incorrect impression that the land being described has somehow miraculously returned to some pristine ecological condition. Most people will not read these classifications, they will look at the map that shows these plant communities. There are areas listed as "Upland Forest Shrub Complex" that are totally covered with Brazilian pepper. To call them an "Upland Forest" is a blatant misrepresentation of the facts. i

It is obvious that the information your agency has received from DERM is incorrect. Below is a small sample of the misinformation DERM has supplied you with:

Table 8 Tabulation of Existing Land Use Classifications in the 8.5 SMA Used for Analysis. This entire table is incorrect. The number of residential parcels is severely under represented. The amount of land the SFWMD owns is incorrectly listed as 160 parcels. Miami-Dade County is said to own 185 parcels, the USDA is said to own 5 parcels and the Trustees of the Internal Improvement Trust fund own 2 parcels. Please consider the following information which is available to the public from the County tax records:

Miami-Dade County owns 5 parcels, not 185
The SFWMD owns 120 parcels, not 160
The USDA and the Trustees of the Internal Improvement Fund own nothing j

h. Comment noted.

i. Comment noted. The plant community names used in the Final SEIS were developed in consensus by the WRAP assessment team. The exotic plant component of the plant communities in the study area was detailed in the narrative description for each community based on the data available.

j. According to the latest parcels information provided by Miami-Dade County (current to January 2000) and updated by the USACE real estate staff (on March 27-28, 2000), the USDA and the Trustees of the Internal Improvement Fund are listed as property owners in the 8.5 Square Mile Area. The apparent discrepancy in Miami-Dade County's holdings relates to the presence of numerous right-of-way parcels that lack parcel numbers. In the case of SFWMD, a number of parcels that were acquired under the Save Our Rivers program were not included in the January 2000 County parcel records. USACE real estate staff furnished information on these transactions.

There are 481 parcels that have an address in the community. Most of these parcels have some type of dwelling on them.

It appears that DERM generates it's own data. The following information was not used by HDR Engineering although it is easily available from the County Information service. According to the Miami-Dade County land use code contained in the tax information, the following land uses are noted in the 8.5 SMA:
COUNTY CODE#
0001 244 parcels are described as being "Residential" only (DERM states this is 74 in Table 8 and 321 in Appendix D, page 3)
0002 6 parcels are described as having "Duplexes"
0003 2 parcels are described as having "Multiple family dwellings"
0006 3 parcels have "Mobile homes"
0009 1 parcel is listed as"Mixed use, residential"
0041 1 parcel is listed as "Educational-private"
0065 22 parcels have "Parking, vacant lot, enclosed" (Meaning that property is fenced)
0066 96 parcels are listed as having "Extra features other than parking"
0032 2 parcels are listed as being "Light manufacturing and food processing"
0037 1 parcel is listed as being a "Warehouse or storage"
0079 76 parcels are listed as being "Mixed use, agricultural"

It is interesting to note that the following County land use codes do not occur in the 8.5 SMA community:
0082 Glade
0083 Marsh or swamp
0084 Recreational or endangered
0091 River
0092 Lake
0093 Submerged land

It is also interesting to note that the land the Corps has already purchased is listed as Land Use Code# 0098, "Federal", while the land that Everglades National Park has purchased in the park expansion area is listed as #0080, "Vacant land, government". There is a land use code for the SFWMD-#0085, however none of the land purchased by the SFWMD is listed under this land use code. Land purchased by the SFWMD is listed as 0080, "Vacant land, government"

Appendix D, Real Estate, page 3, states that there are 1984 parcels of land in the community. Moving on to the Social Impact Assessment section, pg. 1, we read that our community contains 1801 tracts of land. Appendix D also says that DERM identified 514 housing units. On page 3, DERM lists the population as only 853. Apparently you don't count as a resident if you don't receive your mail at the address of your property. No one in the area receives home mail delivery because it isn't available. Residents receive their mail at locked boxes on SW 168 St. and SW 136 St. Mail delivery is erratic and many people choose to receive their mail at a PO box or at work. u.

k. The total of 1984 parcels in the 8.5 Square Mile Area represents the most current count. It includes approximately 23 additional parcels that were created when the USACE acquired portions of larger parcels that fall under the levee/canal footprint of the 1992 authorized plan. Any remaining discrepancies in parcel counts stem from the difference between the USACE study area (which included approximately 10.0 square miles) and the DERM boundary for the 8.5 Square Mile Area (which was somewhat smaller in size).

u. A correlation between mail addresses and home addresses was used in estimating the number of owner-occupied residences in the 8.5 SMA in order to assist in identifying the number of households that would require relocation for each of the alternatives considered. Post Office boxes were also used, where possible, as well in this determination. The process was based on Public Information that is available in web sites on the Internet and did not involve the intent to violate anyone's privacy

Demographics, page 4, makes the unsubstantiated claim that the community contains "illegal immigrants." This is a discriminatory statement with no documentation to back it up. Residents of the 8.5 SMA demand that this statement be removed from the final document. l

This section also states that "1990 Census data disaggregated or collected by county census block or zip code cannot be extracted to accurately reflect the demographics of the area." I can attest to the truth of this as I attempted to get census data for the area myself. But then this document goes ahead and uses this unreliable census data at length! The number of people, our income, average age, level of education, etc. is discussed in detail, using this very same "unreliable" census data! m.

Public Services and Utilities, page 14, states, "The relative isolation of the 8.5 SMA from the rest of Miami-Dade County has resulted in the area having limited public services." This is incorrect. We have limited public services because the County will not provide us with services. It isn't our "isolation", it is the County's indifference that limits our services. Our community is closer to Miami than Homestead or the Redlands.

On page 14 it also states, "Adequate storm water drainage and drainage outlets are also lacking." This is also incorrect. These canals were illegally blocked. Having secondary drainage canals that the County refuses to maintain and which the SFWMD refuses to allow community residents to maintain, is not the same as not having secondary drainage in the first place. n

Also on page 15, it states that, "There are no major employers in the area.." While there are no large businesses employing hundreds of people, the plant nurseries, fruit orchards and row crop farming employ a substantial number of low income workers. The packing house employs up to 50 people during the peak agricultural season and is open all year round. o

Community Cohesion discusses residents feelings about our community. On page 15 it states that because some people who own homes in the area stay in town during the week to work, or get their mail at a PO box, that, "For whatever social or economic reasons their loyalties lay elsewhere." This is so absurd that I can't imagine why the Corps included it! People's "loyalties" are not demonstrated by where they get their mail. A more accurate way to judge people's "loyalties" would be to acknowledge that despite abandonment by Miami-Dade County, and repeated attempts by government agencies to illegally confiscate their land, the vast majority of people continue to resist, often at great personal cost. The SFWMD was only able to acquire the land it has acquired because District staff told property owners that their land was being condemned and they had no choice but to sell. p

Sense of Place, pg. 16, states that one third of the property owners want to sell to the SFWMD. The District is unable to provide proof of the number of people who want to sell to the District. Many people requested an appraisal from the District, but this does not constitute a commitment to sell. No one has ever verbally expressed a wish to sell their property to the District at a public meeting, but many property q.

l. The text has been modified to remove the connotation of "illegal immigrants" in the area.

m. Census data was used as a point of reference in describing the demographics of the 8.5 SMA. It is acknowledged that Census data does not accurately reflect the demographic profile of the area. However, other sources, such as "City and County data bases", other published studies and professional judgment provided a basis for the data presented. Census data was but one source, among many, used to estimate the baseline population of the 8.5 SMA. Given the paucity of information for the area, the population and demographic data presented for the 8.5 SMA is considered a reasonable representation of the population and demographics of the area.

n. According to Miami-Dade County's DERM, Water Management Division, Water Control Section (Isaac Sznol), there are currently no secondary canals in or immediately adjoining the 8.5 Square Mile Area. A Water Control Plan map dating to the 1970s did include some of the roadside ditches along Richmond Drive and 197th Avenue in the County's secondary canals system but these were long ago declassified and no longer considered part of the system.

o. The text has been modified to reflect the agricultural employment in the area.

p. The text has been modified to reflect the concerns expressed in the comment.

q. At least three different surveys for willingness/unwillingness to sell were made, including two by the SFWMD and one by the residents. Estimates of willingness show dramatic swings from one estimate to another, which we suspect, is largely attributable to the environmental and/or political conditions at or immediately preceding the survey. Therefore, the estimates of willingness/unwillingness to sell are not very reliable. This has been noted in the documents.

owners have stood up and stated they did not want to sell their property to the District. A quarter of the homeowners have signed a disclaimer stating they do not wish to sell their property to the SFWMD.

Future Land Use, pg. 20 makes the statement, "The ten-year flood elevation within the area has been determined to be the 7.7' elevation or contour within the area.....about 574 acres are located above the 7.7 elevation..." The color map showing elevations, FIGURE NO. 5, TOPOGRAPHIC SETTING, gives an inaccurate impression of land elevations in the community as well. It shows 75% of the community as being below 7 feet in elevation and only about 25% of the community as being above 7 feet. This is slanderously inaccurate. Miami-Dade County's own flood criteria contour map shows over half of the community as being 7.6' or higher. The Corps map lists the source of this information as "DERM(1998)." DERM has elevation maps done by Florida Power & Light, that show the community as being about one foot higher than the map that appears in the EIS. Additionally, a USGS elevation map done in 1979, shows that almost all of the community is above 7 feet while more than half the community is above 7.5 feet. Only a small sliver of land along the western edge of the community is shown as being between 6.5 to 7 feet. One has to wonder why DERM would give a map with incorrect elevations on it to HDR and the Corps-and why the Corps would accept it. r.

At least I would like to commend the Corps for continuing to support it's own, already authorized and funded project. I would also like to commend the Corps for refusing to endorse the Park's Draft Coordination Act Report. Community residents have given the Corps their support for the Modified Water Delivery Project. We hope the Corps will continue to resist the illegal attempts to destroy our community in defiance of the clearly stated will of Congress that our community be protected.

STOP WASTING TIME AND MONEY! COMPLETE THE MODIFIED WATER DELIVERY PROJECT, AS IT WAS AUTHORIZED, IMMEDIATELY!

Madeleine Fortin, Board of
Directors,
May 29, 2000
United Property Owners & Friends of the 8.5 Square Mile
Area
21801 SW 152 Street
Miami, Florida 33187
305-255-7098
<mfortin@bellsouth.net>

---

Madeleine
Fortin
May 1, 2000
21801 SW 152 Street
Miami, Florida 33187
305-255-7098
<mfortin@bellsouth.net>

Col. Joe Miller
PO Box 4970
Jacksonville, FL 32232

r. The data has been verified. Appendix A presents an explanation and justification of the topographic mapping that was used in the conduct of this study.

D-11C X

Col. Miller:

Please model the following secondary drainage system for the 8.5 Square Mile Area. Include it with the Corps Alternatives 1,2,3 and 9. Do not include any estimates for cost. Residents are attempting to form an improvement district which will have to supply the funding for construction and maintenance for this secondary drainage system as well as for repair and maintenance of our roads. The Corps will not be responsible for either funding or construction of this system.

The function of this internal, secondary drainage system is to equalize ground water levels generated by local rainfall. This small system can either discharge south, under SW 168 Street, into a storm water treatment area or gravity discharge east into L-31 North, just south of pump station S-331 for land south of SW 136 Street, or for land north of SW 136 Street drainage can be pumped into L-31 North canal, via a feeder canal north of G-211 at proposed structure S-357. All features should be constructed in current right of ways of existing roads and will not involve the acquisition of additional land.

This internal secondary drainage system includes, but is not limited to the following features:

From SW 136 Street south to Sw 168 Street:

1. The existing saw cut canals that run east and west along SW 168 Street should be utilized. These canals have openings already cut into the sides of L-31 North. They have the ability to discharge 50 cfs each for a total of 100 cfs. To prevent unnecessary draining of any part of Everglades National Park, a plug should be placed in these canals at SW 221 Avenue.
2. Equalizer canals running north and south every .5 mile or .25 mile, whichever is necessary to adequately equalize ground water. These canals should be a maximum of 6 feet deep and 3 feet wide. They will drain into the above mentioned canals running alongside SW 168 Street and will start at SW 218 Avenue in the west and go to SW 197 Avenue in the east.
3. Swales along side of all avenues that do not have an equalizer canal.
4. Culverts wherever a street crosses an avenue.

From SW 104 Street, south to Sw 136 Street:

1. A saw cut drainage canal running east and west along the north side of SW 136 Street from SW 208 Avenue to SW 197 Avenue and discharging east into L31 North or a collector canal channeling water to proposed structure S-357.
2. Equalizer canals running north and south every .5 miles or .25 mile, whichever is necessary to adequately equalize ground water. These canals should be a maximum of 6 feet deep and 3 feet wide. They will drain south into the above mentioned canal running along the north side of SW 136 Street or be channeled into the collector canal for proposed S357 and should begin at SW 208 Avenue in the west and go to SW 197 Avenue in the east .
3. Swales along side of all avenues that do not have an equalizer canal.
4. Culverts wherever a street crosses an avenue.

Col. Miller, the problems that my community faces can be easily solved if only the involved government agencies will work together with us. A

cx. The USACE analyzed a small internal secondary drainage system and determined that it would not be adequate to solve the problem.

secondary drainage system is a simple thing and it is all that is necessary for the continued existence of our community.

It is my understanding that DERM has already developed a plan for an internal secondary drainage system but DERM staff refuse to allow the public to see it. Perhaps the Corps could request a copy of it.

DERM continues to use the argument that Miami-Dade County does not have the financial resources to provide our community with any services although we have given the County will over $200 million in property taxes in the last 20 years for which we have received essentially nothing in return. Community residents feel confident that we can form an improvement district and provide our own services, thus relieving the County of this responsibility. Your assistance in helping us to get this internal secondary drainage system modeled will be very helpful. I hope we can count of your help!

5-30- 0; 10:25; 2529953274 => CEFMS CESAJ;
05/30/2000 10:38 2529953274 BIODIV LEGAL FOUND PAGE 01

D-12

PD
Jim Dad

BIODIVERSITY
LEGAL
FOUNDATION

May 30, 2000

By Fax and U. S. Mail

Colonel Joe R. Miller
District Engineer, Jacksonville District
Attention: Ms. Cheryl Ulrich, P. E.
U.S. Army Corps of Engineers
P.O. Box 4970
Jacksonville, FL 32232-0019

Re: 8.5 Square Mile Area DSEIS

Dear Colonel Miller:

Of the options reviewed in the Supplemental Environmental Impact Statement/General Reevaluation Report, Modified Water Deliveries (April and May 2000), the Biodiversity Legal Foundation supports alternative 5 – total buyout – of the 8.5 square mile area. a

We believe that the U. S. Army Corps of Engineers ("Corps") and the South Florida Water Management District ("District") should support full purchase of the area. In support of this recommendation, we would note the following matters. First, we are concerned that the SEIS/GRR evaluation does not accurately weigh the economic and ecological effects of the alternatives. This falsely reduces the value of the full buyout alternative, and falsely raises the value of the other alternatives.

Second, we would note that the Central and South Florida Project has decreased water levels and durations in the 8.5 Square Mile Area (SMA). This has not only resulted in adverse impacts to the ecological values of this area and spurred development – resulting in additional adverse impacts – but also resulted in adverse effects to wetlands in Everglades National Park, due to the draining effect of flood control measures on park marshes that are to the west of the 8.5 SMA.

In addition, flood management actions – many of which are intended to benefit the 8.5 SMA – have resulted in the Corps' jeopardizing the continued existence of the Cape Sable seaside sparrow, and the District and Corps harming the sparrow. These measures have also adversely affected other wading bird species, and modified vegetation patterns.

P.O. BOX 1359 BUXTON, NC 27920 (252) 995-3312

D12 a. Comment noted. The USACE stands behind the Final GRR/SEIS and subsequent Addendum A as containing a satisfactory level of analysis and information in full compliance with the NEPA process. As a result of the NEPA process, public and agency input, Alternative 6D with conditions, was selected as the Federally Recommended Plan.

05/30/2000 10:38 2529953274 BIODIV LEGAL FOUND PAGE 02

We believe that alternative 5 would best accomplish the reestablishment of historical hydroperiods in Northeast Shark River Slough; other alternatives would result in decreases in hydroperiod and depths.

Likewise, alternative 5 would best allow restoration of wetland functions and values. Other alternatives would continue to foster degradation and destruction of wetlands. The considerable direct, indirect, and cumulative effects of constructing the levee/canal design have not been fully evaluated by the Corps.

Alternative 5 would best allow the conservation of listed and sensitive species, including but not limited to, Cape Sable seaside sparrow, snail kite, and wood stork.

We are concerned that all alternatives except a full buyout would result in continuing conflict. Even partial buyout alternatives – such as alternative 4 – would still result in impacts to residents during large rain events such as Hurricane Irene. The Corps is not authorized to provide anything beyond "flood mitigation" to the 8.5 SMA. Therefore, residents will continue to have water on the roads and property in the area. While this is not "flooding," as it is below historical levels (due the Corps' management actions), it nevertheless does not resolve the concerns of the local residents.

We also are concerned that all alternatives other than full buy out will result in continuing adverse impacts to water quality in the Everglades. This will not only be in the form of run-off from agricultural activities, but also the other types of pollution that unfortunately have accompanied human settlement. As our past history has so clearly shown, much of our unwanted water – with the accompanying pollution – eventually ends up being discharged into the Everglades.

We also believe that the partial buyout options would result in additional financial costs that are not fully considered by the Corps in their review of alternatives. The considerable costs for roads, schools, police, administrative services – all the costs that are borne by society when an area is developed – must be fully counted and evaluated by the Corps. When all of the costs are fully considered, we believe that full buy out also will be the most cost effective. b

We may have not addressed all issues raised by the DSEIS/GRR. However, not discussing a particular issue should not be construed by the Corps as support for the analysis in the DSEIS/GRR.

Sincerely,

Sidney B. Maddock
Environmental Analyst

b. The assumptions used by USACE in determination of local costs are contained in Appendix F (Local Cost Analysis) to the Final GRR/SEIS. By definition, the goal of flood mitigation for this project is to allow no increase in flooding above what existed prior to the MWD project. It does not necessarily provide an increased level of flood protection. Only Alternative No. 6B provides flood protection as defined in the February 18, 2000 letter from Miami-Dade County.

5-30- 0; 22:31; 922 5828 => CEFMS CESAJ; #1
May 30 00 11:40p Brian & Rosalyn Scherf (954 922-5828 p.1

D-13 a

# FLORIDA BIODIVERSITY PROJECT

P.O. Box 220615
Hollywood, FL 33022
(954) 922-5828

May 30, 2000

VIA FAX

Elmar Kurzbach
U.S. Army Corps of Engineers
P.O. Box 4970
Jacksonville, FL 32232-0019

RE: 8.5 SMA Supplemental EIS Comments

Dear Col. Miller,

The Florida Biodiversity Project (FBP) submits the following comments on the 8.5 SMA SEIS. We request that these comments be included in the administrative record. For the reasons discussed below, the FBP finds the SEIS to be inadequate. In particular, there are several substantive issues regarding the Corps failure to comply with the National Environmental Policy Act (NEPA), the Everglades National Park Expansion and Protection Act, and inadequate environmental analysis. The Draft Fish and Wildlife Coordination Act (CAR) which is included in the Draft SEIS as appendix G provides substantial, credible, and compelling evidence of the Corps failure to do adequate environmental analysis. Finally, the FBP urges the Corps to select a federally preferred alternative. The FBP believes that Alternative 5 – the full buyout - should be selected since it clearly best meets the legislative and other objectives identified in the Draft SEIS. a

**I. Background**

There is substantial and compelling evidence that the C&SF Project has dramatically transformed the Greater Everglades Ecosystem into largely a reservoir system severely altering the natural hydrology and ecology. For example, canal and levee systems fragment habitat, create barriers for wildlife, drain adjacent wetlands, alter natural flow rates and direction, facilitate the spread of exotic species, create artificial habitats, and provide conduits for the spread of nutrients and toxic contaminants. Of particular relevance here, the Corps through their management and operation of the of C&SF Project have altered the flows of Northeast Shark River Slough (NESRS) whereby 80-85% of flows are artificially channeled into Western Shark Slough, rather than the 45% as would found under historical conditions.

In 1989, Congress recognized the adverse effects of the C&SF Project and authorized the Everglades National Park Protection Expansion Act (Act) which added

1

D13 a. Comment noted. As a result of the NEPA process, public and agency input, Alternative 6D with conditions, was selected as the Federally Recommended Plan.

5-30- 0; 22:32; 922 5828 => CERMS CESAJ; #2
May 30 00 11:40p Brian & Rosalyn Scherf (954) 922-5828 p.2

107,600 acres to the Park and mandated historic flows be restored. The Act recognized that increased water flows would raise water levels in the 8.5 SMA and the areas needed protection from these increased flows. A 1994 amendment to the Act also recognized land acquisition as one solution to provide protection from restored water flows.

The 8.5 SMA is important to ecological function since these short hydroperiod perimeter areas that historically were wet in the wet season and dry during the dry season, would be in danger of being lost to a system in which canals and levees keep water levels high on the wet side and low on the dry side. However, it is these same perimeter zones that are needed to restore the landscape and ecological functions. Additionally, historical flows through the 8.5 SMA provided water to Taylor Slough and Florida Bay.

**II. The SEIS does not objectively evaluate the ecological effects of alternatives on NE Shark River Slough.**

The Corps is required to rigorously explore and objectively evaluate all reasonable alternatives. 40 C.F.R. § 1502.14(a). First, NEPA requires that information be of high quality, have accurate scientific analysis, expert agency comments, and public scrutiny. 40 C.F.R. § 1500.1(b). Further, NEPA requires that the SEIS be supported by evidence the agency has made the necessary environmental analysis. 40 C.F.R. § 1502.1.

The FBP believes that the Corps' SEIS is fundamentally flawed because it uses the wrong baseline standard – the 1995 base to evaluate alternatives rather than the full implementation of Modified Water Delivery Project (MWD) and D-13R of the Restudy. It makes no sense to compare alternatives with the 1995 base only when future conditions will be determined by the implementation of the CERP. The CAR analyzes in exhaustive detail how the canal/levee alternatives will adversely impact the hydrology of up to 27,000 acres in ENP. In order to comply with NEPA, the Corps must model the effects of the alternatives with full implementation of MWD and D-13R. b

Additionally, the EIS must analyze the direct, indirect, and cumulative impacts of the alternatives. Direct effects are defined by the CEQ regulations as "caused by the action and occur at the same time and place." 40 C.F.R. §1508.8. Indirect effects are defined as being "caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems." 40 C.F.R. § 1508.8.

Cumulative impacts are defined as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." 40 C.F.R. § 1508.7. Additionally, an EIS must provide full and fair discussion of significant

2

b. The Everglades National Park Protection and Expansion Act of 1989 authorized the Secretary of the Army, upon completion of a General Design Memorandum (GDM), to modify the C&SF project to improve water deliveries to ENP and to take steps to restore ENP natural hydrological conditions. The Corps of Engineers completed the GDM in 1992, which specified the necessary modifications. The Chief of the Engineering Division, Directorate of Civil Works approved this GDM in June 1992. This approval fulfilled the requirements of Section 104 of the 1989 ENP Protection and Expansion Act, which directed the Secretary of the Army to select the plan that accomplishes the goals of MWD to the extent practicable. A Record of Decision was executed by the USACE in May 1993. The recommended plan from the 1992 GDM is included in this Final GRR/SEIS as Alternative No. 1 and serves as the baseline to evaluate all other alternatives.

An additional comparison of all alternatives is presented in relation to Base 95 in the Final GRR/SEIS. The Base 95 condition is that which is estimated to most closely resemble the system as it is currently authorized. This comparison was selected to provide information on how the system operation will change (i.e., estimated stages in the 8.5 SMA) as compared to existing conditions.

5-30- 0; 22:33; 954 922 5828 => CEFMS CESAJ; #3
May 30 00 11:41p Brian & Rosalyn Scherf (954) 922-5828 p.3

environmental impacts. The EIS must also be concise, clear to the point, and supported by evidence that the agency has made the necessary environmental analysis. 40 C.F.R. § 1502.1.

Clearly, Everglades restoration (MWD & CERP) is a reasonably foreseeable future action and therefore must be analyzed. In fact, the dominant purpose of resolving the 8.5 SMA issue is to proceed with Everglades restoration by restoring historical water flows.

**III. The SEIS does not analyze the effects of alternatives on Taylor Slough and Florida Bay.**

Parts of NESRS provide the headwaters for Taylor Slough and subsequent flows to Florida Bay – both critical components of Everglades Restoration. Part of these historical flows passed through the 8.5 SMA. It is therefore a gross oversight for the Corps not to model the effects of the various alternatives on these areas. Likewise the Corps has failed to comply with the NEPA regulations noted in the above section. The Final SEIS must model the effects of the various alternatives on these areas under full implementation of restoration scenario of MWD and D-13R. c.

**IV. The Draft SEIS fails to select a federally preferred alternative.** d

NEPA requires the identification of agency's preferred alternative or alternatives, if one or more exists in the draft statement and identify such alternative in the final EIS unless another law prohibits the expression of such a preference. 40 C.F.R. § 1502.14 (e).

The Corps has chosen not to identify a preferred alternative in the Draft SEIS, although it must according to NEPA do so for the Final SEIS. In addition, DOI has already stated their preference in the CAR for alternative 5 which in their analysis best meets the legislative and other requirements. The CAR provides substantial, credible, and compelling evidence for the selection of Alternative 5 – the full buy-out. There are six compelling reasons why Alternative 5 should be selected.

1. Provides Full Legal Compliance – Alternative 5 fully complies with the objectives listed in the SEIS and the legislative requirements of Everglades National Park Protection and Expansion Act and other objectives listed by the Corps. The purpose of the Act is to "restore" the natural hydrological conditions within the Park to the extent practicable. The 1994 amendment to the Act recognized that property acquisition could be required. The 8.5 SMA is a management component of the MWD Project and therefore the selected alternative must be consistent with the objectives of MWD Project.

2. Provides the greatest ecological benefits and is the most scientifically justifiable – It provides the greatest increase wetland function, allows for more complete hydrological restoration of NESRS, provides the most benefits to endangered species, increases marl forming wetlands, provides recharge to the headwaters of Taylor

3

c. The objectives and performance measures used for the analysis were developed through a series of technical meetings made up of representatives of various agencies, environmental groups and other interested stakeholders. Hydrologic improvements to Taylor Slough and Florida Bay were not identified during this process as a desired performance measure.
Analyses of flows to Florida Bay via ground water, overland flow, and canal flow were performed and have been included in the final modeling appendix. Results show that there are no significant differences between the plans and analysis of stage at points in the vicinity of Taylor Slough headwaters have been included in the appendix.

d. Comment noted. NEPA does not require the selection of a preferred alternative in a Draft document, only that all alternatives be treated equally. A Federally Recommended Plan has been included in the Final GRR/SEIS.

Slough, provides peripheral wetland habitat, allows for restoration of habitat, reduces exotic species, and provides the most compatibility with the objectives of the Comprehensive Everglades Restoration Plan. Alternative 5 also provides the most flexibility for adaptive management.

3. Eliminates safety and liability concerns- A fundamental purpose of government is to provide for the public safety. Hurricanes and tropical storms are a common occurrence in south Florida. The 8.5 SMA experienced naturally higher water stages during Hurricanes Andrew and Irene. It makes no sense to allow people to reside on the wet side of the L-31 containment levee. Is the District willing to bear the millions of dollars in liability consequences if people are killed and/or property is destroyed during seasonal major storm events because of the District allowing people to reside in harms way on the wet side of a levee? Attorneys and newspapers will ask why the District placed politics over public safety.

4. Reduces Water Quality Impacts - The CAR documents increased levels of phosphorous and fecal coliform bacteria in the 8.5 SMA following hurricane Irene. Additionally, two toxic solvents have also been identified. The elevated levels would be in violation of state water quality requirements. The canal and levee alternatives would likely recirculate dirty water. With residential occupation there will likely be perpetual water quality problems and treatment would likely to be very expensive. The 8.5 SMA may eventually need an expensive STA system to comply with water quality standards under a canal/levee alternative.

5. Would be the most cost-effective in the long-term – There would be no suprises in future costs, such as continued litigation, emergency rescue and rebuilding costs due to hurricanes and tropical storms, demands for additional infrastructure, likely (add other costs failed to disclose costs) demands for full flood protection later, and no wetland mitigation expenses. The 1998 PEER consultants report submitted to the SFWMD came to same conclusion on future costs. Additionally, substantial funding for land acquisition is available from the DOI, the Farm Bill, ESA, Miami-Dade County, and the state of Florida.

6. Provides a final resolution to this contentious issue. Alternative 5 would end litigation and the need for further water control structures to reduce natural water stages. The draw down of water levels from a canal/levee alternative would likely spur future development and combined with higher water stages during seasonal hurricanes and tropical storms would insure continued conflict and an inability to meet legislative requirements and Everglades restoration objectives.

**V. The SEIS fails to include mitigation costs for the alternatives.**

Under the Executive Order 11990, the Clean Water Act 404(b)(1) Guidelines, and Corps policies and guidelines, the Corps would have to provide mitigation for the loss of wetlands due to construction of structural components and for e.

4

e. Do not concur. Compensatory mitigation is not applicable for this project. The Final CAR states that no fish and wildlife *or* wetlands compensatory mitigation will be required for the Recommended Plan.

May 30 00 11:42p Brian & Rosalyn Scherf (954 922-5828 p.5

loss of wetland function. Table 17 in the CAR lists the projected cost of mitigation for various alternatives. First, the Corps must design a mitigation plan based on the selection of a federally preferred alternative. Second, these mitigation costs should be reflected in the Final SEIS include monitoring and adaptive management.

**VI. Conclusion**

It is fundamental for the Corps to understand that in order for Everglades restoration to succeed it must be based on sound science and full compliance with environmental statutes. It makes no sense to spend almost $8 billion on Everglades restoration if scientific decision making will be continually undermined by political expediency.

The Corps original canal/levee proposal and subsequent variations are a band-aid approach that would draw down water levels from not only the 8.5 SMA but NESRS reducing both hydroperiod and water depth levels over an area as large as 27,000 acres in violation of the Everglades National Park Protection and Expansion Act.

In summary, the Corps must revise the following areas in the Final SEIS:

1. For the reasons set forth above, the SEIS is wholly inadequate and the Final SEIS must be revised to analyze environmental effects of all alternatives on NESRS, Taylor Slough, and Florida Bay based on a full restoration scenario and to comply with all relevant statutes.

2. The Corps legal position that restoring historic water flows would constitute "flooding" is flawed. The 8.5 SMA is not subject to "flooding" because historically the area was naturally inundated during the wet season. A "flood" is defined by Webster's Dictionary as " an overflowing of water on land usually dry." Therefore, higher water stages are the result of the Everglades ecosystem trying to establish natural hydropatterns. If people persist in wanting to reside in a wetland, on the wet side of the containment levee no less, then they should expect natural water levels. f

3. The Corps needs to select a federally preferred alternative. For the reasons discussed above the FBP believes Alternative 5 best meets the legislative requirements and other objectives and should be selected as the federally preferred alternative.

4. The Corps needs to provide a detailed mitigation plan with costs for any alternative which reduces wetland function.

5

f. In the context of this analysis, future potential "flooding" is defined as an increase in stages relative to existing conditions. As stages are increased in NESRS upon implementation of MWD, mitigation from these increased stages (flooding) must be provided in the 8.5 SMA.

RECEIVED: 5-30- 0; 22:35;
May 30 00 11:42p Brian & Rosalyn Scherf (954) 922-5828 p.6

Sincerely,

Brian Scherf
Boardmember

6

# Miccosukee Tribe of Indians
of Florida

**Business Council Members**
Billy Cypress, Chairman

Jasper Nelson, Ass't. Chairman
Max Billie, Treasurer

Andrew Bert Sr., Secretary
Jerry Cypress, Lawmaker

May 30, 2000

Colonel Joe Miller
U.S. Army Corps of Engineers District, Jacksonville
PO Box 4970
Jacksonville, FL 32232

Re: **Comments and Objections on the Draft GRR/SEIS on the 8.5 SMA**

Dear Colonel Miller:

The Miccosukee Tribe of Indians hereby files our comments and objections to the Army Corps of Engineers (ACOE or Corps ) Supplemental Environmental Impact Statement (SEIS) and General Reevaluation Report (GRR) for the 8.5 Square Mile Area Component of the Modified Water Deliveries (MWD) project. The Tribe also adopts herein the letters, documents, and fact sheets that were submitted to the Army Corps of Engineers and the South Florida Water Management District (SFWMD or District) at the numerous public meetings on the 8.5 SMA GRR/SEIS and the other components of the MWD project, as well as the testimony that was given on behalf of the Tribe by Colonel Terry Rice, Dr. Ron Jones, Steve Carney, Brad Waller, Jim Goldasich, Gene Duncan, Joette Lorion, Dr. Will Post, Burkett Neeley, and Tribal General Counsel Dexter Lehtinen and attorney Dione Carroll.

**UNREASONABLE AGENCY DELAY OF MODIFIED WATER DELIVERIES PROJECT DESTROYS EVERGLADES AND THREATENS RESTORATION** a

As stated in voluminous correspondence to the Corps, the Tribe's Everglades land in WCA-3A, and the State-owned Everglades, continue to be irreparably damaged, and the Miccosukee culture threatened, because of the Corps and Department of Interior (DOI) inability to implement the Modified Water Deliveries (MWD) project by 1997, as you told Congress you would do. The unreasonable and inexcusable delay of this project not only threatens the Tribe's culture, religion, and way of life in violation of the trust responsibility, but is also jeopardizing the continued existence of the endangered snail kite and its critical habitat, in violation of the Endangered Species Act (ESA). These issues and concerns were described in the Tribe's Comments on the Interim and Structural Operational Plan (ISOP),

1

P.O. Box 440021, Tamiami Station, Miami, Florida 33144, (305) 223-8380, fax (305) 223-1011
Constitution Approved by the Secretary of the Interior, January 11, 1962

D14 a.Comment noted.

which are incorporated by reference and attached to this document.

The Draft GRR/SEIS states that "the full implementation of the MWD project cannot occur until flood mitigation is provided to the 8.5 Square Mile Area". The Corps and DOI have known this since Public Law 101-229 was passed in 1989. Yet, the 8.5 SMA has not been protected, as Congress directed and other interests are now feeling the economic and environmental pain of your inaction. Lake Okeechobee; the Indian River Lagoon and Caloosahatchee estuaries; Florida Bay; the Water Conservation Areas; and other natural areas are being seriously damaged, while urban and agricultural areas are under increased jeopardy of flooding, all because the Corps and DOI have not implemented the MWD project This decade of stagnation is now threatening the Comprehensive Everglades Restoration Plan (CERP) because of the pitiful example of implementation that you are setting.

The Draft GRR also states that "the Miccosukee Indian Tribe is concerned that implementation of the MWD has been delayed due to the 8.5 SMA..." (GRR p. 85) The Tribe never said this. The Tribe believes that the implementation of the MWD project has been unreasonably delayed because of the failure of the Corps and DOI to implement the MWD project that was presented to Congress in 1992, including the mitigation project for the 8.5 SMA. The current, unnecessary GRR/SEIS process should not be used as an excuse by the agencies who have simply failed to do what Congress directed them to do. b.

**CORPS GRR/SEIS PROCESS IS FUNDAMENTALLY FLAWED**

The current Corps GRR/SEIS process that is being conducted by the Corps own admission, so that the local sponsor can select a locally preferred alternative/option (LPA or LPO), is fundamentally flawed and does not meet the requirements of the National Environmental Policy Act (NEPA). First, it is clear from the title of the General Reevaluation Report that the Corps realizes that the current District selection process is not a true SEIS process, because there is no federal decision making. The Draft GRR/SEIS clearly states numerous times that the federal government is spending federal taxpayer money so that the SFWMD can select a locally preferred alternative (LPA), thereby prejudicing the alleged federal process. c

Although the Corps continues to state that they will make the final decision, it is clear that they intend to rubber stamp the District's non-federal decision. Proof of this is in the fact that the Corps has refused to follow the usual NEPA process by failing to identify the federal government's preferred alternative. Not only is this contrary to the full disclosure purpose of NEPA, it prevents the District from choosing an LPA based on the alternative that satisfies the federal interest. A review of other Corps NEPA documents on other projects does not find similar processes, except for the process that was used at Snake River which is currently under investigation by the Government Accounting Office and Congress for undue influence on Corps of Engineers decisions.

Additionally, the Corps has improperly segmented the Modified Water Deliveries Project into components that under NEPA must be considered in a single SEIS. By d.

2

b. Comment noted. The text has been modified as appropriate.

c. The USACE stands behind the Final GRR/SEIS as containing a satisfactory level of analysis and information in full compliance with the NEPA process.

d. This project is compliant with Section 1502.20 "Tiering" of the Council on Environmental Quality's Regulations on Implementing National Environmental Policy Act Procedures (40 CFR 1500-1508). Tiering is approved and encouraged by the CEQ, when it is convenient to discuss the conceptual aspects of an action first, and later document details for specific parts of the action. After authorization, a GDM/EIS for the entire MWD Project was completed which addressed all components of MWD. Additional NEPA activities have been required during the detailed design phase. The 8.5 SMA component of MWD clearly is an "action included within the entire program or policy (such as a site specific action)" as cited in S. 1502. The purpose of tiering is to provide additional detail when it becomes available, incorporating the "parent" report and EIS by reference. As required, the FSEIS discusses only issues and details specific to the considered action (providing flood mitigation for the 8.5 SMA).

segmenting the project, the Corps has allowed the project purpose to be skewed, especially for the District who will not understand the devastating impacts that an 8.5 Square Mile Area LPA will have on the overall project. This improper segmentation has also allowed the Fish and Wildlife Service (FWS) and the Corps to underestimate the costs of delay to the Everglades and other wetlands outside the immediate vicinity of the 8.5 SMA that will be caused by the selection of 8.5 SMA alternatives that will result in the delay of MWD. It seriously underestimates the impact of delay on the endangered snail kite and its critical habitat in WCA-3A. e

The GRR also misstates the authorized project purpose by stating that P.L. 101-229 directed the Corps to restore the natural hydrological conditions "to the maximum extent practicable." (GRR p. 42). The word "maximum" does not appear in the law. Congress authorized a Modified Water Deliveries Project and the components of that project are so closely connected that it is a violation of NEPA to improperly segment them. Indeed, if you read the section of the law on the 8.5 SMA, the only thing the Corps is authorized to do is to construct protection for them. To create a specific 8.5 SMA project and consider things like buyout and condemnation, that were not authorized by Congress in the MWD project, is to stand NEPA on its head. f.

Finally, just as the Corps did in the case of the PEIS on the Restudy, they have once again violated NEPA by creating a moving target document. Once again, the Corps has published a voluminous draft document for public comment and in the eleventh hour supplemented the document with modeling for two new alternatives, claiming that they are just variations of ones they already presented in the first document. The Corps also denied members of the public an extended comment period to comment on the supplement, which is totally contrary to the spirit and intent of NEPA. (See Attachment A, letter from Joette Lorion to Colonel Miller dated May 23, 2000.) g.

**UNNECESSARY AND REDUNDANT SEIS PRODUCES SAME RESULT**

The Draft GRR/SEIS leads to the same logical conclusion that was reached in the 1992 General Design Memorandum on MWD and in numerous other reports, i.e. the 1992 Corps plan/concept is by far the fastest, cheapest, and most humane way of satisfying the federal interest for the 8.5 Square Mile Area. Any alternative that you choose must satisfy the federal interest at the least cost to the taxpayer. The alternative must also be "reasonable". Under NEPA, "reasonable" means that it must be able to be implemented within the time frame allotted for the project. The Corps MWD project is already woefully behind the 1997 completion date, and you have also been mandated a 2003 deadline for the completion of the MWD project due to a Fish and Wildlife (FWS) Biological Opinion. A review of Table 7 in the Draft SEIS demonstrates that the 1992 Corps plan/concept is clearly the only way that you can possibly meet this date. The time for study has long passed. The Corps is required by law to pick an alternative that is reasonable. Under the law, the Corps must implement the 1992 Corps plan/concept, the only reasonable alternative, as expeditiously as possible. h.

The comments below only serve to reinforce the 1992 Corps plan/concept as the best

3

e. The Corps understands that in fact its operations of the relevant structures in the Central and Southern Florida System have been monitored and adapted, as necessary, to minimize the adverse effects of high water stages in the Water Conservation Areas, where the snail kite habitat might be affected. Other parts of the MWD project need to be implemented to mitigate for the adversely high water levels in the WCA's. The Corps is committed to take all actions within its authorities to implement the full MWD project by 2003.

f. Comment noted. Text has been modified as appropriate.

g. Comment noted. The Draft GRR/SEIS included the full array of alternatives as identified through the extensive public involvement process. An Addendum to the Draft GRR/SEIS was issued on May 16, 2000 as a result of the local sponsor's request for evaluation of two variations of an existing alternative. Prior to the official publication of this Addendum, information pertaining to these alternatives was presented at two separate public meetings. The Addendum, with information comparable to what was presented in the Draft GRR/SEIS, was made available for public comment as soon as practicable to allow the maximum time for public comment. This schedule is fully compliant with all NEPA requirements and resulted in selection of a Recommended Plan that considered the input of the public and resource agencies. The plan is presented in the Final GRR/SEIS.

h. Comment noted. Although Alternative No. 1 is authorized, the USACE did not indicate a preference of one alternative over another in the Draft GRR/SEIS. The performance measures were intended to allow unbiased comparisons among alternatives for a number of critical performance indicators. As such, the estimated time for implementation of each alternative is included as a performance measure and was a factor in the selection of the Recommended Plan. The Recommended Plan will be implemented as expeditiously as possible.

alternative for implementing the 1989 Congressional directive, and support the Tribe's assertion that the current SEIS was unnecessary and has only caused further unreasonable and inexcusable delay of the Congressionally directed MWD project. Some of these comments included in the section "Key Points" and Debunking the New Myths Created by the Park" are taken from a letter that was sent to the South Florida Water Management District Governing Board of the South Florida Water Management District (SFWMD), by Colonel Terry Rice on April 17, 2000, concerning their possible selection of a Locally Preferred Option (LPO). (see Attachment B, letter from Colonel Rice to Colonel Miler.) The Tribe also includes some of the comments from Colonel Rice's letter herein because they are germane to your analysis and deliberations.

**THE KEY POINTS**

- **Fiscal Responsibility:** "Cost effectiveness" cannot be abused or we may risk losing much more than the MWD project. As the Corps becomes more and more involved in environmental restoration projects, "benefit/cost ratios" will give way to "cost effectiveness" as basis of justification. If the Corps does not clearly chose the option that gets the job done at the least cost, it will open itself up to criticism and a reluctance by Congress to fund projects based on this more liberal basis. In addition to ensuring that "cost effectiveness" is accomplished by your choice of plans, the following points also need to be addressed:
  - **Mod Water Is a 100% Federal Responsibility:** The plan chosen for the Modified Water Deliveries project to fulfill the Federal interest in carrying out the 1989 Act is a 100% Federal funding responsibility - Unlike a typical project which is authorized by a WRDA and funded through Corps appropriations based on a cost share with a local sponsor, this project is authorized and funded through DOI channels with no local sponsor cost share required … it is 100 percent funded by the federal government. The SFWMD has no obligation to commit any funds for construction of this project, and certainly there will be a taxpayer revolt if the District is perceived as giving the federal government funds when it is not required.

**Tribe bottom line:** The Corps failure to identify a preferred alternative in the Draft GRR/SEIS and quantify the exact costs that the District will have to pay beyond the 1992 Corps plan in selecting an LPO could cause the District to select an unreasonable and unimplementable LPO that will cause more delay and destruction of the Everglades.

- **All Costs Are Not on the Table in the Draft GRR/SEIS:** Costs for alternatives which take land in the 8.5 SMA are not fully assessed in the GRR/SEIS and the severe demands they will create on limited public funds must be fully disclosed under NEPA. **The 3 major increases, as discussed below, will conservatively result in an increase in the cost of implementation (increased cost of acquisition plus the cost of restoration) ranging from $235 million to $403 million, an annual increase in the cost of maintenance of approximately $22.4 million, and a cost of delay only considering tree island destruction of $12.3 million to $123**

4

i. The costs for lands, easements, and rights-of-way needed for construction of the Recommended Plan as well as lands acquired outside the perimeter levee would be 100% Federal responsibility. The Federal government will retain title to the project lands and grant to the non-Federal sponsor a outgrant for the lands to implement operation and maintenance responsibilities. The USACE would pay 75% of the cost for operation and maintenance. The SFWMD, as the local sponsor, would pay 25% of the cost for operations and maintenance for the Recommended Plan, and 100% of the cost of the post-construction management of land outside of the perimeter levee. In accordance with the terms of local cooperation, title to the lands currently owned by the SFWMD will be transferred to the Federal government.
An implementation schedule has been developed for the Recommended Plan and shows that the project can be constructed by October 2003.

**million per year** -

1) **Increased acquisition costs:** In land acquisition there is a good rule of thumb … "the final cost will be significantly greater than the first estimate." As an example, the Frog Pond was appraised for approximately $12 million in the C-111 project planning process … in the end, the SFWMD paid $43 million. For the 8.5 SMA, if we only assume a doubling of the estimate, the increase would be about $179 million, bringing the buyout cost to $358 million. kk.

**Tribe bottom line:** The Corps has a duty to factor in and quantify these land acquisition costs, and the cost of condemnation and a quick take they say may be necessary in the Draft GRR/SEIS. These costs must be assessed in the final SEIS.

2) **Increased restoration and maintenance costs:** If land (agricultural, residential, commercial, or even degraded wetlands) is purchased in the 8.5 SMA, it will not magically return to its natural condition, as is essentially the assumption of the Corps in the Draft GRR/SEIS. We have learned this all over Florida as we pay dearly for mitigation acres, so they can be restored and maintained. The Save Our Rivers program requires a "stewardship" plan. The hole-in-the-donut is a local example of what happens when such lands are left unattended … overtaken by Brazilian Pepper, it will take approximately $26,000 per acre just to restore them. Given the varying conditions in the 8.5 SMA, count on $10,000 to $40,000 per acre for restoration and $3,000 to $5,000 per acre per year to maintain them. A quick calculation using 5,600 acres at $10K to $40K per acre increases the cost from $56 million to $224 million for restoration and $4K per acre per year for maintenance results in annual cost of $22.4 million.

**Tribe bottom line:** The Corps had the duty under NEPA to calculate these costs in the Draft GRR/SEIS. The Corps failure to calculate and estimate the reasonable and foreseeable costs of the restoration and maintenance of the land in the acquisition alternatives resulted in the acquisition alternatives being grossly underestimated and could result in the selection of an unreasonable and unimplementable alternative. Pursuant to NEPA , the final SEIS must include these costs. (See Attachment C, testimony concerning land maintenance and restoration costs before the SFWMD on Save Our Rivers, August 5, 1999). j

3) **Increased delays in implementation:** The assumption in the Draft GRR/SEIS that all alternatives can be completed in about the same time frame is fundamentally flawed, especially since Table 8, the red light/green light table shows that there are serious delay problems associated with the acquisition alternatives that makes them "unreasonable." The Corps plan (alternative 1) and its variations (alternatives 2 and 9) are ready to go. The other plans require additional steps that will probably delay implementation k

kk. Comment noted. Acquisition costs have been evaluated and increases as appropriate included in the Final GRR/SEIS.

j. Comment noted. Restoration costs have been evaluated and included in the final Appendix C of the document. In addition, there is an ecological operation and maintenance program detailed in the Final SEIS which requires an initial five years of intense maintenance.

k. The costs for delay in implementation of the various alternatives are stated in general terms in the Final GRR/SEIS.

for many years and perhaps decades, i.e. Congressional approval, Corps approval, additional funding, condemnation authority, and/or a new/revised Project Cooperation Agreement. During the delay, the damage to Lake Okeechobee, the WCA's, the east/west estuaries, Florida Bay, and even the Park, along with an increased jeopardy to agricultural and urban areas of flooding, will continue with an incalculable cost. Of course there are many parts of the natural system that are being damaged but let's focus only on the tree islands in WCA 3 ( Tribal and State Everglades). Table 7 in the Draft GRR/SEIS estimates that about 246 acres are being lost for each year of delay and the cost of restoration ranges from $50,000 to $500,000 per acre to restore them, therefore, the increase in cost due to tree islands alone is from $12.3M to $123 million per year.

**Tribe bottom line:** Despite the information in Table 7, the GRR/SEIS incorrectly fails to quantify this cost of delay for the red light alternatives. This failure to quantify the cost of delay's impact on the tree islands in WCA-3A, is a fundamental flaw that seriously underestimates the costs of the acquisition alternatives impacts on Tribal lands in WCA-3A and other parts of the ecosystem. The Draft SEIS should have used network analysis and risk assessment and defined the steps that will be required to complete each alternative. The costs, associated with the delay that each alternative induces, should have also been quantified to the greatest extent feasible and presented in the Draft GRR/SEIS. Under NEPA, the SEIS must quantify and disclose these costs or an unreasonable and unimplementable alternative may be selected.

**Legal Pitfalls:** The Corps is obligated to clearly address each of the following in the context of each alternative being considered:

- **"Cart before the Horse":** The process to determine the plan to fulfill the Federal interest is the GRR with accompanying SEIS NEPA document - In 1992, the Corps identified their preferred alternative in a General Design Memorandum and EIS. Now, the Corps has issued an SEIS on only one component of the Modified Water Deliveries project that does not identify the Corps plan that was chosen through a legitimate process as the preferred alternative. Instead they have issued a GRR that states that the goal of their new study is to assist the Governing Board of the District in selecting an LPA. By not identifying the Corps preferred alternative and by conducting an unnecessary analysis so that state entity can make a decision on an LPO prior to the Corps completing its analysis, the Corps is prejudicing the NEPA decision making and asking the District to inappropriately commit District funds without having identified the federal project for which they are being asked to select an LPO.

**Tribe bottom line:** The Corps GRR/SEIS will be challenged under NEPA as having not been a federal decision making process, but rather a rubber stamping of the non-federal decision of a state entity.

- **Congress Was Clear:** The Federal interest is specified in the 1989 Act and the 1994

6

amendment to the Act - the 1989 Act is very clear:

1) **PL 101-229 is unequivocal:**

*Flood Protection; Eight and One-Half Square Mile Area. - If the Secretary of the Army makes a determination pursuant to subsection (b) that the "Eight and One-Half Square Mile Area" will be adversely affected, the Secretary of the Army is authorized and directed to construct a flood protection system for that portion of presently developed land within such area.*

Any option chosen other than "construct a flood protection system" as directed by Congress is open to a legal challenge. l

**Tribe bottom line:** The statements in the GRR/SEIS that acquisition of the 8.5 Square Mile Area and condemnation of the land is "mitigation" and/or "protection" is ludicrous. The law clearly states "CONSTRUCT a flood protection system." It does not say "DESTRUCT a community." The law is clear. Even in Alice in Wonderland ,where according to Humpty Dumpty words can mean so many things, it depends on who's master. In this case, the master is Congress, and Congress will never stand for such a perversion of P.L. 101-229. The Draft GRR/SEIS must reject any alternatives that do not meet the requirements of P.L. 101-229.

2) **1994 Amendment is often misused:** The 1994 amendment to PL 101-229 has been portrayed by many to authorize acquisition of the area. It is important to read the amendment and accompanying report language because it only authorizes acquisition with some rather strict conditions: a) No condemnation is authorized … only willing sellers, b) the land will not be a buffer for the Park, and c) any acquisition solution must be faster and cheaper than the Corps 1992 plan. Again, since the Modified Water Deliveries Project has already been inexcusably delayed, a decision to acquire the area does not meet these conditions and is open to challenge. m

- **Questionable Use by Miami-Dade County DERM of EEL and SAMP Funds to Cost Share Land Acquisition:** In 1998, Miami-Dade County DERM proposed to use Environmentally Endangered Lands (EEL) and Special Area Management Program (SAMP) funds in 1998 to support the buyout decision. The Commission never voted to support the DERM proposal … and many believe they will never vote to use these funds once the understand that such a commitment will trigger condemnation. The Corps should not accept a District LPO that relies on these sources of funds to buy land in the 8.5 SMA without a vote buy the County Board of Commissioners. Even with vote, the use of EEL and SAMP funds will be challenged by those who do not believe it is an appropriate use of money from the Wetland Trust Fund. For instance, it is our understanding that SAMP acquisitions in the 8.5 SMA were never approved by the Corps of Engineers as mitigation for the Bird Drive and North Trail basins, yet such purchases were made until they were challenged in public meetings as not providing appropriate functional value for the n

7

l. Comment noted. Although the action states "flood protection", it is clear that such protection is to be limited to that which would be necessary to protect against impacts as a result of implementation of the MWD project. To alleviate the potential adverse effects on the 8.5 SMA due to implementation of the MWD project, a number of alternatives were analyzed during the development of the 1992 GDM. Included among these were acquisition alternatives. This is justified in the 1992 GDM since the intent was to provide protection against impacts caused by the project and not to provide complete flood protection.

m. Comment noted.

n. Comment noted. The Corps cannot accept funds that a local sponsor has received from another Federal agency unless that agency agrees that the funds may be used. There is no prohibition on the use of other funds.

land being developed in the Bird Drive Basin. If these funds were allowed to be used in the LPO, this could be a serious problem for the Corps SAJ 404 permit because there is an opinion that people who live in the Bird Drive Basin could still be liable for mitigation if DERM does not provide sufficient functional lift with the fees provided them.

- **Premature Commitment of Federal Funds:** Any commitment of any federal funds before the completion of NEPA is forbidden by law - the federal interest is satisfied by the plan developed through the Corps process. Law forbids the commitment of federal dollars prior to the completion of NEPA. Therefore, some have the legal opinion that any commitment by any federal agency, like DOI, prior to the completion of NEPA is unlawful and any commitment of funds above and beyond those that satisfy the federal interest after NEPA are also unlawful. These points should have been made in the GRR/SEIS. o
- **Property Rights Threatened:** Property rights are high on the agenda of many Florida residents and Governor, Bush and should also be on the mind of federal government agencies. It is a violation of property rights and the constitution to remove people from their homes when it is not necessary for the goal you are trying to accomplish. Thus, there is absolutely no public purpose under P.L. 101-229 for the condemnation alternatives and they must be rejected. In addition, the Corps must seriously consider the precedent you would be setting, i.e. that "urban removal" is acceptable for restoration without it being necessary. Certainly, buyout of all, or even a significant portion of the 8.5 SMA, would be the first time on such a large scale that people were forced from their homes in the name of Everglades restoration. And, the Corps has been shown over and over again that removal is not even necessary. Constitutionally protected property rights should be addressed in the context of each alternative being considered and those that violate those rights must be rejected in the final SEIS. p

**Tribe bottom line:** The Draft GRR/SEIS does not define the public purpose for the acquisition alternatives, because there is none. The Draft GRR/SEIS should reject any condemnation/acquisition alternatives because the modeling of the alternatives has demonstrated that there is no significant difference in restoring the flows to Shark River Slough between the Corps plan and the acquisition alternatives. q

- **Human Rights:** An awareness of human rights and discrimination issues surrounding the 8.5 SMA and the MWD project is growing. The Draft SEIS clearly defines the 8.5 SMA as a minority, Hispanic community with many Cuban refugees, but the GRR presented to the District does not disclose this fact. The President's Executive Order 12898 clearly requires agencies to see that Everglades Restoration does not have a disproportionate impact on minority and low income communities. Yet, this requirement of the federal government was not stressed to the District in the GRR. Every day, more people are recognizing the plight of the 8.5 Square Mile Area in which the federal government and state agencies are considering removing a minority community from r

o. There have been no commitments of any funding other than to the authorized plan.

p. Comment noted. The Corps has specific requirements regarding protection of personal property. These requirements have been considered during the planning of this project, and will be strictly adhered to during implementation of any future action.
The Federally Recommended Plan, subject to reauthorization, is Alternative No. 6D. This alternative will require the relocation of about 35 households that is considerably less than the 208 that would be required with a total buy-out. Every effort will be made to relocate the displaced households within the 8.5 SMA in order to maintain community cohesion and a sense of place for households affected. Alternative No. 6D represents a balanced solution to the many conflicting interests that has plagued the community and the restoration of the Everglades.

q. Acquisition was one of the alternatives considered in the 1992 GDM along with other alternatives. This alternative was reevaluated in this GRR/SEIS and compared with other alternatives in selecting the preferred alternative.

r. Environmental Justice issues are presented in the FSEIS. This information has been made available to the Governing Board of the SFWMD for their consideration. This analysis has been reevaluated and additional information included in the Final GRR/SEIS, as appropriate.

their homes for no good reason, and even though Congress ordered the Corps to protect them. The League of United Latin American Citizens (LULAC), the oldest and most respected Hispanic civil rights organization in the country with 140,000 members, has passed resolutions and written letters denouncing the treatment that both the 8.5 Square Mile Area and the Miccosukee Tribe are receiving in the implementation of the MWD project as discriminatory and a violation of human rights. LULAC, and others, are considering litigation to stop this grave injustice. (See Attachment D, LULAC resolution.)

**Administrative Hurdles:** The Corps has the duty to make certain that the District identifies and understands the new administrative hurdles that will be created by a plan other than the 1992 Corps plan. The Draft GRR/SEIS failed to have a plan in place for each alternative, to include a probability for success, so that the District knows the full consequences of embarking on a new plan. The result of the Corps failure to do this may cause the District to end up on a dead-end excursion. Some of these hurdles are as follows:

- **Money** - the Draft GRR/SEIS identifies possible sources of funding for each LPO but contains no time frames or assessment of certainty. What certainty will the Corps require to ensure that your other partners can produce even if they say they can? Any commitment for LPO funding must be a contractual certainty or we could lose many more years in implementing the MWD project and increase the already great cost of delay. s
- **Congressional approval** - the directive of Congress was very clear as quoted above … it is the judgment of many that Congress will have to approve, which might even include amending the law, any acquisition decision. The Corps must not accept any LPO that does not meet the requirements of P.L. 101-229 and for which additional congressional approval is going to delay progress, or, even worse, cause an LPO to be unimplementable.
- **Corps approval** - Corps approval of an LPO will be required … it always takes significant time. The Draft GRR/SEIS does not contain a realistic time line for the associated steps and the risks entailed. t
- **Corps redesign** - a long and tortuous process and all alternatives will require a redesign … even buyout. The Draft GRR/SEIS does not realistically layout the steps, time line, and associated risks. For instance, the report estimates that full buyout, including condemnation can be accomplished by June of 2004 without any examples of other projects that have been able to condemn and remove hundreds of residences in that time frame. For instance, in 1989 Congress directed DOI to condemn and purchase the East Everglades Expansion Area by 1994. DOI still has thousands of properties to buy. The Corps must provide realistic time lines for each alternative.. u
- **New/Modified Project Cooperation Agreement (PCA)** - a long and tortuous process. The Draft GRR/SEIS does not realistically layout the steps, time line, and v

9

s. Comment noted. A full description of funding requests for the selected alternative is included in the Final GRR/SEIS.

t. Comment noted. An implementation schedule for each alternative was included in Appendix C (Preliminary Engineering and Costs) of the Draft GRR based on the best information available at the time. The schedule for the Recommended Plan has been reevaluated for the Final document and modified as appropriate.

u. Same response as for D14t.

v. Same response as for D14t.

associated risks.

**Condemnation authority** - if there is even one unwilling seller, you will need condemnation authority (in fact, there are many unwilling sellers in this predominantly Hispanic community). Whether the request goes to the State Legislature or Congress, it will not happen fast … if ever. The Draft GRR/SEIS does not realistically layout the steps, time line, and risks associated with the condemnation alternatives. w.

**ENVIRONMENTAL JUSTICE IN THE MWD PROJECT**

As previously stated, LULAC has passed a resolution denouncing discrimination against the Miccosukee Tribe and the residents of the 8.5 SMA in the implementation of the MWD project. The Corps Draft GRR/SEIS section entitled Social Impact Assessment (SIA) and other areas of the Draft SEIS contain numerous conflicting, unsupported, and offensive statements about the 8.5 SMA. For instance, the narrative contains a totally unsupported statements about the cohesiveness of the community that, "for whatever social or economic reason, their loyalties lie elsewhere." (SIA p.15) The Corps Draft SEIS also arbitrarily decided that there are only 208 residences by the intrusive searching of mail records to see who received mail every day, not realizing that many of the people who live in the area receive their mail at a post office box.(SIA p. 5) x

The Draft GRR/SEIS then created an arbitrary distinction between residents and non-residents by deciding who they believe occupy their residences every day, and those who they believe only occupy them on weekends. The Draft GRR/SEIS also incorrectly and arbitrarily classifies the 264 residences on agricultural land as agricultural rather than residential, thereby low balling the number of residences that would be impacted by the condemnation alternatives. Needless to say, this type of distinction would never be made in an exclusive community.

Additionally, there are conflicting numbers for the number of residences throughout the document. There are 321(the property appraiser data) on some pages, 208 on others, and a high of 514 when local costs are being calculated. And, the number of unwilling sellers is grossly underestimated based on news reports and the data that has been provided to the Corps by residents who own more than one property. (See Attachment E, news articles.) y

It is clear that there is an attempt to skew the impact of acquisition on the area. These figures, appears to be based on a questionable land use survey data base by the Dade County Department of Environmental Resources Management (DERM) that is seriously flawed and contains admitted mistakes and differences from what appears to be HDR spot checks. (See attached DERM memo from Gwen Burzycki to Jean Evoy.) The Corps refused to use a land use survey supplied to them by the Tribe and instead chose to rely on the DERM survey that mischaracterizes the land use in an attempt to encourage the decision makers to move the residents out. Under NEPA, the Corps cannot rely on this local agency's unproven data without independently conducting their own analysis to verify that it is accurate and reliable. z

10

w. Same response as for D14t.

x. Comment noted. The text on p.15 of the Social Impact Analysis has been modified.

y. Comment noted. Inconsistencies identified have been corrected in the final document. Also, specific assumptions regarding the population and residence data have been verified and explained in more detail in the Final document.

z. A variety of data were utilized in the analysis and development of this document. Data received from Miami-Dade County was checked for accuracy using field verification and other data sources. Modification and processing of the data was performed by HDR to meet the specific needs of the analysis. In our best professional judgement, the data used for the analysis is the best available.

The Corps has the duty to conduct their own independent analysis of the DERM data and assumptions. It is not adequate to just take a cursory look at the questionable survey and data base of this local agency that clearly has a not-so-hidden agenda of removing the people from the 8.5 SMA for local zoning reasons.

The Draft GRR/SEIS identifies the fact that environmental justice impacts are associated with the acquisition alternatives, but does not discuss the affirmative duty described in Executive Order 12898 and federal civil rights laws not to create disproportionate and undue burdens on minority communities, especially when there are alternatives that would avoid such adverse impacts. This includes the impacts both on the 8.5 SMA and the Miccosukee Tribe, especially their lands in WCA-3A, that are being caused by the delay in the MWD project as described in P.L. 101-229.

The Corps must fully disclose to the District, and the public, the adverse impacts on the Tribe and the 8.5 SMA residents of delaying the MWD project, including the destruction of Tribal lands. Given the challenges that Governor Bush has faced with his One Florida plan, it is imperatives that the human rights and minority rights issues in the context of each alternative be fully considered and disclosed. The Corps has the affirmative duty under Executive Order 12898 not to adversely impact minority communities unnecessarily and a duty federal civil rights laws not to discriminate. The District cannot select an LPO that would cause the Corps to violate their duty or the law. The Draft GRR fails to apprise them of the environmental justice issue. aa.

**HOLDING YOUR GROUND ON THE OLD LOCAL COST SERVICES MYTH**

The Tribe encourages the Corps to maintain their correct position on the issue of local services costs as it pertains to alternatives 1, 2 and 9. It is clear under the Miami-Dade County code, mitigation does not require the County to provide local services to the 8.5 SMA. Indeed, the County has not provided services in over thirty years and there is absolutely no indication that they will provide them now. The Local Cost Services issue was concocted by the Park and DERM in an attempt to skew the decision making process. Indeed, the Park exceeded their statutory authority and misused Modified Water Deliveries Project money to pay for a Local Cost Services study as part of a District Review Team process that was challenged by the Tribe in a Sunshine lawsuit. It is disconcerting that this report is a reference for the Draft SEIS, since the District has signed a settlement agreement agreeing not to use it. bb

DERM, apparently unhappy that the Corps refused to include that flawed analysis in the Draft GRR/SEIS, has come up with another new study. The Tribe has attempted to obtain the raw data for their allegedly new report, but has so far been unsuccessful. The Corps should once again reject the DERM report which was not commissioned by, nor approved by, the Board of Commissioners. The Corps should also independently verify any DERM reports or data before they allow it to be used in any way in the GRR/SEIS process. **The Tribe commends the Corps for continuing to stand by the correct position on this issue, i.e. mitigation does not trigger services costs.** The Tribe agrees that the local cost

11

aa. The discussion of 'environmental justice' issues (issues of direct, indirect and cumulative adverse effects on minorities) as a result of implementation of all Alternatives, has been expanded in the Final SEIS. There are two aspects to the Executive Order on Environmental Justice. The first aspect refers to analyzing actions to avoid disproportionately adverse effects on minorities. In addition to this, agencies are charged with providing ample opportunities for affected minorities to participate in the decision-making process. In this latter aspect, the Corps and the Water Management District have complied as fully as possible. All public meeting invitations have been provided in Spanish and English; a bilingual translation service has been available at all public meetings; a Spanish version of the EIS executive summary has been provided to all those who requested it, and presentations as well as oral and written comments from the public have been accepted in Spanish and English. Bilingual staffs of the Board and the Corps have been on hand to respond to comments and answer questions.

bb. Our understanding is that the District agreed not to use the conclusions from the DERM report. However, the preparers did reference some of the raw data from the report for use in the analysis, only after it was verified and determined useful.

services issue should not be a factor in assessing whether the federal interest is met, since the authorized Corps mitigation project does not trigger services.

**DEBUNKING THE NEW DERM WATER QUALITY MYTH**

The Corps has incorrectly and capriciously included the water quality data that was taken by DERM after Hurricane Irene in the Draft GRR/SEIS. DERM's data, which according to the attached Park memo would not be allowed to be used in a court of law, was an attempt by DERM to undo what the water qualities studies used by the Corps and in the previous PEER report showed, which is that the 8.5 SMA does not pollute the Park. (See Attachment G, Park memo dated March 20, 2000.) The Corps should rely only on legally sufficient routine studies conducted by water quality expert Dr. Ron Jones or others, rather than on samples taken by the local Dade County agency after the Hurricane. cc

In fact, an article appeared in the Miami Herald that reported that the Park's own wastewater system in Chekika failed after the Hurricane. (See Attachment H, Miami Herald article dated March 30, 2000.) It is wrong to hold the 8.5 SMA to a higher standard than the Park. It is also wrong for the Draft GRR/SEIS to use data taken after the Hurricane that does not even meet the legal testing requirements to project water quality impacts on the Park. The Corps must not include the DERM water quality data in the SEIS because it is not legally sufficient.

**DEBUNKING NEW MYTHS CREATED BY THE PARK AND FWS**

Over the last 1½ years, most of the myths regarding the 8.5 SMA have been debunked. Unfortunately a couple of new myths have come to the forefront as described and debunked in the following paragraphs.

**The "Edge Effect"** - an edge effect exists to some extent on all boundaries to the Park. The Draft GRR/SEIS should have explained this. In the Coordination Act Report (CAR), the Park and Fish and Wildlife Service have portrayed the "edge effect" due to the 8.5 SMA in a way that is misleading and overstates its significance. Rather than look at the existing degraded conditions as their point of departure/basis of comparison, as the Corps has, the Park used what they think existed in this area hydrologically prior to human alteration of the system. Thus, when the Corps adds more water to Shark River Slough via the execution of the MWD project, they improve greatly the hydration of 100,000's of acres to include those next to the 8.5 SMA. On the other hand, the Park admits no improvement in these areas, but instead makes it sound like the Corps is actually lowering water levels. The Corps GRR/SEIS must explain that they are actually improving conditions greatly on the "edge", while the Park is portraying it as degrading conditions by using a different basis of comparison, which is hypothetical, at best. dd

Furthermore, the Corps/GRR SEIS should point out that even if the Park had the historical conditions correct, it is now not desirable to meet them … the soil in Shark River Slough has subsided a foot or more and a half. To raise water to historic levels would drown ee

12

cc. Additional analysis and research has been conducted concerning water quality and results and conclusions included in the Final document, as appropriate.

dd. "Edge Effect" - Full implementation of the MWD project will result in an increase in water deliveries to Shark River Slough, and subsequently downstream areas within ENP. Full implementation of MWD, however, cannot occur until flood mitigation is provided for the 8.5 SMA by implementation of one of the identified alternatives. All alternatives will result in an improvement in water deliveries over existing conditions in Shark River Slough and greatly improve the hydration of thousands of acres of wetlands. The alternatives, however, do vary slightly in their overall effectiveness and extent of impact on the downstream wetlands. This difference among alternatives is captured in the performance measures in Table 8 of the Final GRR/SEIS. A discussion of discrepancies in data analysis and conclusions from various agencies has been included in the Final document.

ee. Our model uses the best available topography. In areas where recent topography is not available, topographic data from the SFWMM 2x2 model was used. We are not aware of specific areas where subsidence, has significantly changed the ground elevation, but would not be surprised if some areas have either oxidized or burned. In areas that have experienced subsidence our model output will report flow depths that are too shallow and consequently, storage above ground that is too low. You are correct in your assessment that historic restoration goals cannot be shown realistically in the models if topography is incorrect. Our goal in this analysis was to compare alternatives objectively. Therefore, our hydrologic boundary conditions were designed to stress the alternatives and test their performance.

the Park and be devastating to nature. The Corps should also address the potential impacts on the flood protected areas. These facts would serve to minimize the "edge effect" being used by the Park to get the 8.5 SMA for a Park buffer.

Having destroyed the myth that purchase of the 8.5 SMA is necessary to restore the Slough, it is clear that the "edge effect" is the Park's only remaining possible excuse ... meaning all other excuses were so overly exaggerated and totally wrong, that the "edge effect", no matter how minuscule and overblown, would be the only excuse they would be able to find to try to convince people that buyout was right. But, as the Tribe has commented to the Corps on several occasions during the report preparation and will do so this time in regard to the Draft CAR, even the "edge effect" doesn't stand the test to justify acquisition ... 1) the MWD project is to restore 100,000's of acres of Everglades ... we can't wrangle over few acres in the Park that will actually be greatly improved by the Corps project ... those within the 8.5 SMA outside of the Park can be dealt with separately and I'm sure they can be improved also ... the Park is being both "penny 'foolish' and pound foolish", 2) as proven in the 1998 PEER report, there are ways to actually pump clean seepage water directly back into this area, thus minimizing the "edge effect" further, but the Park seems to resist this ... solve the problem and the Park won't have any excuse left, 3) Congress told the Corps to restore flows "to the extent practicable" ... perfection, whatever that is as it is certainly different to different people, was not an order, and, if we even knew what it is, in a natural area that has been compromised and is now surrounded by millions of people, we will never achieve it. With the foot plus of subsidence that has occurred, perfection is a lot different than NSM levels, and 4) just as a technical point, the Federal government does not give itself a 404 permit. As for mitigation, it should not be an issue because of the 100,000's of acres that are receiving a ecological functional lift from the project. ff

**Tribe bottom line:** The Corps must reject the Draft CAR report and the edge effect it has inspired because it is based on faulty data and a flawed, prejudicial analysis based on the Wetland Rapid Assessment Procedure (WRAP) that was never intended for this purpose and has not gone through rulemaking. The edge effect is just one more specious argument concocted so the Park can get the Park buffer that they could never get from Congress, at increased federal and state taxpayers expense. The Corps GRR/SEIS must expose this and discard the Park and FWS's report as an unnecessary obstacle to implementing the MWD project. It is interesting to note that the Congressional history of P.L. 101-229 that directed that the 8.5 Square Mile Area should be protected while flows were restored to the extent practicable to the Slough demonstrates that those who agreed to the law, including the Park, were aware that there would be a small transition area. gg

**"Buyout is essential to the restoration of Florida Bay"** - this myth is absolutely preposterous and must be quickly set aside. The Corps GRR/SEIS does not even mention a comparison of one alternative to another with regard to Florida Bay. The Corps has also testified that there would be no difference among the alternatives in the restoration of Florida Bay. That is because it is not a factor in the restoration of Florida Bay. Despite this, some have convinced many citizens in the Keys that removing people from the 8.5 SMA is hh

13

ff. Comment noted.

gg. The CAR fulfills the responsibilities of the agencies of the Department of the Interior to provide recommendations to the USACE on the considered action. The recommendations and differences, if any, between the USACE and DOI interpretation of modeling results have been fully discussed in the Final SEIS. We concur with use of the WRAP analysis as one aspect of DOI's evaluation of effects.

hh. The objectives and performance measures used for the analysis were developed through a series of technical meetings made up of representatives of various agencies, environmental groups and other interested stakeholders. Hydrologic improvements to Taylor Slough and Florida Bay were not identified during this process as a desired performance measure.

Analyses of flows to Florida Bay via ground water, overland flow, and canal flow were performed and have been included in the final modeling appendix. Results show that there are no significant differences between the plans. Analysis of stage at points in the vicinity of Taylor Slough headwaters have also been included in the final modeling appendix. No adverse impacts to Florida Bay or Taylor Slough occur as a result of any of the alternatives.

essential to the restoration of Florida Bay. They even had a resolution passed by the Monroe County Commissioners supporting buyout, based on this misinformation. But since the initial vote, 2 Commissioners became aware and voted to rescind this resolution. Any honest hydrologist will tell you that the final disposition of the 8.5 SMA has not even a remote impact on the Bay quality or quantity of water. The Corps must address this issue in the Final SEIS and lay it to rest. The Corps should also address the important of the implementation of the Modified Water Deliveries and C-111 projects to the Bay and how delays that would be caused by buyout will, in the end, further jeopardize the health of the Bay.

**Tribe comment:** The Draft GRR/SEIS fails to clearly explain and put into context the "edge effect" and "Florida Bay" issues that resulted from the prejudicial Draft Fish and Wildlife coordination Act Report (CAR) and the Park, so that they do not unnecessarily skew the analysis and resulting decision. The Tribe has already sent the Corp a letter rejecting the faulty WRAP process that has not gone through the required legal process. (See Attachment I, letter from Joette Lorion to Colonel Miller dated March 3, 2000.) As you know, WRAP has not been through rulemaking and the team used DERM data and DERM elevations that are incorrect and flawed, even according to the County's own flood criteria map. Even more important, FWS says that they relied on this faulty analysis/recommendation of the WRAP team to rank the alternatives, thereby prejudicing the process and perhaps violating FACA. The Draft GRR/SEIS does not identify that WRAP has not gone through rulemaking, nor does it contain the explanation in the ACOE letter to the District, as to why they rejected to make the CAR an official part of the document because the Corps felt it was prejudicial. Although the Draft GRR/SEIS does describe briefly the differences in modeling between the Corps SEIS and the CAR, the Final SEIS must more fully explain these modeling differences as they apply to the purpose of the MWD project: Finally, the vegetation map which resulted from this faulty process must also be rejected. ii

**CONCLUSION**

The ACOE has the duty in the GRR/SEIS to expose the "edge effect" and "buyout is essential to the restoration of Florida Bay" as myths, and that they are not key factors to be considered in restoring flows to Shark River Slough. The Corps has the duty to deal with facts and reject any alternative that will result in paralyzing stagnation, greatly increased costs, and human rights issues. Under NEPA, the Corps had the duty to identify the 1992 concept/plan as their preferred alternative. They failed to do so. The current Draft GRR/SEIS clearly demonstrates that this is still the preferred alternative, and the Corps has the duty to tell the District this before they select an LPO, or the result will be a NEPA process that is prejudiced by the failure of the Corps to clearly identify the plan that meets the federal interest prior to an LPO being selected. jj

The Miccosukee Tribe of Indians of Florida, asks that the Corps end the years of delay provoking studies and make the only technically, fiscally, and morally responsible decision you can make so that we can get along with the many restoration challenges we

14

ii. The USACE and the DOI utilized the same hydrologic modeling and associated model results for all alternatives for the 8.5 SMA. The differences between the Draft GRR/SEIS and DCAR result from differences in presentation of the modeling data. There is also a difference in comparisons between the Draft GRR/SEIS and DCAR. The Draft GRR/SEIS makes two primary comparisons – to Base 95 (or existing conditions) and to Alternative No. 1 (the Authorized Plan). The DCAR, however, compares all results to "full implementation of MWD with no structural mitigation measures in place" (essentially equivalent to Alternative Nos. 4, 5 and 7). Many of the differences between the USACE and DOI relative to the evaluation and selection of a Federally Recommended Plan have been largely resolved.

jj. Comment noted. NEPA does not require the selection of a preferred alternative in a Draft document, only that all alternatives be treated equally. A federally Recommended Plan has been included in the Final GRR/SEIS.

have ahead of us … that is the 1992 Corps plan/concept. The conclusion is clear: the cheapest, fastest, most people-sensitive way to deal with the 8.5 SMA and restore the Everglades and Florida Bay is the 1992 Corps concept/plan modified based on any new information that is available. If the Corps chooses to make a decision based on politics, instead of science, and backed up by an improper NEPA procedure, it will only mean more delay and destruction of Tribal Everglades and will in all likelihood be the end of the Everglades restoration process.

Sincerely,

Joette Lorion

Joette Lorion
Government Affairs

cc: Chairman Billy Cypress
Governor Job Bush
Governing Board Member, SFWMD

15

D-15

# United States Department of the Interior

OFFICE OF THE SECRETARY
OFFICE OF ENVIRONMENTAL POLICY AND COMPLIANCE
Richard B. Russell Federal Building
75 Spring Street, S.W.
Atlanta, Georgia 30303

May 30, 2000

ER 00/377

Colonel Joe R. Miller,
District Commander
Jacksonville District
U.S. Army Corps of Engineers
400 West Bay Street
Jacksonville, Florida 32232

**RE:** Draft Supplemental Environmental Impact Statement/General Reevaluation Report for the Modified Water Deliveries to Everglades National Park, 8.5 Square Mile Area, Miami-Dade County, Florida

Dear Colonel Miller:

The Department of the Interior (Department) has reviewed the Draft Supplemental Environmental Impact Statement/General Reevaluation Report (SEIS/GRR) for the Modified Water Deliveries to Everglades National Park (MWD Project), 8.5 Square Mile Area (8.5 SMA), Miami-Dade County, Florida, dated April 6, 2000. Specifically, the Fish and Wildlife Service (FWS) and National Park Service (NPS) have been cooperating agencies with the Corps of Engineers (Corps) during the preparation of this document. As cooperating agencies, the FWS and NPS have prepared a Draft Fish and Wildlife Coordination Act Report (FWCA), with Supplements, which is appended to the Draft SEIS/GRR. The Final FWCA Report, including the views and recommendations of the Florida Fish and Wildlife Conservation Commission, will represent the Secretary of the Interior's report to Congress in accordance with section 2(b) of the FWCA for this project.

The Department seeks a permanent and sustainable solution to the 8.5 SMA issue. In this context, the Department offers the following comments and recommendations on the Draft SEIS/GRR. Our comments focus primarily on: (1) issues which require resolution prior to finalization of the SEIS/GRR; (2) compatibility of a potential selected federally-preferred plan to the Comprehensive Everglades Restoration Plan (CERP) and the future ecological integrity of Everglades National Park (ENP); and, (3) accurate and thorough disclosure of the best available technical information, as well as other specific issues. It is the goal of the Department to provide the Corps with clear and concise recommendations to facilitate the preparation of a comprehensive and defendable Final SEIS/GRR.

Below are general comments on the Draft SEIS/GRR. Enclosed please find the Department's specific and technical comments.

**General Comments**

The Final SEIS/GRR should fully meet the letter and spirit of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality's Regulations on "Implementing the Procedural Provisions of the National Environmental Policy Act" (40 CFR Parts 1500-1508 *et seq.*) to resolve politically charged ecological and social issues in order to facilitate implementation of the MWD Project and achieve the anticipated environmental benefits for ENP.

It is critical that the Final SEIS/GRR incorporate a consistent approach based on the best available data with respect to the analysis and comparison of proposed alternatives. This approach should focus on meaningful comparisons of the alternatives. Meaningful analysis, in this context, requires both a comparison of each alternative to the "No Action" alternative (which in this case the Corps has chosen to be the originally authorized plan), and an analysis of each alternative to the condition that the MWD Project is intended to achieve. Comparison to the originally authorized plan, as currently disclosed in the Draft SEIS/GRR, is insufficient to fully assess the ramifications of selection of a federally-preferred alternative because it fails to provide an assessment of the degree to which each alternative best contributes to the goals of the MWD Project (*i.e.*, hydrologic restoration of Northeast Shark River Slough [NESRS]). The Final SEIS/GRR must include an analysis of each alternative relative to the Restored Condition (full MWD implementation) as the only avenue to meet the disclosure requirements of NEPA in light of the legislated mandates contained in the Everglades National Park Expansion and Protection Act (P.L 101-229). To disregard this rationale compromises the adequacy of the document for fully informed decision-making. It is the Department's position that incorporation of these analyses will not unduly delay the Final SEIS/GRR, as the Draft FWCA Report prepared by the FWS and NPS contains this information. a

The Department finds that the issue of water quality has not been fully disclosed or adequately addressed in the Draft SEIS/GRR, particularly for structural Alternatives 1, 2B, 6(B,C, D) and 9. The information presented in the SEIS/GRR clearly indicates that there is the potential for introducing pesticides, nutrients and bacteria in surface water and shallow groundwater into ENP. There are some references to dilution effects, Stormwater Treatment Areas (STAs), and residence times, but an assessment and discussion of long-term water quality implications is lacking in the document. For example, under Requirement 3 (GRR, page 60) the SEIS/GRR states that "...it is required that the alternatives be designed and constructed to meet regulations and permit conditions currently in effect." Table 6, "Analysis of Project Requirements," indicates that all of the alternatives meet Requirement 3. A more detailed comparison between the alternatives is needed, assessing the differences in dilution effects, loading rates and treatment strategies and costs. The Final SEIS/GRR needs to provide a detailed analysis, including design and costs of STAs, potential loading rates, and residence times, for the federally preferred alternative. If the STA is not currently in the C-111 project GRR cost and design, the cost of the STA should be reflected as an additional federal cost. b c

2

15 a. The USACE has provided the results of the hydrologic analysis for NESRS in the Final GRR/SEIS (contained in Appendix A, and summarized in Table 8 of the GRR). Alternative No. 1 represents the 8.5 SMA component of the MWD Plan contained in the 1992 GDM in accordance with P.L. 101-229. As such, it is the "future without project" condition and is the basis for which all other alternatives are compared. The results of the comparison of all alternatives to the Authorized Plan (Alternative No. 1) are contained in Table 10 and section 6 of the GRR.

b. The water quality analysis has been reviewed during the preparation of the Final GRR/SEIS and additional information included as appropriate.

c. This analysis has been re-evaluated in the Final GRR/SEIS and additional information has been included as appropriate.

The Department is also concerned that, unless adequately assessed and managed, there is a risk of introducing contaminated water into ENP, which has implications regarding the 1991 Settlement Agreement (1991, Case No. 88-1886-CIV-HOEVELER). These water quality issues need full disclosure in the Final SEIS/GRR.

The issue of compatibility with future restoration actions associated with the CERP is of paramount importance to the Department. Currently, we find that this issue has not been addressed adequately in the Draft SEIS/GRR. For example, in the GRR (Table 7, PM6a) it is stated that "...all alternatives are compatible with future restoration because they increase water levels in NESRS." However, there are other considerations that need to be addressed, including a five-fold increase in the discharges at S-356, relocation of S-356 and L-31N seepage management. There are also sequencing implications of implementing the 8.5 SMA Project in conjunction with other components of the MWD and C-111 Projects that need to be fully disclosed and elucidated in the Final SEIS/GRR. The Department recommends the Final SEIS/GRR include a detailed discussion on these overall compatibility issues in the final document. d

CAR

The Department also finds that the SEIS/GRR insufficiently discloses the hydrologic modeling findings of the Draft FWCA. Separating the results of the cooperating agencies into widely removed and sometimes conflicting discussions does not adequately inform the decision-maker nor the public of the full nature of environmental consequences and agency concerns. Furthermore, the Final SEIS/GRR, at a minimum, needs to include an explanation as to the value and relevance of the Department's analyses relative to the comparison of the performance of each alternative to the fully restored condition associated with the MWD Project. Section 4.4.3 provides a reasonable attempt at explaining the difference among and the basis for using each of the hydrologic modeling conditions; however, further information regarding the shortcomings or drawbacks of each analysis, taken by itself, is needed. e

Significant wetland assessment discrepancies between the Corps and the cooperating agencies are also contained in the document, e.g., the substantially different results from the interagency wetland assessment (Wetland Rapid Assessment Procedure) and the Corps' wetland assessment. More explanation is needed in the Final SEIS/GRR to elucidate the relevance and significance of the information to the decision-maker and the public (*i.e.*, why it is valuable and meaningful data). Such an approach would be consistent with our agencies' various missions, and for our overarching goal of restoring the south Florida ecosystem. f

In the Department's review of the cost comparisons for the alternatives, it became unclear how the Corps derived their current estimate of $30.6 million for Alternative 1, the original authorized flood mitigation plan. The cost of this alternative is now substantially less than the Corps estimate of $47.9 million for the 8.5 SMA mitigation component, as described in the 1999 Capital Asset Plan for the MWD Project. The Department requests that the Corps resolve this large cost differential, and g

3

d. This analysis has been re-evaluated in the Final GRR/SEIS and additional information has been included as appropriate.

e. Do not concur. A more detailed explanation of the analysis in the CAR is included in the Final GRR/SEIS.

f. Wetlands were evaluated using two different performance measures. One performance measure was based on results of hydrologic computer modeling, and the other relied on field assessments using WRAP protocols. Both performance measures were included in the Draft GRR/SEIS and are included in the Final document.

g. The MCASES cost estimate has been prepared for the Recommended Plan and Alternative No. 1, the original plan. Information concerning the differences in cost estimates are included in the Final GRR/SEIS.

provide us with specific information on the cost changes for the construction, PED, and land acquisition elements of this alternative.

It is also unclear what factors have led to a significant increase in the estimated cost of a total buyout option (such as Alternative 5 in the Draft SEIS/GRR) for the 8.5 SMA. In the 1990 draft GDM for the Modified Water Deliveries Project, we believe that the Corps estimate for a total buyout was in the range of $80 million. In 1998, contractors for the SFWMD estimated the cost at approximately $112 million. The Draft SEIS/GRR now has the cost of total buyout (Alternative 5) estimated at $179 million. The Department requests that the Corps include specific details on these cost changes for Alternative 5 in the Final SEIS/GRR. h

The Department has had an outside contractor complete a comparison of the secondary cost data and underlying assumptions between the Miami-Dade County Secondary Cost Report and the Corps Local Cost Analysis, included in the Draft SEIS/GRR. In general, the County's report projects large budgetary shortfalls for all of the alternatives (except total buyout), whereas the Draft SEIS/GRR projects budgetary surpluses for all of the alternatives (except total buyout). The primary difference is related to the County's assumption that increased residential densities and growing pressures on the County and regional water managers would require the construction of a secondary drainage system. An additional cause of the large cost differences is that the Corps has apparently misinterpreted the County's demographic projections, and assumed that the population in this area will cease to grow after 2015. The Department recommends that the Corps accept the County's assumptions for future growth in the area and their projected costs for services, and capital and maintenance costs for roads. The Department further agrees with the County that increased growth will inevitably lead to increased pressure to provide a secondary drainage system for the area, capable of providing 1 in10 year flood protection. i

Based on the Department's review of the Draft SEIS/GRR, our major findings are as follows:

- Alternative 5 (Total Buyout) performed the best for all performance objectives, and represents the Department's environmentally preferred alternative;
- Alternative 4 (Resident's Choice Acquisition) performed well, and meets the performance objectives; and,
- Alternative 6B (Buffer Plan) performed adequately, and minimally meets the performance objectives. j

The remaining alternatives (1, 2, 3, 6(C&D), 7, 8, and 9) performed poorly, and do not meet one or both of the performance objectives that the Department believes are critical: restoring hydropatterns in NESRS and providing a flood protection system for residents in accordance P.L. 101-229. As a

4

h. Comment Noted. There is no MCASES cost estimate for Alternative No. 5. However, costs for each alternative have been reviewed and revised as appropriate in the Final GRR/EIS.

i. The assumptions used by USACE in determination of local costs are contained in Appendix F (Local Cost Analysis) to the Final GRR/SEIS. By definition, the goal of flood mitigation for this project is to allow no increase in flooding above what existed prior to the MWD project. It does not necessarily provide an increased level of flood protection. Only Alternative No. 6B provides flood protection as defined in the February 18, 2000 from Miami-Dade County. This alternative is expected to induce growth into the area and therefore, local costs were evaluated. Dade County projections were used in determining future population levels in the 8.5 SMA. These projections show a substantial amount of growth in the initial 15 years (almost doubling in a 15 year period) and leveling off there after. The county's assumption, as presented in their letter in May 2000, is not based on an analytical analysis of population growth in the area. It is based on the carrying capacity of the land, assuming that a density of 1 residential unit per 5 acres would be permitted. The assumptions ignore the fact that within Dade County there are more desirable and developable lands available to accommodate future growth. Further, the assumptions assume that all lands, particularly vacant and agricultural lands, would be converted to residential use. About 25 percent of existing land in the area is in public ownership and not likely to be converted. About 42 percent is in some type agricultural production, which provides income and wages to local area residents and laborers. It is unlikely that all or even a large portion of these lands would be converted into residential use. The residents of the 8.5 SMA are not expected to eliminate an important source of income to their households.

j. Comment noted.

result, these alternatives do not represent either a practicable or sustainable solution to "Restore the natural hydrologic conditions within the Park" as required by P.L. 101-229.

In summary, the lack of full disclosure of the Department's analyses and findings in the Final SEIS/GRR could compromise the utility of the document for subsequent decision-making by the Corps, and could compromise the timing of decision-making by the Department for potential funding commitments for the MWD Project, as separate supplemental NEPA documentation might be required by the Department. If these issues are not resolved in the Final SEIS/GRR, the Department, upon recommendation of its bureaus, could be compelled to consider initiating a formal elevation of these unresolved issues to the Council on Environmental Quality pursuant to Part 1504 of NEPA. k

The Department appreciates the Corps' efforts and commitment in finalizing the 8.5 SMA Project. The Department will make every effort to find a practicable and sustainable solution which will ensure the hydrologic restoration of NESRS and ENP. Such a solution is a critical link in the restoration of the greater Everglades ecosystem.

If you have any additional questions or comments, please contact Mr. Stephen Forsythe, FWS State Supervisor, or Mr. Richard Ring, Superintendent of Everglades National Park.

Sincerely,

James H. Lee
Regional Environmental Officer

Enclosure
CC:
CEQ, Washington, DC (George Frampton, Acting Chairman)
DOA, Washington, D.C. (Michael Davis, Deputy Assistant Secretary for Policy and Legislation)
DOI, Washington, D.C. (Mary Doyle, Assistant Secretary for Water and Science)
COE, Washington, DC (General Joe Ballard, Chief of Engineers)
COE, Atlanta, GA (General J. Richard Capka, Division Engineer)
FWS, Atlanta, GA (Sam Hamilton, Regional Director)
NPS, Atlanta, GA (Jerry Belson, Regional Director)
EPA, Atlanta, GA (John Hankinson, Regional Administrator)
SFWMD, West Palm Beach, FL (Frank Finch, Executive Director)
ENP, Homestead, FL (Dick Ring, Superintendent)
FWS, Vero Beach, FL (Stephen Forsythe, State Supervisor)

5

k. Comment noted. The Department's analyses and findings as noted in the CAR are included as Appendix G.

**Specific Comments of the Department of the Interior**
**on the**
**Draft Supplemental Environmental Impact Statement/General Reevaluation Report of the Modified Water Deliveries to Everglades National Park, 8.5 Square Mile Area, Miami-Dade County, Florida**
**(May 2000)**

**Significant Issues**

Base Conditions Used For Alternatives Analysis: There remains a fundamental difference between the Corps' and the Department's analyses regarding the choice of base conditions used to evaluate the performance of the potential alternatives. In assessing the degree of restoration achieved in Northeast Shark River Slough (NESRS), the Corps' utilized the Existing Condition (1995 Base), while the Department utilized the Restored Condition as the performance standard for measuring restoration success. The Restored Condition hydrologic model run used by the Department was the same as that identified by the Corps in the General Reevaluation Report as "MWD Project with full implementation (D13R)." This is the condition set by the Corps to represent "projected conditions along Tamiami Trail in the future with the MWD Project in place." Since the objective of the MWD Project is to restore natural hydrologic conditions within ENP, the Department considers the Restored Condition to be the most appropriate benchmark to determine which alternative(s) most fully meet the goal of restoring NESRS. On the other hand, for analyses which legally require conditions to be the same or better than they are now or were in the past (*i.e.*, mitigation for the 8.5 SMA and protection of federally listed species habitat), the Department, like the Corps, used the Existing Condition (1995 Base and/or 1983 Base) hydrologic model predictions to evaluate the alternatives.

In the SEIS/GRR, some aspects of alternative performance were measured against Alternative 1, the No-Action Alternative. However, since Alternative 1 has significant, measurable adverse effects on NESRS, the Department considers these comparisons to be inappropriate for evaluating the successful restoration of NESRS, as well as providing a meaningful Final SEIS/GRR for fully informed decision-making Therefore, the Department recommends that the Corps' Final SEIS/GRR include the comparison of alternatives to the Restored Condition in order to determine which alternative(s) most fully meets the goal of restoring NESRS, as legislatively mandated in the Everglades National Park Protection and Expansion Act (P.L. 101-229). The Department would be pleased to work with the Corps to ensure that the analyses contained in the FWCA Report (Chapter 5) are integrated into the Final SEIS/GRR for this purpose. I

Wetland Functional Analysis: The Department is convinced that improving wetland function is at the core of overall Everglades restoration, in general, and should serve as the primary focus in reestablishing natural hydropatterns in NESRS and ENP, in particular. There is currently a significant disparity in the analyses and disclosure of wetland effects in the Draft SEIS/GRR which continues to lead to confusion and an overall misunderstanding concerning the degree to which wetland resources would be effected by the selection of a federally preferred alternative.

1

I. The USACE has provided the results of the hydrologic analysis for NESRS in the Final GRR/SEIS (contained in Appendix A, and summarized in Table 8 of the Final GRR). Alternative 1 represents the 8.5 SMA component of the MWD Plan contained in the 1992 GDM in accordance with P.L. 101-229. As such, it is the "future without project" condition and is the basis for which all other alternatives are compared. The results of the comparison of all alternatives to the Authorized Plan (Alternative 1) are contained in Table 10 of the Final GRR.

While both the Corps and the Department utilized hydrologic analyses such as depth, timing, duration, and volume to assess the effects of potential alternative plans on wetland resources, the Department, and cooperating agencies, utilized a comprehensive approach to wetland functional assessment by implementing the Wetland Rapid Assessment Procedure (WRAP) developed by the South Florida Water Management District, to quantify gains and losses in wetland function. The Corps formally agreed to utilize WRAP as an efficient and consistent wetland functional assessment methodology for all future Everglades restoration projects, and actively participated on the WRAP Team for the 8.5 SMA Draft SEIS/GRR.

Due to the concerted effort by the interagency team members, the WRAP analysis provides the most comprehensive analysis of wetland function in and adjacent to the 8.5 SMA conducted to date. This three month analysis included aerial overview and groundtruthing of 37 wetland sites by experienced wetland ecologists and botanists. The WRAP Team focused their assessment on the wetland mosaic within the 8.5 SMA extending two miles to the north, south and west into ENP in order to assess both the direct and secondary effects on wetland resources.

In addition to participating in the interagency WRAP assessment, however, the Corps additionally modeled wetland acreage estimates throughout the entire NESRS for their wetland analysis to document wetland impacts. Consideration of this relatively large area dilutes the functional significance of effected wetlands within the scope of the 8.5 SMA Project. As reported in the Draft SEIS/GRR, only slight differences in wetlands acreage between the alternatives is realized (*i.e.* a range of minus four to plus two percent of the wetlands in NESRS). More significantly, wetland function was not assessed. These reported results are contrary to the wide range of wetland functional effects revealed by the WRAP comparative assessment for the 8.5 SMA Project. The stark differences in the results of the two wetland assessment methodologies remains confusing and needs to be rectified in the Final SEIS/GRR. m

As a consequence, the Department concludes that the Corps' wetland assessment contained in the Draft SEIS/GRR is inadequate, as it: 1) does not assess, or attempt to quantify, wetland functional losses and gains; and, 2) it dilutes, or masks, the relative differences in wetland functional performance between the alternatives. The Department recommends that the Corps' wetland assessment be removed from the Final SEIS/GRR and be replaced with a more detailed and thorough disclosure of wetland functional losses and gains based on the WRAP assessment. The Department would be pleased, as a cooperating agency, to assist the Corps in re-drafting those pertinent portions of the Draft SEIS/GRR in this regard. Again, this information is readily available in the Draft FWCA Report. n

Compensatory Mitigation for Unavoidable Wetland Losses: The Department finds that the issue of wetland compensatory mitigation is largely ignored in the Draft SEIS/GRR and recommends that this omission be rectified in the Final SEIS/GRR. As a result of our review, the only reference to wetland compensatory mitigation is found at page 18, Section 2.6 "Mitigation." This single paragraph includes a statement which states "...unavoidable impacts to wetland or aquatic resources are expected to be o

2

m. Wetlands were evaluated using two different performance measures. One performance measure was based on results of hydrologic computer modeling, and the other relied on field assessments using WRAP protocols. Both performance measures were included in the Draft GRR/SEIS and are included in the Final document.

n. Comment noted. The Corps disagrees with this recommendation. Both assessments are included in the Final GRR/SEIS for full disclosure. Additional data provided by the DOI are also included.

o. Do not concur. Compensatory mitigation is not applicable for this project. The Final CAR states that no fish and wildlife *or* wetlands compensatory mitigation will be required for the Recommended Plan.

offset by the ecological improvement throughout the area of potential effect (ENP Expansion Area and the 8.5 SMA) that results from the overall restoration achieved by the MWD." The SEIS does not contain any substantive or quantified evaluation which supports this claim. In fact, the Corps' wetland assessment concludes that as many as 2,869 acres of wetlands will be lost if Alternative 2 is selected and that 2,538 acres will be lost if Alternative 1 (No Action) is selected. The Corps measures improvement in wetlands as an increase in acres of wetlands inundated resulting from implementation of MWD. The Corps' assessment does not address the wildlife, vegetation, water quality and wetland buffer components of WRAP, as it relates to wetland function. Additionally, excessive inundation of wetlands can also significantly impair wetland function.

An explanation of the pending 404(b)(1) evaluation for the federally preferred plan (Page 182, Section 4.25) should also be included in the discussion of wetland compensatory mitigation. Because the decision before the Federal Government involves alternative approaches to addressing the dual legislated objectives of restoring NESRS and mitigating the flooding effects of the MWD Project, the scope of the 404(b)(1) analysis must include an analysis of each alternative's impacts sufficient to identify the alternative with the least adverse effects on the aquatic ecosystem. Section 404 of the Clean Water Act (CWA) indicates that no discharge of dredged or fill material shall be permitted if practical alternatives to the proposed discharge exist that have the least adverse impacts on the aquatic ecosystem. The most appropriate means to demonstrate which alternative(s) meets this criteria is by comparing each alternative to the fully restored MWD condition. Only after such a comparison is completed should the Corps identify the extent to which the alternatives have other significant adverse environmental consequences.

The Department recommends that the paragraph on page 18 be deleted from the SEIS/GRR, and that pending the selection of a federally preferred plan, an appropriate wetland compensatory mitigation plan for unavoidable losses of wetland resources be included in the Final SEIS/GRR consistent with the CWA section 404(b)(1) Guidelines, Executive Order 11990 (protection of wetlands), and various Corps policies and procedures. The Department would be pleased to work with the Corps to develop this plan which the FWS and NPS also recommended in the Draft FWCA Report (Chapter 6 "Wetland Functional Evaluation"). p

Fish and Wildlife Enhancement Features: The Draft FWCA Report at Chapter 6 provides the Corps with recommendations to mitigate for anticipated losses of fish and wildlife resources consistent with the FWS' Mitigation Policy (FR Vol. 46, No. 15, dated January 23, 1981). Chapter 6 contains Fish and Wildlife Enhancement Features designed to offset fish and wildlife resource losses within the scope of the project. In our previous Planning Aid Letter, dated January 11, 2000, specific design features were provided (*i.e.*, tree island design, wetland littoral shelves and fish refugium) to increase the overall ecological function associated with the 8.5 SMA Project in order to compensate for anticipated fish and wildlife resource losses. These design features are currently being incorporated into other project components of the CERP by the Corps, the SFWMD and the cooperating agencies, most notably for the Water Preserve Area Feasibility Study.

3

p. Do not concur. Compensatory mitigation is not applicable for this project. The Final CAR states that no fish and wildlife *or* wetlands compensatory mitigation will be required for the Recommended Plan.

The Department finds that the incorporation of these types of ecological features into projects designed to restore south Florida are necessary for the Federal and State Governments to truly achieve our respective restoration goals. Specific to the 8.5 SMA Project, 1940's photography of the western 8.5 SMA depicts a mosaic of tree islands, which today do not exist due to anthropogenic impacts. The restoration of this tree island mosaic would significantly return ecological structure and function to this portion of NESRS.

The Draft SEIS/GRR currently contains no discussion of these design features. The Department recommends that an analysis and discussion of these features be included in the Final SEIS/GRR. The FWS and NPS would be pleased to work with your design engineers during detailed design to ensure that these features, where compatible, become reality in order to provide structural and ecological integrity for the 8.5 SMA Project. q

Cumulative Effects: The Department is aware of several on-going and planned federal actions requiring NEPA documentation associated with the MWD and C-111 Projects (*i.e.*, 8.5 SEIS/GRR, Tamiami Trail EIS/GRR, Conveyance and Seepage Structures EIS/GRR, C-111 EIS/GRR, and Interim Operating Plan EIS/GRR). Because of this, there is a need to fully analyze and disclose the cumulative effects of these combined actions as they relate to each other and to the overarching CERP. These actions are all hydrologically linked and interdependent in order to successfully achieve restoration of the southern Everglades. As such, the Department considers it essential for future decision-making to include in the Final SEIS/GRR for the 8.5 SMA Project and all future NEPA documentation a full discussion of the timing and sequencing of these NEPA actions, the hydrologic implications anticipated during the sequencing process, effects on fish and wildlife resources (including federally listed species) expected as these projects come on-line, other reasonably forseeable federal, state, or local actions potentially associated with these actions, and an assessment of any other secondary effects anticipated. r

Cost Comparisons Between Alternatives: During the Department's review of the cost comparisons for the alternatives in the Draft 8.5 SMA SEIS/GRR, it became unclear how the Corps derived their current estimated cost for Alternative 1, or the original authorized flood mitigation plan. The Draft SEIS/GRR lists the current cost for this alternative at $30,585,531 (from Table C-2, Appendix C, Preliminary Engineering and Costs), or rounded to $31 million in the comparison tables (see Table 15, etc.). This cost is substantially less than the Corps' estimate of $47.9 million for the 8.5 SMA mitigation component, as described in the 1999 Capital Asset Plan for the MWD Project, a document that was prepared jointly by the Corps and the Department, and presented to the Office of Management and Budget in late 1999 (see the September 1999 Fixed Asset Plan, Modified Water Deliveries Project, OMB Circular A-11, Exhibit 300B).

By looking at these costs differences in detail (using the documents provided by the Corps in 1999 that were used to prepare the Capital Asset Plan), it is apparent which specific cost changes need further explanation. In the 1999 Capital Asset Plan the land acquisition estimate for the 8.5 SMA mitigation component was $13.4 million (versus $4.4 million in the Draft SEIS/GRR), construction costs were estimated at $31.4 million (versus $22.1 in the Draft SEIS/GRR), and planning,

4

q. These design features will be evaluated in further design documents for the Recommended Plan.

r. This analysis has been re-evaluated in the Final GRR/SEIS and additional information on cumulative effects has been included as appropriate.

engineering, and design was estimated at $3.1 million (versus $4.4 million in the Draft SEIS/GRR). This means that the total cost for the Alternative 1 mitigation component in the Draft SEIS/GRR has been reduced by approximately $17.3 million when compared to the Corps' estimate included in the 1999 Capital Asset Plan. The documents provided by the Corps in 1999, also included a reasonable explanation for the projected increases in costs for the 8.5 SMA mitigation component (from $31.5 million in 1991 dollars to $47.9 million in 1999 dollars). The specific explanation in the graphics provided to the Department cite inflation and schedule changes between 1991 and 1999, a switch to fully funding contracts up-front, and finally, a change to a new estimating software package (MCACES), as the reason for these increases. s

In addition, it is unclear what factors have lead to a significant increase in the estimated cost of a total buyout option (such as Alternative 5 in the Draft SEIS/GRR) for the 8.5 SMA. In the 1990 draft GDM for the MWD Project, we believe that the Corps' estimate for a total buyout was in the range of $80 million. In 1998, contractors for the SFWMD estimated the cost at approximately $112 million, which is similar to the Corps' estimate in the 95% Draft SEIS/GRR. The Draft SEIS/GRR currently has the cost of total buyout (Alternative 5) estimated at $179 million. The preliminary cost summary sheets in Appendix C show an increase in the buyout acreage for this alternative over previous estimates, but this does not explain the substantially increased cost. Please provide further details on these cost changes for total buyout in the Final SEIS/GRR. t

Evaluation of Local Cost Differences: The Department has contracted with a national scientific and engineering consulting firm to complete a preliminary review of the local costs to Miami-Dade County that would be expected in response to the implementation of each alternative. This work effort specifically compared the secondary cost data and underlying assumptions included in the Miami-Dade County Secondary Cost Report (submitted to the SFWMD in April 2000) to those of the Corps from appendix F (Local Cost Analysis) in the Draft SEIS/GRR. In general, the County's report projects large budgetary shortfalls for all of the alternatives (except total buyout), whereas the Draft SEIS/GRR projects budgetary surpluses for all of the alternatives (except total buyout).

The primary difference between the two local cost estimates is related to the County's assumption that all the alternatives (except total buyout) would require the construction of a secondary drainage system to provide 1in10 year flood protection. This is in anticipation of increased residential densities and growing pressures on the County and regional water managers. This assumed level of flood protection and increased densities would then require a more extensive road network, with the projected capital costs for several of the alternatives exceeding $150 million. A secondary cause of the large cost differences is that the Corps has apparently misinterpreted the County's demographic projections, and assumed that the population in this area will cease to grow after 2015. This artificial cap on future growth results in additional lowered local costs in the Draft SEIS/GRR. Overall, Department believes that the Corps should accept the County's assumptions for future growth in the area and their projected costs for services, and capital and maintenance costs for roads. The Department further agrees with the County that increased growth will inevitably lead to increased pressure to provide a secondary drainage system for the area, capable of providing 1 in10 year flood protection. u

5

s. Comment Noted. The MCASES cost estimate for Alternative 1 has been updated and one prepared for the Recommended Plan. Information concerning the differences in cost estimates has been included in the Final GRR/SEIS.

t. Comment Noted. Cost estimates for the various alternatives have been updated. Information concerning the differences in cost estimates has been included in the Final GRR/SEIS.

u. The assumptions used by USACE in determination of local costs are contained in Appendix F (Local Cost Analysis) to the GRR/SEIS. By definition, the goal of flood mitigation for this project is to allow no increase in flooding above what existed prior to the MWD project. It does not necessarily provide an increased level of flood protection. Only Alternative 6B provides flood protection as defined in the February 18, 2000 letter from Miami-Dade County.

**Technical Comments**

Cooperating Agency Recognition: Any subsequent revisions to the Draft SEIS/GRR should correctly cite the participation of the NPS (in lieu of Everglades National Park) as a cooperating agency. The roles and contributions of both the NPS and FWS in development of the requirements and objectives, as well as the technical analyses of the affected environment and environmental effects, should be acknowledged at the beginning of the document. V

Naming Alternatives: Throughout the document, in addition to numbering the alternatives, readability would be significantly enhanced if the alternatives were descriptively referenced (*i.e.*, the name Alternative 7 is non-descriptive and therefore it is difficult to keep each of the alternative's features and impacts conceptually separated). W

Responding to Public Input: The Final SEIS/GRR should present a section that links the Project Objectives to the issues raised during scoping and public comment to demonstrate that the public input was responded to and will be considered in subsequent decision-making. X

Page 1, Section 1.1 "Purpose and Need": The Final SEIS/GRR should be revised to provide a clear and readable statement of the purpose and need for federal action on the 8.5 SMA Project in the context of the overall MWD Project and the larger CERP. The Department suggests that this section begin with the project purpose and need statement found in Section 1.7 (pages 7 and 8). An explanation of the purpose of the SEIS/GRR should be provided which combines discussions of authorizations, documents, and findings in chronological order. The current approach of starting with the 8.5 SMA Project's authorizing documents obfuscates the actual purpose and need for federal action, as well as the objective of preparing supplemental environmental documentation for the MWD Project. Y

Page 8, Section 1.3 "Project Need or Opportunity": Recommend re-writing 1st para., 5th sentence to read: "The SFWMD, ENP, and others suggested additional potential options that would meet the legislated mitigation requirements and other interests in the 8.5 SMA while ensuring environmental restoration of NESRS." Z

Page 10, Section 1.4.3 "Project Objectives": The Project Objectives need to be reworded as "outcome-oriented" objectives (in lieu of "analysis-oriented" objectives) in the Final SEIS/GRR. The Department understands the Corps' desire of using objectives reflecting analysis as the outcome for the Draft SEIS/GRR, owing to the SFWMD Governing Board's request for a neutral analysis of all the alternatives pending their selection of a Locally Preferred Alternative. However, for the purpose of determining the federal interest and potential federal actions, objectives that are results or outcome-oriented rather than analysis-oriented are now needed, reflective of the Project Requirements listed in Section 1.4.2. aa

6

v. Comment noted. NPS has been cited as cooperating agency in lieu of ENP. The contribution of both NPS and USFWS has been acknowledged in the Final SEIS.

w. Comment noted, but it does not appear necessary to revise the document as suggested.

x. Comment noted, but it does not appear necessary to revise the document as suggested.

y. Comment noted. The document has been revised as suggested.

z. The text has been modified as suggested.

aa. The project requirements, objectives and performance measures were established through an extensive public involvement process including various environmental groups, federal cooperating agencies and other stakeholders. The objectives presented in the Final GRR/SEIS are a direct result of that collaborative effort to develop the appropriate metrics for comparison of the various alternatives. As a result, it would not be prudent to modify these objectives as suggested without facilitating the appropriate process for garnering public input.

Page 16, Section 2.0 "Alternatives Evaluated": The Final SEIS/GRR needs to include a summary comparison of the alternatives evaluated, usually portrayed as a table, describing how each alternative met the Project Objectives. bb

Page 16, Section 2.1 "Description of Alternatives": The Final SEIS/GRR should include a brief synopsis of each of the alternatives that serves to sharply define the issues considered for the selection of a federally preferred alternative, and provide the decision-maker with clear choices and their corresponding ramifications. cc

Page 17, Section 2.2 "Issues and Basis for Choice": The sentence regarding "worst and best case scenarios" needs to be revised to clarify its intent. dd

Page 17, Section 2.3 "Preferred Alternative": The Final SEIS/GRR should include a discussion of the process and parties involved with the identification of the federally preferred alternative. ee

Page 17, Section 2.4 "Alternatives Eliminated from Detailed Evaluation": The Department believes that the Draft SEIS/GRR contained an array of alternatives that went above and beyond the requirements to adequately comply with the NEPA. We are aware that this was done to provide the public and the Governing Board of the SFWMD with an evaluation of all the alternatives suggested prior to and during scoping, even though there was probably more than sufficient rationale for eliminating some of the alternatives from further study. In light of the need to expeditiously complete this environmental review, the Corps should consider whether it would be helpful, reasonable and acceptable to now eliminate some of the alternatives that are demonstrated to not meet (or minimally meet) the project purpose and need, and adjust Section 2.4 accordingly. ff

Page 19, Section 3.0 "Affected Environment": The Final SEIS/GRR should include a discussion of the upstream effects in the Water Conservation Areas and the downstream effects to Florida Bay from the various alternatives, since these areas are hydrologically linked. gg

Pages 49 and 50 "Listed Species" (background information on the wood stork and the snail kite): These sections do not include a very complete or relevant discussion of hydrology as it relates to the needs of these listed species and the 8.5 SMA, especially the wood stork. Suitable background information is provided in Chapter 7 of the Draft FWCA Report and should be incorporated into the Final SEIS/GRR. hh

Section 4.0, "Environmental Justice": Throughout the discussion of alternatives in this section, it is recommended that "potentially increase the adverse environmental effects" be replaced with "may disproportionally affect." ii.

Section 4.0 "Aesthetics": Regarding the discussion of levees in this section, it is recommended that the sentences be replaced as follows: "The westernmost levee proposed under this alternative, albeit relatively low in elevation, will nonetheless *decrease the visual appeal of a* picturesque viewshed of the adjoining Save Our Rivers land and ENP parkland." We find it difficult to imagine that a jj.

7

bb. Comment noted, but the document will not be revised as suggested.

cc. Text has been expanded and modified as appropriate in Final document to state which alternative is the Recommended Plan and the specific reasons for selection of that alternative.

dd. Text has been modified as necessary in Final document.

ee. Comment noted.

ff. All alternatives will be included in the Final document, we will not eliminate any of the them.

gg. The implementation of this project feature will enable MWD project to be implemented and improve hydrologic conditions throughout the system. Analysis of the flows to Florida Bay via ground water, overland flow, and canal flow were performed and are included in the final modeling appendix. Results show that there are no significant differences between the plans and no significant impacts on Florida Bay.

hh. Information in the Final CAR has been evaluated and included as appropriate in the Final document.

ii. Comment noted. This analysis has been re-evaluated in the Final GRR/SEIS and additional information will be included as appropriate.

jj. Comment noted. The visual impact of the levees is noted in the Final GRR/SEIS.

structural feature such as a levee, which is generally required by the Corps to be maintained with short mowed grasses and kept clear of shrubs and trees, as a *slight improvement in the viewshed.* This section, as well as mitigation discussions, should also address the maintenance requirements of levees and canals.

Page 93, Section 4.4.5 "Wetland Resources", Sentence 3: Delete and replace with: "Representative wetland sites of each wetland type were surveyed using WRAP." kk

Page 93, Section 4.4.5 "Wetland Resources", Sentence 4: Include SFWMD and the Miccosukee Tribe of Indians in the list of representatives. Follow this sentence with this qualifying statement: "Representatives from SFWMD and the Miccosukee Tribe participated in the existing condition WRAP, but did not participate in the with-project projections." ll

Page 100, "Threatened and Endangered Species": A Biological Assessment (BA) is referenced for the Cape Sable seaside sparrow, but not for the other listed species. This reference should be deleted from this paragraph because it is inappropriate to imply that a BA would only pertain to one of the five listed species potentially effected. A statement should be included in the Final SEIS that the Corps will prepare a BA for all five listed species which occur within the scope of the project, or that specific sections of the Final SEIS/GRR constitutes a BA. The Corps should also include an "effect determination" for the five listed species. If the Corps concludes that the federally preferred plan is not likely to adversely affect listed species, and the FWS concurs, then section 7 consultation can be concluded informally. If the FWS is unable to concur with this determination, the FWS will request the Corps enter into formal section 7 consultation. On the other hand, if the Corps concludes that the federally preferred plan is likely to adversely affect listed species, the Corps should request initiation of formal section 7 consultation with FWS. mm

Page 104, Section 4.5.11 "Air Quality and Noise": It is our experience that noise travels longer distances over water than land; therefore, the discussion of construction and operational noise impacts appears insufficient. A discussion of the transmission of noise over water and wetlands as it effects nearby residences, as well as ambient conditions in ENP, is needed. The true duration and frequency of noise impacts needs to be fully elucidated, and not just the average decibels at a distance of 50 feet. nn

Page 104, Section 4.5.12 "Farmlands": As written, it is unclear what and how the direct and indirect conversion of farmlands under the Farmlands Protection Act includes and how it will be assessed. Please expand on this section in the Final SEIS/GRR. oo

Page 111, Section 4.6.8 "Socio-Economics": Mitigative measures for the effects of relocating residents, as well as the parties potentially responsible or able to implement to measures, need to be clearly discussed and identified in the Final SEIS/GRR. This should include federal, state, and local entities, as well as the residents in the 8.5 SMA. Mitigative measures for reducing the effects of relocations, especially in light of the environmental justice concerns, need to be more fully evaluated and elucidated in the Final SEIS/GRR. That the Corps will work with "... these minority and low income populations to identify potential mitigation for these impacts..." is an insufficient description pp

8

| | |
|---|---|
| kk. | Comment noted. Sentence has been revised to read "were evaluated using WRAP." |
| ll. | Comment noted. |
| mm. | A Biological Assessment has been prepared for the Recommended Plan and included in the FSEIS. |
| nn. | Comment noted. This analysis has been re-evaluated in the Final GRR/SEIS and additional information has been included as appropriate. |
| oo. | Comment noted. Additional data is included in the Final GRR/SEIS. |
| pp. | Comment noted. Mitigation measures associated with the relocation of households as the result of implementing the Federally Recommended Plan are discussed in the "Environmental Justice" section in Final document. |

of mitigation. The Final SEIS/GRR should be revised to include options to minimize or compensate for potential impacts. Examples of potential options are contained in some of the alternatives, such as: 1) options of life estates and flowage easements in lieu of buyout, 2) means to assist relocation into eastern sections of the 8.5 SMA to lessen the hardships associated with relocation or break-up of the community; and, 3) means to retain farming and the low density rural atmosphere of the area. Furthermore, an explanation of how properties are valued and owners or tenants can be financially compensated (*i.e.*, what this compensation does and does not include and whether any special legislation were needed) should be included in this discussion. Finally, a discussion of any other potential incentives to mitigate these effects should be included in this section.

Additionally, the Final SEIS/GRR should clearly state that implementation of Alternatives 1, 2, or 9 each require some additional relocation over and above the number previously identified in the authorized plan. Not to recognize that the authorized plan (Alternative 1) , or its derivatives (Alternatives 2 and 9), require some relocation is misleading. qq

Environmental Consequences of Alternatives 1 through 9 for "Listed Species": (pages 109, 118, 129, 138, 146, 155, 164, and 174; and Environmental Consequences of Alternatives 6C and 6D for "Listed Species" page 8 in Addendum A): The analysis presented in the Draft SEIS/GRR for wood storks and snail kites is inconsistent with the information provided in Chapter 7 of the Draft FWCA Report. For both the snail kite and the wood stork the SEIS and Addendum A states that the effects of Alternatives 2 through 9, including 6C and 6D, are similar to those stated in the analysis for Alternative 1. For the snail kite this is inconsistent with more quantitative information provided in the Draft FWCA Report, and for the wood stork the SEIS is especially contradictory to information provided in the Draft FWCA Report. Accordingly, information in Chapter 7 of the Draft FWCA Report concerning wood storks and snail kites should be incorporated into the Final SEIS/GRR. rr

Under the same section and pages as above, with regards to the Cape Sable seaside sparrow, no analysis is provided for Alternatives 1 through 9, and the text indicates that an assessment will be prepared in the future. Addendum A on page 8 includes an assessment of impacts to the sparrow for Alternatives 6C and 6D which are stated to be similar to 6B, yet such an analysis has, according to the text, been deferred and is not included in the "Environmental Consequences" of 6B. This is confusing and inconsistent with the Draft FWCA Report, and the conclusion is contrary to the fact that the Draft FWCA Report concluded that the model runs provided by the Corps, and the modeling assumptions, were not appropriate to gage impacts to the sparrow.

Section 9, "Mailing List": In the address for Mr. Bradley J. Hartman, the organization should be stated as the Florida Fish and Wildlife Conservation Commission. ss

Table 11, SEIS (unnumbered): For Alternatives 4, 5, and 7, Table 11 indicates that 1,404 acres of the total wetland acres are changed. This is inconsistent with the information collected by the WRAP Team. The WRAP analysis, based on groundtruthing and photointerpretation, found that a total of 2,695 acres of wetlands exist in the 3,588 acres of land within 8.5 SMA, and that no wetland losses occur with implementation of Alternatives 4 and 5. In fact, the WRAP analysis for Alternatives 4 and tt

9

qq. Do not concur. Only one relocation is required for Alternative 1, 2 and 9.

rr. Information in the Final CAR will be evaluated and included as appropriate in the Final document. The CAR will be Appendix G.

ss. Comment noted.

tt. Wetlands were evaluated using two different performance measures. One performance measure was based on results of hydrologic computer modeling, and the other relied on field assessments using WRAP protocols. Both performance measures were included in the Draft GRR/SEIS and are included in the Final document.

5 clearly indicates that all existing wetlands within the 8.5 SMA are improved to a maximum functional index of 0.85 per acre, with an additional 900 acres of farmed land (below 7.0' NGVD) restored to wetlands. Wetland function in ENP under these two alternatives are also improved, but do not result in any change in wetland acreage. Implementation of either of these two alternatives would result in a total gain of 900 acres of wetlands compared to the existing condition. For Alternative 7, the WRAP analysis found no change in wetland function compared to the existing condition. The use of the term "changed" needs to be fully disclosed, and the origin of the acreage figures in Table 11 need to be fully explained and justified in the Final SEIS/GRR, or deleted in favor of the more detailed and quantified interagency WRAP assessment.

**General Reevaluation Report**

GRR Sec 5.1 Pg 75-76 "Analysis of Project Requirements": The performance of Alternative 1 cannot be the goal for hydrologic restoration, since Alternative 1 causes drainage of ENP wetlands and causes significant negative impacts to higher stages in ENP as specified in the MWD Project. The performance goal for RQ1 needs to be changed to full MWD implementation as described on page 84 of the SEIS and represented by model run D13R_C-111_356_xx_95ops. uu

GRR Sec 5.1 Pg 76 "Analysis of Project Requirements": Average water depths (averaged over 63,000 acres and 365 days) are not a meaningful measure of impacts to stage in ENP. It is incorrect to say that all alternatives meet the requirement to not negatively impact higher stages in ENP as specified in MWD. Alternatives 1,2B, 6C and 9B all have significant negative impacts to NESRS, reducing MWD water depths in more than 27,000 acres in Alternative 1 and Alternative 6C, and reducing MWD water depths in more than 36,600 acres in Alternative 2B, and 9B. The Department recommends using a performance measure of number of acres with decreased water depths relative to the to full MWD implementation as described on page 84 of the SEIS and represented by model run D13R_C-111_356_xx_95ops. vv

GRR Sec 5.1 Pg 76 "Analysis of Project Requirements": Contrary to the assertion in the first sentence of paragraph 3, Alternative 1 fails to provide structural mitigation to 263 acres in the 8.5 SMA (see Figure 119, Vol 2, Appendix A, Table 3, Vol 3, Appendix G, page 40). This sentence should be changed to read that Alternatives 2B and 6B provide mitigation through the proposed structural features associated with each alternative. An additional sentence should be added stating "Alternative 1 complies with this requirement through a combination of structural and non-structural means. 263 acres are provided mitigation through flowage easements." Costs should be adjusted to reflect the cost of these flowage easements. ww

GRR Sec 5.1 Pg 78 "Analysis of Project Requirements": The statement in paragraph 2 "All alternatives that discharge water from a point source have design features that utilize water quality treatment impoundments or buffers" is incorrect. There is no design or cost related to water quality impoundments in the SEIS/GRR. The sentence needs to read "All alternatives that discharge water from a point source depend on unspecified features that would be added to the design and cost of the C-111 project." xx

10

uu. The USACE has provided the results of the hydrologic analysis for NESRS in the Final GRR/SEIS (contained in Appendix A, and summarized in Table 8 of the GRR). Alternative 1 represents the 8.5 SMA component of the MWD Plan contained in the 1992 GDM in accordance with P.L. 101-229. As such, it is the "future without project" condition and is the basis for which all other alternatives are compared. The results of the comparison of all alternatives to the Authorized Plan (Alternative 1) are contained in Table 10 of the Final GRR.

vv. Do not concur. Performance measures utilized in the Draft GRR/SEIS were established with participation of the various agencies, including DOI. Also see response to 15hhh.

ww. Comment noted. Text and appendices has been revised to explain the reason for assuming full flood mitigation in the Final document.

xx. Comment noted. Text and appendices has been revised as appropriate in the Final document.

GRR Sec 5.1 Pg 79 "Analysis of Project Requirements": RQ5: Maintain current levels of flood protection for agricultural areas east of L-31N is an inappropriate requirement for the MWD project. Current levels of flood protection were provided under an experimental program which provided flood protection at the expense of ENP wetlands. The 1989 Everglades National Park Expansion and Protection Act states at section 3d: "Any flood protection system implemented by the Secretary of the Army pursuant to this subsection shall be required only to provide for flood protection for present agricultural uses within such adjacent agricultural area." Therefore, RQ5 needs to be changed to "Maintain levels of flood protection for agricultural uses occurring in 1989" in the Final SEIS/GRR. yy

GRR Table 2, "Features of Alternatives": This table reflects percentages for land acquisition and structural mitigation intended, but not met. These numbers should reflect actual percentages required for land acquisition and actual percentage of land provided structural mitigation in the Final SEIS/GRR. zz

GRR Table 4 "Summary of Alternative Comparisons": This table needs to include a comparison under the federal requirement to verify restoration of natural hydrologic conditions within ENP. aaa

GRR Table 5 "Description of Performance Measures": Flood Mitigation Damages need to be evaluated over the entire 1995 model year, not just weeks 21-37. Flood Mitigation needs to be addressed in terms of increased stage and hydroperiod, not just inundation depth. It is recommended these changes be made in the Final SEIS/GRR. bbb

GRR Table 6 "Analysis of Project Requirements": Table 6 needs to indicate that Alternatives 1, 2B and 9 do not meet RQ1. There is also the need to provide adequate analysis to support RQ3 results. It is recommended these changes be made in the Final SEIS/GRR. ccc

GRR Table 7 Pm1a: The results as reported in the Draft SEIS/GRR erroneously conclude that if there is a single cell that shows an increase in hydroperiod or stage relative to the existing base95 condition, then the goal to restore natural hydrological conditions in ENP has been met. Results need to be changed to indicate how each alternative effects increased stages and hydroperiods due to full implementation of MWD. These changes need to be made in the Final SEIS/GRR. ddd

GRR Table 7 Pm2a: Alternative 1 does not provide mitigation without non-structural features (Fig. 119, App. A). These statements need to be adjusted accordingly and need to treat non-structural mitigation for all alternatives in a consistent way (*i.e.*, the statement in the Final SEIS/GRR should state that Alternatives 1, 3, 6C, 6D, 7 and 8A require the purchase of flowage easements to provide supplemental mitigation for increased water depths). eee

GRR Table 7 Pm2f: Impacts to landowners for Alternatives 1, 3 and 7 are erroneously identified as zero properties. This does not reflect the areas within the designated inhabited area where structural mitigation is not provided (263, 4,257 and 6,909 acres for alternatives 1, 3 and 7, respectively). This table needs to be corrected in the Final SEIS/GRR to reflect these impacts. fff

11

yy. Do not concur. Project requirements were determined through interagency discussions and meeting. Also see response to 15hhh.

zz. Comment noted. The row in Table 2 has been deleted to avoid confusion.

aaa. Do not concur. See D5c comment response.

bbb. Do not concur. Data is included in Appendix A of the Final GRR/SEIS.

ccc. Do not concur. Alternative 1, 2B and 9 do conform with Requirement 1 as Alternative 1 is the basis for comparison for resulting stages in NESRS following full implementation of MWD (See also comment response to D5c). The discussion on Requirement 3 has been reviewed and expanded as necessary for the Final document.

ddd. Do not concur. Results are presented as compared to existing conditions.

eee. Comment noted. Text and appendices have been revised to explain the reason for assuming full flood mitigation in the Final document.

fff. This analysis has been re-evaluated in the Final GRR/SEIS and additional information has been

GRR Table 7 Pm4a, 4b: The definitions for short and long hydroperiod wetlands are inappropriate. These definitions need to be restated correctly as on page 92 of SEIS. Tables of wetland acres and maps of wetland distribution need to be revised to reflect the correct definition in the Final SEIS/GRR. ggg

GRR Table 7 Pm6c: Operational protocols can be modified to mitigate for impacts east of L-31N; however, these modifications will likely reduce the restoration benefit to hydrologic conditions in ENP. This project has no authority to mitigate for impacts to land uses that are not compatible with Base83 operating protocols, since this is the authorized pre-project operational protocol. This needs to be clarified in the Final SEIS/GRR. hhh

GRR Table 8 Effects on seasonal variability: Min and max stage should not be the same for Alternatives 4, 5, and 7. Please explain this discrepancy in the Final SEIS/GRR. iii

GRR Table 8 Flood mitigation damages: Alternative 1 should be 263 acres. jjj

**ADDENDUM "A" TO THE DRAFT SEIS/GRR (May 2000)**

At the request of the SFWMD, Addendum A to the Draft SEIS/GRR was prepared to assess two variations of Alternative 6B. These two new alternatives (Alternative 6C and 6D) provide levee/canal alignments which seek to: 1) protect wetland resources within the 8.5 SMA; 2) minimize impacts to landowners and agricultural interests; and, 3) minimize impacts to wetland resources within ENP.

**General Comments**

While the Department understands that additional public input resulted in the Corps' effort to develop variations of Alternative 6B, Alternatives 6C and 6D are not similar in nature and design to Alternative 6B and should be treated separately in the final as new alternatives. Alternative 6B was designed to provide flood protection to 8.5 SMA residents residing within the boundaries of the mitigation levee. Alternative 6C and 6D are designed to mitigate for increased water levels due to full MWD implementation. Alternatives 6C and 6D are not designed to provide flood protection to residents within the boundaries of the mitigation levee. kkk

In addition, Alternative 6B places the canal between the buffer area and the inhabited area. Consequently, this difference has an important effect on water quality. Alternative 6B will likely have better water quality because the contaminated seepage water collected from the east (the populated area) will be diluted by the high quality seepage water from the west (the restored buffer area). Contaminated canal seepage water in Alternative 6D will be collected on both sides from populated areas which will compromise water quality.

12

ggg. Comment noted. Final GRR Table 7 Pm4a/4b has been revised to be consistent with information in the FSEIS.

hhh. The project requirements, objectives and performance measures were established through an extensive public involvement process including various environmental groups, federal cooperating agencies and other stakeholders. The objectives presented in the Final GRR/SEIS are a direct result of that collaborative effort to develop the appropriate metrics for comparison of the various alternatives. As a result, it would not be prudent to modify these objectives as suggested without facilitating the appropriate process for garnering public input.

iii. Comment noted. This analysis has been re-evaluated in the Final GRR/SEIS and additional information has been included as appropriate.

jjj. Comment noted. This analysis has been re-evaluated in the Final GRR/SEIS and additional information has been included as appropriate.

kkk. Do not concur. Alternative 6C and 6D were developed as variations of Alternative 6B at the request of the local sponsor. The results for the analysis for each of these variations is included in the Final GRR/SEIS to the same level of detail as all other alternatives.

**Specific Comments**

Page 3, Section A 2.0 "RQ 3": Reference the Department's above comments and recommendations at "Compensatory Mitigation for Unavoidable Wetland Losses". While it is recognized that existing wetland resources will be impacted, the statement in the 1st paragraph states: "However, it is anticipated that the benefit gained by increased stages in the Everglades system will offset losses to these wetlands." Addendum A to the SEIS/GRR does not contain any substantive or quantified evaluation which supports this claim. The Corps' wetland assessment documents that 2,538 acres of wetlands will be lost if Alternative 1 (No Action) is selected as the federally preferred alternative. The Department views this loss as avoidable, as six alternatives (Alternatives 4, 5, 6B, 6D, 7 and 8) not only avoid these losses, but actually increase the spatial extent and functionality of wetland resources in and adjacent to the 8.5 SMA based on the WRAP assessment.

The Department recommends that this statement be deleted from the SEIS/GRR, and that pending the selection of a federally preferred plan, an appropriate wetland compensatory mitigation plan for unavoidable losses of wetland resources be included in the Final SEIS/GRR consistent with the Clean Water Act section 404(b)(1) Guidelines, Executive Order 11990 (protection of wetlands), and various Corps policies and procedures. The Department would be pleased to work with the Corps to develop this plan, as the FWS and NPS have recommended in the Draft FWCA Report (Chapter 6 "Wetland Functional Evaluation"). lll

Page 3, Section A 2.0 "RQ 4": The Department finds that it is premature to conclude that Alternatives 6C and 6D would result in no impacts to habitats supporting federally listed species. Conclusions regarding the effects of a federally preferred alternative on listed species are more appropriately made pursuant to section 7 consultation in accordance with the ESA. mmm

It is recommended that the term "critical" in the 2nd paragraph be deleted, as it implies "designated critical habitat" as defined in the ESA. The last sentence in this paragraph should be re-written as follows: "Section 7 consultation will be initiated after a federally preferred alternative is selected." nnn

Page 4, Section A 3.0 "Results of Alternatives Analysis": The 2nd paragraph states that "...there is no attempt to make a determination of whether an objective has been "met"." The Department finds that this approach is inconsistent with the spirit and intent of NEPA. The Final SEIS/GRR should contain an alternatives analysis which fully discloses which alternative does or does not (and to what degree) meet the stated project objectives. Failure to do so would greatly hamper the decision-maker's ability to reach a fully informed decision. We recommend the approach of summing the results, by objective and for each alternative, similar to that contained in the Draft FWCA be adopted by the Corps for the Final SEIS/GRR. ooo

Page 8, Section A 4.7 "Listed Species": It is recommended that effects to the species listed be included in this section, in addition to the Florida panther and the Eastern indigo snake, need to be

13

lll. Do not concur. Compensatory mitigation is not applicable for this project. The Final CAR states that no fish and wildlife *or* wetlands compensatory mitigation will be required for the Recommended Plan.

mmm. Section 4.5.7 provides the current analysis on listed species. The Final GRR/SEIS includes a Biological Assessment for the listed species.

nnn. Comment noted. The text has been modified as appropriate in the Final SEIS.

ooo. Comment noted, but the document will not be revised as suggested.

evaluated in accordance with section 7 of the ESA upon the selection of a federally preferred alternative (see above comments, page 100 "Threatened and Endangered Species"). ppp

Appendix A, page 27: It is recommended that a full explanation be included in the Final SEIS/GRR justifying why the Corps' hydrologists used the number of days of continuous inundation as a measure of restoration of natural hydrologic conditions in ENP. qqq

Appendix A, Table 19: Average annual storage calculations are three times the levels that ENP hydrologists calculated. Please explain more thoroughly in the Final SEIS/GRR the basis for these calculations and why they are considered an estimate of average annual storage. rrr

Addendum A, Transmittal Letter: The transmittal letter indicates "...technical results to the same level of detail as in the GRR/SEIS for Alternatives 6C and 6D." However, several key results are missing from Alternative 6C and 6D analysis, including maps of wetland distribution, hydrographs of groundwater stage at indicator cells, graphs of wetland types, comparison graphs of average annual storage, wetland resource gain or loss, inundation maps, and graphs of Cape Sable seaside sparrow water surface elevations. The following list of figures are examples of maps and tables provided in the analysis of Alternatives 1 through 6 that are not provided for Alternatives 6C and 6D. sss

Missing Tables:

From the SEIS:

Table 11: Four-Week Average Around Max/Min Average for ENP Indicator Cells
Table 12: Average Range of Indicator Cells for ENP Expansion Lands
Table 13: Continuous Flooding for ENP Expansion Lands
Table 14: Average Stage of Indicator Cells for Agricultural Lands

From Appendix A, Hydrologic Analysis:

Ex. Table 7: Minimum Weekly Average Groundwater Head – 1995
Ex. Table 8: Four-Week Average Around Minimum Weekly Average GW Head
Ex. Table 9: Week of Minimum Weekly Average Groundwater Head
Table 20, 21: Average Annual Depth and Average Annual Storage In NESRS (compared to Alternative 1)
Table 23: Wetland Acreage within NESRS
Table 24: Wetland Acreage within NESRS Compared to Base 83
Table 25: Wetland Acreage within NESRS Compared to Base 95
Table 26: Wetland Acreage within NESRS Compared to Plan 1
Table 27: Number of consecutive Days Water is Below Ground Surface at Select CSSS Area F Indicator Cells – 1995
Table 28: Total Number of Days Water is Above Ground Surface at Select CSSS Area F Indicator Cells – 1995

14

ppp. Comment noted. See response to 15mmm.

qqq. In original discussions on performance measures, the use of "continuous days of inundation" was discussed and utilized as a performance measure. This measure is especially applicable in agricultural lands where the length of continuous inundation period can determine the success or failure of specific crops. Both continuous inundation periods and total number of days of inundation are presented in the Appendix A.

rrrr. NPS hydrologists notified the Corps of a possible discrepancy in storage differences between alternatives on 23 May 2000. Corps hydrologists corresponded with the NPS for a number of days to settle this difference. Conclusions were as follows:

a. The MODBRANCH cells used in the NPS analysis match those used by the Corps.

b. The NPS storage computation code was run by the USACE using the same data and results were the same as Appendix A, Table 19.

c. When the weekly average head files for Alternative 1 (D13R boundary conditions, 1995 precipitation, 95 operations) and the Base 95 conditions are input into the NPS program, the results agree with USACE's previously published results.

ssss. Comment noted. Appendix A includes the results of analysis for the complete set of hydrologic performance measures for Alternatives 6C and 6D.

Table 29: Number of consecutive Days Water is Below Ground Surface at Select CSSS Area F Indicator Cells – 1989
Table 30: Total Number of Days Water is Above Ground Surface at Select CSSS Area F Indicator Cells – 1989
Table 31: S-331 Monthly Discharge Volumes - 1989
Table 32: S-331 Monthly Discharge Volumes – 1995
Table 33: S-173 Monthly Discharge Volumes – 1989
Table 34: S-173 Monthly Discharge Volumes – 1995
Ex. Table 45: 8.5 SMA Mitigation: Plan 1 Compared to Base 83 – Weeks 1-52
Ex. Table 52: 8.5 SMA Mitigation: Plan 1 Compared to Base 83 – Weeks 21-37
Ex. Table 59: 8.5 SMA Mitigation: Plan 1 Compared to Base 95 – Weeks 1-52
Ex. Table 66: 8.5 SMA Mitigation: Plan 1 Compared to Base 95 – Weeks 21-37
Table 74: Spatial Changes in NESRS Depth – compared to Base 95 and Plan 1

Missing Figures:

From Appendix A, Hydrologic Analysis:

Ex. (82 figures) Figure 27: Hydrograph – Weekly Average Groundwater Stage at Cell 20457
Figure 116: Comparison of NESRS Average Annual Storage for Wet Year
Figure 117: Comparison of NESRS Average Annual Storage for Dry Year
Figure 120: Estimated Wetland Types in NESRS by Project Alternative
Figure 121: Wetland Resource Gain or Loss, Plans versus Base 83
Figure 122: Wetland Resource Gain or Loss, Plans versus Base 95
Figure 123: Wetland Resource Gain or Loss, LPA's versus Plan 1
Figure 130: Number of Days Water Surface Elevation is Below Ground Surface during the Wet Year – CSSS Indicator Cells in Area F
Figure 131: Number of Days Water Surface Elevation is Above Ground Surface during the Wet Year – CSSS Indicator Cells in Area F
Figure 132: Number of Days Water Surface Elevation is Below Ground Surface during the Dry Year – CSSS Indicator Cells in Area F
Figure 133: Number of Days Water Surface Elevation is Above Ground Surface during the Dry Year – CSSS Indicator Cells in Area F
Ex. Figure 134: Duration of Continuous Inundation > 0.2 ft – Plan 2B Wet Year
Ex. Figure 134b: Duration of Continuous Inundation > 0.0 ft – Plan 2B Wet Year
Ex. Figure 135: Duration of Continuous Inundation > 0.2 ft – Plan 2B Dry Year
Ex. Figure 135b: Duration of Continuous Inundation > 0.0 ft – Plan 2B Dry Year
Ex. Figure 136: Inundation Map Plan 2B – Week 26
Ex. Figure 136b: Inundation Map Plan 2B – Week 23
Ex. Figure 136c: Root Zone Inundation Map Plan 2B – Week 23
Ex. Figure 139: Extent of Wetlands for Plan 2B

15 20

May-30-00 02:09P OES - GFC 8509225679 P.01

| Post-it® Fax Note 7671 | Date 5/30 | # of pages ▶ 4 |
|---|---|---|
| To Col. Miller | From Brian Barnett | |
| Co./Dept. US COE | Co. FWC | |
| Phone # | Phone # 850-488-6661 | |
| Fax # 904-232-1213 | Fax # | |

D-16

# E CONSERVATION COMMISSION

SH QUINTON L. HEDGEPETH, DDS Miami
H.A. "HERKY" HUFFMAN Deltona
TONY MOSS Miami
EDWIN P. ROBERTS, DC Pensacola
JOHN D. ROOD Jacksonville

ALLAN L. EGBERT, Ph.D., Executive Director
VICTOR J. HELLER, Assistant Executive Director

OFFICE OF ENVIRONMENTAL SERVICES
BRADLEY J. HARTMAN, DIRECTOR
(850)488-6661 TDD (850)488-9542
FAX (850)922-5679

May 30, 2000

Col. Joe Miller
District Engineer
U.S. Army Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

ATTN: Mr. James Duck, Planning Division

Re: 8.5-Square-Mile Area Draft General Reevaluation Report and Supplemental Environmental Impact Statement, Miami-Dade County (SAI #FL199810150676CR2)

Dear Col. Miller:

The Office of Environmental Services of the Florida Fish and Wildlife Conservation Commission (FWC) has reviewed the referenced draft documents, and provides the following comments as public input on the draft General Reevaluation Report (GRR) and Supplemental Environmental Impact Statement (SEIS).

In 1992, the U.S. Army Corps of Engineers (COE) was authorized to construct the program of Modified Water Deliveries to Everglades National Park in order to improve water flows into the park. An integral part of that program was mitigation for any increased level of flooding that this program would otherwise incur on the residents of a privately owned area, called the 8.5-Square-Mile Area ("8.5 SMA"), that lies between the L-31N protective levee and Everglades National Park. At that time, the COE's solution to the mitigation requirement was to construct a system of protective levees and a seepage canal along the northern and western portion of the 8.5 SMA. The project has not yet been constructed, in part because of continued disagreement over the efficacy of this solution. In light of new information and improved modeling capacities that have developed since 1992, the COE has reevaluated the alternatives, of which there were nine, and added two additional alternatives in the draft GRR and SEIS. Unlike the case in 1992, the COE has not identified a preferred alternative, but plans to defer to the South Florida Water Management District as the local sponsor to identify a locally preferred

620 South Meridian Street · Tallahassee · FL · 32399-1600
www.state.fl.us/fwc/

May-30-00 02:09P OES - GFC 8509225679 P.02

Col. Joe Miller
May 30, 2000
Page 2

alternative first. It is then anticipated that the selected alternative will be further refined to improve its performance.

The analyses provided in the draft GRR and SEIS indicate that picking an alternative will not be a simple process, and will necessitate consideration of a complex set of environmental, political, social, and economic issues. Unfortunately, limitations on staff time have prevented us from doing an independent analysis of the alternatives that were presented in the draft documents. Instead, we have relied on the analyses presented in the U.S. Fish and Wildlife Service's draft Fish and Wildlife Coordination Act (FWCA) report to identify four alternatives that would most benefit the fish and wildlife resources of the area. Specifically, Alternative 4 (Residents' Choice Land Acquisition), Alternative 5 (Total Buy-Out Plan), and Alternative 6B (Western Portion of 8.5 SMA as Buffer Plan) would accomplish the needed mitigation, while substantially improving conditions in the park. Alternative 8A (Western Portion of 8.5 SMA as Buffer Plan) would also improve conditions in the park, but the draft FWCA report indicates that it would probably not provide the required flood mitigation in the 8.5 SMA. a.

Please refer to the attached for specific comments on the text of the draft GRR and SEIS.

Sincerely,

Brian Barnett, for

Bradley J. Hartman, Director
Office of Environmental Services

BJH/MAP
ENV 2-16/5/3
8.5SMA.COE doc
Enclosure
cc: Mr. Stephen Forsythe, USFWS, Vero Beach
Superintendent Richard Ring, ENP, Homestead
Mr. Frank Finch, SFWMD, West Palm Beach
Mr. Elmar Kurzbach, COE, Jacksonville
Ms. Cherie Trainor, Florida State Clearinghouse

D16 a. Comment noted

May-30-00 02:10P OES - GFC 8509225679 P.03

**COMMENTS AND INQUIRIES ON APRIL 2000 DRAFT GRR AND EIS:**
**8.5 SMA**
(Presented in order of their occurrence in the test)

**Draft GRR**

p. 13, top paragraph (also Table 6 of SEIS): The Florida tree snail has been inadvertently identified as a mussel; however, it should be correctly identified as a mollusk. b

p. 15, first paragraph under section 2.2.5 ("Flood Mitigation Needs"): Our understanding is that there has been disagreement as to the level of protection from flooding that was provided before the program of Modified Water Deliveries to Everglades National Park was authorized. We recommend that the GRR clearly specify the level of protection that the 8.5 SMA received before the 1992 authorization. c

p. 27, section 3.2.1 (Base 83); also p. 65 section 4.4.2, subsection a ("Operating Procedures: 1983 Operations"): Similarly, we understand that there was a difference between the way that the L-30 and L-31N canals were operated in 1983 as opposed to how they were authorized to be operated, and that this issue has been an area of controversy between staff of Everglades National Park and the COE. We recommend that this assumption for the Base 83 conditions be clearly stated in order to end further dispute. d

p. 33, last paragraph under "Birds": The discussion on foraging opportunities for wood storks that breed in Everglades National Park only mentions northeastern Shark River Slough, thereby implying that this is the only area available for them to feed. Wood storks can feed as far as 50 miles from their nest sites, so storks that have been nesting at the rookery just south of Tamiami Trail as it passes between Water Conservation Area 3B and the park would be expected to forage in a number of areas outside of the park. It would be more accurate to reword this section to indicate that northeastern Shark River Slough is one of the nearest areas available for feeding opportunities. e

p. 64, section 4.4.1 ("Boundary Conditions"); also p. 67, item CD4 ("Project Conditions: Base 95 + Future Without Project"); and p. 17 of Volume 2, Appendix A, "Water Sources and Sinks": What are the model boundary conditions in terms of assumptions regarding the seepage and conveyance portions of the program of Modified Water Deliveries to Everglades National Park? This aspect could affect the volume of water that may be introduced into the eastern portion of Shark River Slough. Since the overall project has been divided into three independently treated issues (the 8.5 SMA, seepage management from and conveyance through Water Conservation Area 3B, and raising the Tamiami Trail), we are concerned that assumptions in one be consistent with the direction of plans for the others. f

b. Comment noted. Final GRR/SEIS, p. 13 – the tree snail is a mollusk, not a mussel. The text has been modified as suggested.

c. Comment noted. Assumptions for the Base 83 conditions are clarified in the Final GRR, section 3.2.1.

d. During the Calibration and Verification (1998-1999) of the MODBRANCH model of south Dade County, the Base 83 rules (and other operation rules) were modified to reflect how the various structures were actually operated. These modifications were based on field measurements (stages and flows) at the various structures. Simulations performed for the 8.5 SMA study used the exact same operating rules for all conditions.

e. Comment noted. The text has been modified as suggested.

f. The boundary conditions for the MODBRANCH model consist of general head boundaries, rainfall, evapotranspiration, production well pumping rates, and canal stages. The first four pertain to the MODFLOW portion of the model; the last pertains to the BRANCH portion of the model.

The general head boundaries are the specified stages along the outer edge of the model grid. The values along the northern and western edges are extracted from the SFWMM 2x2 model for the given simulation (BASE83, BASE95, D13R). The values along the coast (Biscayne Bay, Florida Bay) are generated using average daily tide values and corrected for salinity differences.

Rainfall and evapotranspiration are from SFWMM 2x2 model input and output. Well pumping rates are actual values for the specific periods modeled. Canal stages are derived from SFWMM 2x2 model results or, in the case of canals ending at bays, tidal data. Alternatives were all run with consistent boundary conditions.

May-30-00 02:10P OES - GFC 8509225679 P.04

p. 85, section 7.4 ("Views of the Miccosukee Tribe"): This section implies that Water Conservation Area 3B is under lease with the Miccosukee Tribe of Indians. While we appreciate their concern for the fate of tree islands in this area, it is not under tribal control. We request that this section be reworded to more accurately reflect the relationship. g

Table 7, Objectives 7 ("Analyze impacts and costs associated with time delays in implementation of alternatives"): This objective addresses the impact of delaying the project in terms of further flooding of tree islands in the Water Conservation Areas. It assumes a linear relationship between time and the South Florida Water Management District's analysis of loss of tree islands over a 55-year period, and assumes that "full restoration" would cost between $50,000 and $500,000 per acre. While we agree that this consideration should be taken into account, we recommend that it be better documented if it is to play any significant role in the decision-making process. First, rather than basing the estimate on a linear rate of loss, the argument would carry more weight if it included a range of loss assuming a decade of dry years and assuming a decade of wet years. Second, flooding is not the only source of loss of extent of tree islands: fire can also eliminate them over time. Finally, we recommend that the cost estimate of "full restoration" be documented, and that the term "full restoration" be defined. The purpose of our recommendation is that, should this aspect become a significant point of contention in the future, the basis of decision is clearly stated so as to avoid ambiguity of interpretation. h

**SEIS**

p. 38, section 3.10 ("Vegetation"): While Davis' 1948 vegetation map provides a valuable insight into hydrological patterns prior to the implementation of the Central and South Florida Project, the main canals that drain the Everglades had been in place for several decades when he collected his data. We therefore expect that some loss of peat is likely to have occurred during the interim. Does the SEIS take this loss of peat into account in determining the pattern of vegetation in the predrainage landscape? i

p. 55, last paragraph under section 3.19 ("Future Land Use"): The SEIS identifies lack of zoning enforcement as a contributor to conditions that have raised the flood-protection expectations of the residents of the 8.5 SMA. If this is the case, does the COE have any legal avenue to enter into an agreement with Miami-Dade County as a local sponsor to improve zoning enforcement in the future? j

g. Comment noted. The text has been modified as suggested in order to reflect state ownership of WCA 3B lands.

h. Comment noted. Table 7, "full restoration" costs and timing for tree island restoration has been evaluated and clarified as appropriate in the Final document.

i. The latest data available was utilized in providing information on resources in the area.

j No. Enforcing local zoning codes is a Miami-Dade County responsibility.

EPA R4 ORC ID:404-562-9598 JUN 01'00 16:13 No.003 P.02

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAY 30 2000

Colonel Joe R. Miller
District Engineer
Jacksonville District, Corps of Engineers
P.O. Box 4970
Jacksonville, FL 32232
ATTN: Mr. Elmar Kurzbach
Planning Division

SUBJECT: Draft Supplement to the Final Environmental Impact Statement with Addendum A (DSEIS) and Draft General Reevaluation Report (DGRR) for Modified Water Deliveries (MWD) to Everglades National Park, 8.5 Square Mile Area (SMA), Miami-Dade County, Florida; CEQ No. 000102

Dear Colonel Miller:

Pursuant to Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA), the U.S. Environmental Protection Agency (EPA), Region 4 has reviewed the subject documents. The DSEIS/DGRR examine multiple structural/operational alternatives advanced to mitigate the projected increases in flooding within the 8.5 Square Mile Area (SMA). These elevated water levels are predicted (via modeling) to result from augmented stages associated with future plans to modify water deliveries to the Everglades National Park (ENP; Park). These changes to present water deliveries seek to restore a more natural hydrologic regime within the Park which in turn should improve overall ecosystem health. However, full implementation of MWD cannot occur until the issue of induced flooding within the 8.5 SMA is addressed.

Redressing flood impacts within the 8.5 SMA is a complex issue that needs to consider multiple factors. Further, compensation for the additional flooding resulting from MWD activities will not occur in isolation; rather, each change becomes a part of and is influenced by other components of this project, viz., modifying the Tamiami Trail, control of seepage and conveyance from Water Conservation Areas (WCA) 3A and 3B, and possible operational changes to C-111. Because of their interrelated nature, these project elements are also being re-evaluated.

Multiple alternatives for structural and operational flood control measures are being examined as a means to deal with the flood mitigation/protection issue within the 8.5 SMA. Alternatives 1, 2B, 3, 4, 5, 6B, 6C, 6D, 7, 8A, and 9 are addressed in the DSEIS. Structural

Internet Address (URL) • http://www.epa.gov
Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 25% Postconsumer)

EPA R4 ORC ID:404-562-9598 JUN 01'00 16:14 No.003 P.03

2

alternatives seek to physically modify the effects of water movement (directly/indirectly); these include levees, canals, swales, pump stations, road elevations, and seepages barriers. Operational alternatives being evaluated are acquisition (in whole or part via voluntary participation or by condemnation), flowage easements, and life estates coupled with flowage easement payments. It should be noted that the comparison between these alternatives and the so-called No-Action Alternative (i.e., future without project) is not straightforward. The No-Action Alternative is actually the levee, seepage canal, berm and pump system characterized in the DSEIS as Alternative 1 (*Authorized GDM Plan*), which formed the basis of the Record of Decision for the original MWD Final EIS (May 1993). The U.S. Army Corps of Engineers (USACE)/Department of Interior will use the information developed in the SEIS process to make a decision as to potential future federal action(s) on this project. Integral to this decision-making will be the identification and development of the preferred alternative in the Final SEIS (FSEIS).

All of the alternatives have strengths and weaknesses. Moreover, these plans/strategies are intrinsically complicated given the areal extent of the overall study area, the interrelationships with other development activities, and the magnitude of the processes involved. Because of the complexity inherent in whatever design/operation mode is ultimately chosen, the document cites that unanticipated results could occur, trends may happen more slowly than predicted, and/or field investigations produce data which are ambiguous and/or do not aid decision-making.

During the project development/scoping phase, it became apparent that no one alternative would resolve all issues and trade-offs would have to be made. For example, some property owners will not get the degree/type of flood protection they anticipated, or some wetland community types may not be optimized relative to their hydrological needs. Nonetheless, there is a fundamental need to move expeditiously such that this excellent opportunity to improve the overall Everglades ecosystem is not lost. The national interest of successfully resolving the MWD issue(s) makes the difficult choices attendant to this effort worthwhile.

As a general policy, EPA prefers operational as opposed to structural solutions for flood mitigation. Our evaluation of this action used this focus to gauge and then rank the adverse wetland and water quality ramifications/impacts that each alternative would engender. In our opinion these issues should be of paramount importance in ultimate decision-making for all stakeholders. For example, all waters discharged into ENP must meet Florida Class III water quality criteria and the Park is also afforded additional water quality protection as an Outstanding Florida Water. This requires that the quality of water that was delivered to the Park as of 1979 be maintained in the future. Specific phosphorus limits also apply to structures that discharge water into the Park. The quality of water from upstream sources influence the Park's water quality. Monitoring data reveal nutrients, pesticides, metals, and bacteria in surface water and groundwater discharges from

16:15 No.003 P

3

residential and agricultural areas within the 8.5 SMA at concentrations which can materially affect the long-term preservation of important plant/animal communities in the Park.

Specific EPA water quality comments are enclosed as our *Detailed Water Quality Comments*. In general, however, the DSEIS and DGRR should be revised to contain more precise statements of the water quality treatment requirements which will apply to construction/operation of any new structures. For example, the DGRR (page 78) states that "all alternatives that discharge water from a point source have design features that utilize water quality treatment impoundments or buffers". This does not appear to be true for Alternative 1. The documents state that for several of the alternatives, water from the SMA will be discharged to a Stormwater Treatment Area (STA) for treatment. However, it appears that STA costs (real estate, capital, operation and maintenance, long-term water quality monitoring) are not included. a. b

These long-term water quality concerns and costs would be less applicable with the operational alternatives, e.g., Alternative 5 (*Total Buy-Out Plan* via willing sellers and condemnation of remaining parcels), since potential sources of long-term water quality degradation within the 8.5 SMA would be largely eliminated. All of the structural alternatives will require additional long-term water quality monitoring at key locations, such as S-357. Cost estimates should be revised to include water quality treatment and monitoring. If these estimates are not developed prior to the Record of Decision, it should be stated that although these additional costs are likely, they have not been included. c

Project operations can impact water quality. Seepage water from east of L-31 is known to be of poorer water quality than seepage water from the Park. The DSEIS/DGRR should be revised to include specific statements about how the water management system will be operated to maximize water quality by minimizing the delivery of seepage water from east of L-31. d

EPA believes that Alternative 5 is the most consistent with balancing water quality/quantity goals (with restoration of approximately 1,400 acres of wetlands) of this 8.5 SMA project as well as the Central and Southern Florida (C&SF) Project. On the other hand, Alternative 1 with its structural flood control features isolating the entire 8.5 SMA would result in significantly more short- and long-term water quality degradation along with the most extensive wetland losses (approximately 2,500 acres) and drawdown area within the Park. Its structural isolation would require removal of internal surface water runoff which, we believe, could require water quality treatment prior to pumpage into ENP. e

Intermediate to Alternatives 1 and 5 in terms of water quality and wetlands protection are Alternatives 4, 6B, and 8A. Alternative 4 (*Landowner's Choice Land*

a. Comment noted. Additional analysis and research has been conducted concerning water quality and results and conclusions included in the Final document, as appropriate. See GRR section 5.1 and Appendix C.

b. Cost estimates for water quality treatment have been developed and included in the final document. See Appendix C.

c. Comment noted. Costs have been included in the final documents. See Appendix C.

d. Comment noted. It is anticipated that this issue can be dealt with under the operational EIS for MWD and C-111 that is due for completion by the end of calendar year 2001.

e. Comment noted.

4

*Acquisition Plan*) proposes the buy-out of willing sellers and a mitigation package for the incremental flood damages experienced by the remaining property owners, while Alternative 6B offers flood protection in the more developed areas with buy-outs creating a western buffer. Alternative 4 would minimize most of our water quality/wetland concerns (wetland gain of approximately 1,400 acres). It proposes buying out the majority of the property owners and at the same time meets the most important needs of other stakeholders. This acquisition of parcels from willing sellers uses an innovative combination of flowage easements, life estates with flowage easements, and fee simple purchase as a means of lessening the adverse effects of additional flooding. The significant environmental disruptions (both short- and long-term resulting from direct and indirect processes) attendant to all structural designs are effectively eliminated. It can be accomplished relatively quickly, its flexibility answers the concerns voiced by most of the current property owners, it provides a balance between environmental and societal objectives, and it is reasonably definitive and should resolve this matter for the majority of property owners. Further, Alternative 4 should have the latitude to mesh with other MWD elements when they are built and as our knowledge of the entire Everglades system improves. However, we acknowledge that Alternative 4 may result in some property owners resisting any of the proposed flood mitigation options.

The Alternative 6 variants (6B, 6C and 6D) would provide differing structural flood protection/mitigation. Water quality effects would be a function of the size of the buffer area (6B largest to 6C smallest) and whether development increases through time in the remaining protected areas. Water quality concerns could be lessened by assuring that these alternatives always have an internal levee adjacent to the seepage canal to prevent surface water inflow. Although the text for Alternative 6D states that there would be two interior levees, Figure A4 shows only one. Similar to Alternative 1 and all alternatives involving structural resolution, the protected property areas will still be materially affected by internal surface water which would require removal and water quality treatment. However, since development is more concentrated in the southeast quadrant of the SMA, overall water quality and wetland issues in the unprotected areas should improve.

Qualitatively, the water quality benefits of Alternatives 4 and 6B appear to be comparable, whereas quantitatively their wetland restoration values diverge from a gain of approximately 1,400 to 250 acres, respectively. Alternative 4 has a water quality detriment in the fact that some scattered residences with poorly functioning septic tanks and farm operations will remain with their runoff being eventually added to the C&SF Project. Alternative 6B isolates the more dense development in the southeast quadrant of the SMA, but the layout facilitates potential treatment measures. The other Alternative 6 variants (6C/6D) are less desirable (wetland losses of approximately 2,050 to 50 acres, respectively) since they enlarge the protected area for development and provide the potential for increased long-term water quality degradation. The DSEIS notes the present lack of enforcement of zoning ordinances in this area and makes the reasonable inference

16:16 No.003 P

5

that development can be expected to intensify through time. Accordingly, Alternative 8A with its flow-way design and net gain of approximately 400 acres of wetlands is more environmentally preferable than the 6C/6D alternatives. We also note that while Alternative 7 has an immediate net gain in wetland potential greater than 8A and the same as 5 and 4 (approximately 1,400 acres), its long-term water quality/wetland ramifications are more problematic in this regard since, in the absence of zoning enforcement, development can be expected to intensify in the protected areas.

From a water quality degradation and wetlands restoration perspective and in support of the goals of C&SF Project, EPA ranks the alternatives from most to least environmentally preferable as: 5, 4, 6B, 8A, 6D, 6C, 7, 2B, 9, 3, 1. This recommendation supposes that all internal surface waters within any leveed area will be treated to "marsh-ready" levels before delivery into the Park to reduce long-term water quality degradation. Using this perspective, EPA has environmental concerns with some alternatives and more substantive environmental objections with others (generally due to their structural aspects). Additional information on the issues noted above will be necessary for informed decision-making on this action. f

Since a preferred alternative was not identified in the DSEIS, we have rated all alternatives presented in the DSEIS. We believe Alternative 5 is the environmentally preferred alternative since it generally restores the area to its natural conditions and Alternative 1 has the most adverse environmental consequences since its structural approach maximizes internal surface water and wetland drainage. Accordingly, we rate Alternative 5 as LO (i.e., *Lack of Objections*) and Alternative 1 as EO-2 (i.e., *Environmental Objections,* with additional information requested). Because of their intermediate impacts, we rate 4 and 6B as EC-2 (*Environmental Concerns* with additional information requested), with a preference for the 4 due to the overall wetland gain. The remaining alternatives (8A, 6D, 6C, 7, 2B, 9 and 3) are rated as EO-2 in descending environmental order because of their substantive structural impacts. g

Thank you for the opportunity to comment on this action. If we can be of further assistance or if a meeting is desirable to discuss this or related projects, Richard Harvey (561-615-5292) and Heinz Mueller (404-562-9611) will serve as initial points of contact.

Sincerely,

John H. Hankinson, Jr.
Regional Administrator

Enclosure

f. Comment noted.

g. Comment noted.

16:17 No.003 P

**DETAILED WATER QUALITY COMMENTS**

Dr. William Walker's 1997 report titled *Analysis of Water Quality and Hydrologic Data from the C-111 Basin*, is noteworthy. Dr. Walker analyzed 1984-1996 hydrologic data and phosphorus data from the C-111 basin in order to determine relationships between hydrologic factors and phosphorus concentration and load at South Florida Water Management District (SFWMD) or USACE water control structures throughout the Basin. He found that the source water is critical, and that seepage water from the Park tends to have much lower phosphorus (as low as 6 ppb) than water from east of L-31. This compares to water inflows to the C-111S basin that averaged 24 ppb. He suggested some key principles for protecting water quality that are relevant to USACE water management decisions concerning the 8.5 SMA: inflow of seepage water from east of L-31 should be minimized and the system should be designed for operational flexibility. If water quality does not meet all applicable water quality regulatory requirements at the point of discharge into the Park, then the USACE design must include a means for water quality treatment, such as a wetland or buffer area.

The DGRR notes several water quality issues that must be addressed. Recent water quality data for surface water within the 8.5 SMA indicate elevated total phosphorus, fecal coliform, and total coliform bacteria, and occasional detections of pesticides. Total phosphorus concentration for eight locations within the 8.5 SMA during October 1999 ranged from 140 ppb to 930 ppb (DSEIS Table 2). This compares to the 10 ppb default numeric total phosphorus criterion for the Everglades Protection Area, and the 11 ppb phosphorus limit mandated by the Federal Court Order for S-332, S-18C and S-175. However, in the January 1, 2000 Everglades Consolidated Report, SFWMD reports that for S-331/S-173 from May 1998 to April 1999, the median total phosphorus concentration was 8 ppb (n=28; pg. A4-3-40).

The SFWMD has detected pesticides at low concentrations on several occasions (DSEIS Table 1). Table 1 contains several errors: the units for surface water samples should be ug/L, not ug/kg; endosulfan sulfate was detected, not endosulfan; 'hezazinone' should be 'hexazinone'; and the 0.032 reported for G211 was actually at S331 on 8/4/99. In addition, other detections are omitted from the table: atrazine was detected in surface water at S331 on 4/19/99 at 0.055 ug/L and on 1/6/99 at 0.029 ug/L; atrazine was detected at G211 on 1/6/99 at 0.012 ug/L. Atrazine is the most commonly detected pesticide product in South Florida surface waters. It is a herbicide of low aquatic toxicity and there is no Florida Class III numeric water quality criterion.

D 8

May 29 2000

Dear Sir,

In regard to the 8.5 S.M.A. let me say we are not responsible for the breach of trust and or in the delays in the Modified Water Delivery Project

We do not question a want by local government to buyout the area but due question the legality of condemnation for there is no just reason.

No ecological benefit, no justification of wetland no significant difference in restoration needs for we are in a rural area with little use.

We welcome for all to see a land grab under the guise of Everglades restoration, a hidden agenda in benefit of local government against a minority community of Cuban Americans by the federal government in violation of public law 101-229 wish the U.S. Army Corps of Engineers plans to eliminate with the local sponcers the S.F.W.M.D.'s authority in a showcase act an a precedence for all to see on how government can deprive people under due process their legal and constitutional rights of private property for wish there is no legitimate public purpose.

This only if Congress and the law allow it. With all due respect as an American citizen I plea to the Secretary of the Army through your person to fix the fixation against the 8.5 S.M.A.

I erge the Secretary to fulfill under due process the present duty to Congress, our people

and the law. To execute the 1994 Contract at present with the S.F.W.M.D. in order not to waste time and money on this ill-founded, ill-conceived and if condemn illegal act.

Our protection guaranteed without qualification to the Modified Water Delivery Project under public law 101-229 Section 104(c) is a Congressional trust, a privilege to use but also your present job

Deja vu of the 1998 Nov. 12 and later in Congress, your actions to deliver under a mandate is not to question or choose but to do as is

Thank you

Philis Sanchez
Truly

3095 SW. 19 st
MIA FL 33145
305 448-4554

D-19

FPL

Florida Power & Light Company, Environmental Services Dept., P.O. Box 14000, Juno Beach, FL 33408

June 20, 2000

Mr. James Duck
Chief, Planning Division,
U.S. Army Corps of Engineers,
Planning Division,
P.O. Box 4970,
Jacksonville,
Florida 32232-0019,

**RE: 8 ½ Square Mile Area**

Dear Mr. Duck:

FPL has just learned of new Federal proposals for the 8 ½ Square Mile Area. We were disappointed not to have been notified of these proposals. This area includes an important right-of-way for FPL. The 330ft right-of-way extends for about 3 miles in a north-south direction, linking our Turkey Point plant with one of our main bulk power distribution hubs in Dade County, the Levee Substation.

I note that although FPL is a significant property owner, and the presence of the FPL ROW is noted in the Land Use section of the Supplemental EIS, that the company is not included among the over 730 recipients on your mail list. We were also very disappointed to learn from your staff that the list of interested parties that the SFWMD provided to the COE regarding this project did not include FPL. FPL has worked extensively with the SFWMD over the last several years providing input to a multitude of alternatives and working with the District to find solutions that would both meet water resource objectives and protect the FPL's property rights in the area a

Just as the District and the COE have obligations relating to flood control and water resources, so does FPL have an obligation to provide a safe, economical and reliable supply of electricity. One of the many challenges we face in meeting this responsibility is the location of new transmission lines. The acquisition of new right-of-way can be very difficult. In some locations, such as the 8½ Square Mile area, we have been able to plan ahead and acquire a right-of-way in advance. This enables us to move forward more economically and timely with the installation of new facilities. At this time, among other uses, plans at our Turkey Point plant are being reviewed internally which would include location of facilities in this right-of-way

The subject of a reliable electrical supply grid is an issue of much current attention at the Federal level. While the Supplemental Environmental Impact Statement addresses a range of social and economic impacts (and acknowledges the presence of an FPL right-of- way) we see no reference to social or economic impact to FPL customers or the company from the flooding of our right-of-way or Federal acquisition of this land. It is critical to the continued supply of reliable electricity that FPL retain the ability to provide electricity via a strong and integrated electrical grid. This right-of-way is an integral component of that ability. Acquisition of this right-of-way by the Government would be a costly undertaking, as FPL would expect full compensation - - including an alternative right-of-way in which we could construct our facilities b

an FPL Group company

a. Comment noted. FPL has been added to the list of interested parties for this project.

b. The present alignment of the interior levees and seepage canal parallels the FPL right-of-way (ROW). The interior levees and seepage canal have a footprint that is about 250-ft. wide. This footprint will cross the FPL ROW between 128th and 136th Streets. The perimeter levee, with a 2-ft. print of about 80-ft. wide crosses the FPL ROW at or about 120th Street. Presently, these are the only real estate impacts perceived on the FPL ROW.

Mr. James Duck
USACE
June 20, 2000
Page 2

It is inappropriate for the EIS to consider environmental and other impacts and not consider the potential impacts on a reliable and cost-effective electricity supply to the region.

**FPL strongly objects to any proposed impairment or buyout of the FPL right-of-way in this area.** We have previously received assurances from the WMD that they would work cooperatively with us in this area and that it was not the agencies' intent to acquire the FPL property in the 8½ Square Mile project. Regarding the current Alternatives that are being considered, we believe that we could work with the agencies to accommodate the Alternative 6D as recommended by the SFWMD Board since this does not require acquisition of the FPL property. FPL specifically requests that if any alternative is selected that proposes buyout of the area encompassed by the FPL ROW, that the FPL ROW be excluded from the acquisition proposal or that flexibility be include to enable the Government to work creatively with FPL to locate an alternative corridor. FPL does not contribute to the problems encountered in this area, and our future land use is not incompatible with the long-term objectives for the area. We remain open to exploring creative solutions that would enable both the Government and FPL to meet our important social obligations. c

I would like to note appreciation for the efficient help that we have received over the past few days from Mr. Elmar Kurzbach of your staff.

If you have any questions please feel free to contact me at 561-691-7059. In closing, we would encourage the COE to work closely with FPL in the early stages of future plans for the area so that we can efficiently avoid or minimize any potential impacts. We look forward to being able to work cooperatively with you as your plans progress.

Sincerely

Florette Braun

Florette Braun
Principal Environmental Specialist
Environmental Services

Copies:
Ken Ammon SFWMD
Terri Bates SFWMD
Dewey Worth SFWMD
Bob Conkle - Transmission
Dave Douglass FPL – Real Estate
Jean Howard FPL - Law
John Little SHD
Raul Montenegro FPL- System Planning
Pam Rauch FPL – Law

Fb/wmd/projects-impdmts/8.5 Sq Mile/8mileltr june 20 2000.doc

c. The Recommended Plan is Alternative 6D, with conditions. It may require the acquisition of small sections of the FPL ROW. The Federal Government will work with all parties to assure minimal impacts and equitable compensation. See response to comment D-19b.

Attachment to D-19

# South Florida Water Management District

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045
TDD (561) 697-2574

LAN 06 RF# 99111

December 29, 1998

Florette Braun, Sr. Environmental Specialist
Florida Power & Light Company
Environmental Services Department
P.O. Box 14000
Juno Beach, FL 33408

Dear Ms. Braun:

**SUBJECT: 8 1/2 Square Mile Area**

This is in response to your letter of November 13th, with respect to Florida Power & Light's right of way that goes through the 8.5 Square Mile Area. As you are aware, the Governing Board voted on November 12th to acquire the entire area as the locally preferred alternative to the levee mitigation portion of the Modified Water Deliveries Project. As you and members of District staff met on November 18th to discuss the District's current strategy with respect to land management in the area, I will reiterate the points made at that meeting.

1) Your right of way roughly bisects the 8.5 SMA.

2) It is our intent to cost share acquisition of lands in the area with the federal government, and with Miami-Dade County. Miami-Dade County will be using funds designated for acquiring environmentally endangered lands. As such, the lands acquired using these funds are subject to rigorous guidelines regarding post-acquisition usage.

3) It is our intent that lands on the west side of the 8.5 SMA will be restored to their previous use, that of short hydroperiod wetlands or muehly prairie. Lands on the east side will also be subjected to higher water levels after the implementation of the Modified Water Deliveries project. In the interim, lands in the east will likely be put back into some benign agricultural uses, both to keep exotic plants under control and to minimize land management costs as we complete work on the Modified Water Deliveries project.

4) Your right of way would constitute a buffer area separating these very different land uses. As such, it would likely be beneficial to leave it as a utility right of way since that would provide separation between the different uses.

In summary, at this time the District has no desire to acquire any of the lands FP&L currently owns in fee in this area. Also, we would like to work cooperatively with FP&L to document this intent as a portion of a management plan that ultimately will be required for the area.

Sincerely,

William F. Malone
Director
Construction and Land Management

copy Dave Douglass
Jean Howard

WFM/BB/ss
H:bbstein\FPL-LTR.doc

*Governing Board:*
Frank Williamson, Jr., Chairman
Eugene K. Pettis, Vice Chairman
Mitchell W. Berger
Vera M. Carter
William E. Graham
William Hammond
Richard A. Machek
Michael D. Minton
Miriam Singer
Samuel E. Poole III, Executive Director
Michael Slayton, Deputy Executive Director

Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680

June 28, 2000

Subject: Modified Water Deliveries Project

TO: COL JOE MILLER, **FAX – 904-232-1213 – 1 of 3 pages**
Commander, USACE District, Jacksonville

WITH COPIES TO:
Richard Bonner
Lloyd Pike
Dennis Duke
Cheryl Ulrich
And other as appropriate.

Joe –

Please accept the enclosed letter as official comments from the Miccosukee Tribe on your ongoing preparation of EIS's in support of the Modified Water Deliveries (MWD) project and GRR/SEIS for the 8.5 Square Mile Area (SMA) component of the MWD project. The Tribe really expects Mod Waters to be done by 2003 … let us know what we can do to help move it along.

TERRY

Terry
Miccosukee Tribe
305-321-3095

D-20

# Miccosukee Tribe of Indians
of Florida

Business Council Members
Billy Cypress, Chairman

Jasper Nelson, Ass't. Chairman
Max Billie, Treasurer

Andrew Bert Sr., Secretary
Jerry Cypress, Lawmaker

June 28, 2000

Colonel Joe R. Miller
District Commander
USACE District, Jacksonville
PO Box 4970
Jacksonville, FL 32232

Dear Colonel Miller:

The Modified Water Deliveries (MWD) project, as authorized by PL 101-229, the Everglades Protection and Expansion Act of 1989, should have been completed by 1997. Damage caused by the MWD project not having been completed is extensive throughout South Florida, to include on Tribal land, and much of it is irreversible. The Miccosukee Tribe of Indians of Florida will "hold the Corps' feet to the fire" to ensure that the MWD project is completed by December 31, 2003 … the Corps scheduled completion date and the date mandated by the Reasonable and Prudent Alternative in the February 19, 1999 Biological Opinion. **It is still the Tribe's conviction that the best way, economically, environmentally, legally, and socially, for the Corps to meet its obligations under PL 101-229 is your 1992 plan/concept as approved by Congress.**

With regard to the 8.5 Square Mile Area (SMA) component of the MWD project, on June 15, 2000 the Governing Board of the South Florida Water Management District (SFWMD), after deciding not to fund a locally preferred option, merely recommended "alternative 6D" to the Corps as the Board's preference. Be advised that, as you evaluate the SFWMD recommendation during your General Reevaluation Review (GRR)/Supplemental Environmental Impact Statement (SEIS) preparation, **the Tribe has serious concerns regarding the implementability of 6D:**

1) **Authority** – how can you stay within the bounds of the law with 6D?: PL101-229 is crystal clear with regard to the 8.5 SMA, i.e., "The Secretary of the Army is authorized and directed to construct a flood protection system for that portion of presently developed land within such area." a

2) **Cost Effectiveness** – how can you justify 6D as "cost effective"?: 6D will require at least $62 million more in federal funds than the 1992 Corps plan … the Tribe strongly believes that $62 million is an underestimate and is certain to grow substantially as all costs are included. b

P.O. Box 440021, Tamiami Station, Miami, Florida 33144, (305) 223-8380, fax (305) 223-1011

a. Although the action states "flood protection", it is clear that such protection is to be limited to that which would be necessary to protect against impacts as a result of implementation of MWD. To alleviate the potential adverse effects on the 8.5 SMA due to implementation of the MWD project, a number of alternatives were analyzed during the development of the 1992 GDM. Included among these were acquisition alternatives.

b. The Recommended Plan best satisfies the project goals and objectives, established at the request of the local sponsor, and is consistent with the overall goals and objectives of the MWD Project. The Recommended Plan provides the optimum solution for providing flood mitigation to the landowners in the 8.5 SMA and environmental enhancement to the ENP by balancing the environmental benefits and social impacts. It provides comparable ecosystem restoration benefits as Alternative 5 for 50% of the cost. The restoration benefits are significantly higher than Alternative 1, and preserves 83% of the households in the 8.5 SMA.

The Tribe still believes that the fastest, cheapest, and most humane way to abide by the law with regard to the 8.5 SMA is the 1992 Corps plan/concept. **The Tribe strongly believes that to have any hope of 6D being implementable, the following 6 immutables must be unequivocally established and heeded by the Corps:**

1) 6D Plan must clearly demonstrate that construction will be completed and operation started by December 31, 2003; c
2) 6D Plan must unequivocally ensure absolutely no condemnation of homes … also, it must ensure no condemnation of land, unless it is the land that falls beneath the footprint of the protective construction project, i.e. canal, levee, and pump; d
3) 6D Plan must provide property owners to the west of the 6D levee with choices that ensure they neither lose value of property/business nor quality of life. At a minimum, property owners must be permitted to choose among the 3 following options: a) continue to live in the area with roads, houses, and area around houses raised to the extent necessary to provide the protection directed by PL 101-229 at 100 percent government expense; b) be totally relocated to the 8.5 SMA east of the 6D levee at 100 percent government expense; or c) sell property for a price that permits total relocation outside the 8.5 SMA; e
4) 6D Plan must be endorsed by DOI in writing, to include an explicit commitment to provide the increased funding, prior to the Corps signing a Record of Decision (ROD); f
5) 6D Plan ROD must be signed by September 30, 2000; g
6) and 6D Plan must stipulate that, if any one of the above 5 immutables is not met, then the Corps must immediately begin final design and construction of the 1992 Corps plan/concept. h

The Tribe is ready to work with all parties involved to ensure the MWD project is accomplished no later than December 31, 2003. **Please consult with the Tribe soon and often as the expeditious completion of the Modified Water Deliveries project is crucial to the survival of the Miccosukee culture and over half of the remaining freshwater Everglades.**

**No more dead-end excursions … condemnation equals stagnation! Tribe's bottom line: "Mod Waters by 2003 … by the law … with no condemnation!"**

Sincerely,

Terry L. Rice
Colonel (R), PhD, PE

2

c. Estimated time for implementation was a consideration in the selection of the Recommended Plan. Construction issues and concerns are detailed in section 7.0 of the GRR, and a detailed implementation schedule is included in the GRR as Figure 38. The estimated completion date for construction is December 2003.

d. While it would be nice to complete a public acquisition project without the use of condemnation, the acquisition required under the Recommended Plan could not occur without a condemnation authority. Without authority for condemnation, one unwilling seller could prevent the entire project from proceeding forward, regardless if they were in the area to be inundated or within the project footprint. Condemnation authority is inherent in approval of the Corps acquisition project. Even though condemnation authority is present it is always used only as a last resort to clear title or as an impartial means to resolve honest differences of opinion regarding value. Every attempt will be made to reach a reasonable settlement on each tract. Offers are based on appraisals done by independent appraisers researching the private marketplace.

e. n regards to a), allowing a residential structure to remain in place after inundation occurs is not considered to be in the best interest of the government or the landowner. The reason is that flood events above the mitigation level could occur due to extreme rainfall events or other conditions out of the control of the Corps or local sponsor and the government would not want to place any additional risk to flooding on the landowner. The raising of roads and houses as suggested is estimated to have a similar cost (in addition to acquisition of flowage easements) as for Alternative 7. It is estimated that initial construction costs for the roadways would be approximately $12,207,600. This considers not only the raising of the roadways in-kind but the placement of two bridges over the proposed seepage canal. The cost would also include the acquisition of 226 acres of land for roadway easements. This option would also require an annual maintenance cost of approximately $1,065,334, including periodic replacement and maintenance. For choices b) and c), the resident would have a choice in where they relocate. However, the Corps would have no authority to actually acquire land outside the authorized project boundary. When a resident is displaced because of a federal project, they are entitled to the relocation benefits set forth under P.L. 91-646. These benefits are paid at government expense. The benefits may include a replacement housing payment. The Government must find and offer comparable replacement housing for displaced persons, but the landowner is not obligated to take the housing offered. If landowners desire to relocate into the 8.5 SMA east of the Recommended Plan, and no comparable replacement dwellings are available that can be offered by the government, the government must offer a replacement dwelling elsewhere. However, the landowner is free to find a comparable replacement home or locate vacant land themselves and be reimbursed for building a new home, subject to approval of the dwelling as decent, safe and sanitary. The comparable unit offered by the government, however, establishes the maximum price differential benefit for which the resident will be eligible. The landowner will be offered fair market value (based on independent appraisals). This price, when added to any replacement house payment to which they may be entitled, would permit relocation totally outside the 8.5 SMA.

f. A letter, dated June 30, 2000, was received from the Department of Interior endorsing the Recommended Plan with modifications. A copy of this letter is included in Appendix B (Pertinent Correspondence). A list of mutually agreed conditions have been agreed to by both the USACE and DOI and are included in Section 11.0 of the GRR.

g. Comment noted. Every effort is being made to have a ROD executed by September 30, 2000.

h. The federal agencies with interest in this project, in cooperation with the local sponsor, have determined the Recommended Plan provides the optimum solution for providing flood mitigation to the landowners in the 8.5 SMA and environmental enhancement to the ENP by balancing the environmental benefits and social impacts. It is in the best public interest to pursue modification of the plan authorized in the 1992 GDM.

.

| Name | Comment | Comment Response |
|---|---|---|
| Terry Rice,<br>April 26, 2000<br>USACE Public Workshop | W1. The costs of delay must be captured in the document. | W1. The costs for delay in implementation of alternatives are stated in general terms in the Final GRR/SEIS. We have reevaluated these costs for the final document and revise the document as appropriate. |
| | W2. Where is the money to fund the project coming from and how long will it take to get it? | W2. The costs for lands, easements, and rights-of-way needed for construction as well as lands acquired outside the perimeter levee would be 100% Federal responsibility. The Federal government will retain title to the project lands and grant to the non-Federal sponsor a outgrant for the lands to implement operation and maintenance responsibilities. The USACE would pay 75% of the cost for operation and maintenance. The SFWMD, as the local sponsor, would pay 25% of the cost for operations and maintenance for the Recommended Plan, and 100% of the cost of the post-construction management of land outside of the perimeter levee. In accordance with the terms of local cooperation, title to the lands currently owned by the SFWMD will be transferred to the Federal government.<br>An implementation schedule has been developed for the Recommended Plan and shows that the project can be constructed by October 2003. |
| | W3. Discuss all costs to be incurred: land, fisheries, tourism, etc. | W3. Prior to acquisition of individual tracts of land, an appraisal will be obtained to determine the fair market value of the property. All of the factors mentioned here are all part of that appraisal process. The land values used in the Final report were determined using unit values (such as per acre) for properties with similar zoning & development potential, land use designation, and comparable market (sales/purchases) data. Individual appraisals were not completed on a per tract basis. The costs for delay in implementation of alternatives are stated in general terms in the Final GRR/SEIS and Appendix D. |
| Audubon,<br>April 26, 2000<br>USACE Public Workshop | W4. Potential impacts abutting east of L-31N will be evaluated in the modeling appendix. | W4. Comment noted. |
| | W5. SEIS indicates no significant impacts to T & ES. Concern that performance measures in Taylor Slough south to FL Bay have not been evaluated. | W5. According to Miami-Dade County's DERM, Water Management Division, Water Control Section (Isaac Sznol), there are currently no secondary canals in or immediately adjoining the 8.5 Square Mile Area. A Water Control Plan map dating to the 1970s did include some of the roadside ditches along Richmond Drive and 197th Avenue in the County's secondary canals system but these were long ago declassified and no longer considered part of the system. |

| Name | Comment | Comment Response |
|---|---|---|
| | W6. Wetland costs should be identified in SEIS. | W6. Do not concur. Compensatory mitigation is not applicable for this project. The Final CAR states that no fish and wildlife *or* wetlands compensatory mitigation is required for the Recommended Plan. |
| | W7. Local costs for all alternatives should be addressed in SEIS. | W7. The USACE is continuing its coordination with Miami-Dade County regarding this issue. Additional analysis and/or alternative results based on this coordination have been included in the Final GRR/SEIS as appropriate. The assumptions used by USACE in determination of local costs are contained in Appendix F (Local Cost Analysis) to the Final GRR/SEIS. By definition, the goal of flood mitigation for this project is to allow no increase in flooding above what existed prior to the MWD project. It does not necessarily provide an increased level of flood protection. Only Alternative 6B provides flood protection as defined in the February 18, 2000 letter from Miami-Dade County. |
| | W8. Request model runs indicating results w/o implementation of CERP. | W8. Comment noted. This has been evaluated during final design to establish specific design parameters and operating criteria. |
| | W9. Request evaluation of 3A, 3B conveyance for alternatives analysis. | W9. Comment noted. |
| Madeleine Fortin, April 26, 2000, USACE Public Workshop | W10. Cover photo shows unimpacted wetland and gives inaccurate representation of 8.5 SMA. | W10. Comment noted. The picture on the front cover was not intended to reflect that the entire community is unimpacted wetlands. |
| | W11. Frequent flooding (pg. 3) statement is incorrect. | W11. Historical and contemporary environmental data clearly indicate that the study area is subject to flooding (inundation). The flood proneness of the study area is due in part to its geographic position on the periphery between the Everglades and Atlantic Coastal Ridge. The 8.5 Square Mile Area was originally mapped as "Wet Rocklands" in a 1940s land capability study (Jones, 1948, Fla. Agri. Exp. Stat. Bull. 442, Sheet No. 34). Soils maps published in 1958 and 1996 show the study area dominated by hydric or very poorly drained soils (except where rock-plowing has occurred). |

| Name | Comment | Comment Response |
|---|---|---|
| | W12. Pesticides (pg. 37) at elevated levels are not documented. | W12. Comment noted (not tagged as a comment in written letter). |
| | W13. Plant classifications (pg. 43-44) are not clear. | W13. Comment noted. The plant community names used in the Final SEIS were developed in consensus by the WRAP assessment team. The exotic plant component of the plant communities in the study area was detailed in the narrative description for each community based on the data available. |
| | W14. Request that DERM information not be included in FSEIS. | W14. According to the latest parcels information provided by Miami-Dade County (current to January 2000) and updated by the USACE real estate staff (on March 27-28, 2000), the USDA and the Trustees of the Internal Improvement Fund are listed as property owners in the 8.5 Square Mile Area. The apparent discrepancy in Miami-Dade County's holdings relates to the presence of numerous right-of-way parcels that lack parcel numbers. In the case of SFWMD, a number of parcels that were acquired under the Save Our Rivers program were not included in the January 2000 County parcel records. USACE real estate staff furnished information on these transactions. |
| | W15. Real estate / SIA consistency, parcel numbers are not consistent. | W15. The total of 1984 parcels in the 8.5 Square Mile Area represents the most current count. It includes approximately 23 additional parcels that were created when the USACE acquired portions of larger parcels that fall under the levee/canal footprint of the 1992 authorized plan. Any remaining discrepancies in parcel counts stem from the difference between the USACE study area (which included approximately 10.0 square miles) and the DERM boundary for the 8.5 Square Mile Area (which was somewhat smaller in size).<br><br>A correlation between mail addresses and home addresses was used in estimating the number of owner-occupied residences in the 8.5 SMA in order to assist in identifying the number of households that would require relocation for each of the alternatives considered. Post Office boxes were also used, where possible, as well in this determination. The process was based on Public Information that is available in web sites on the Internet and did not involve the intent to violate anyone's privacy |

| Name | Comment | Comment Response |
|---|---|---|
| Mike Black,<br>April 26, 2000,<br>USACE Public Workshop | W16. Topography – DERM vs. USACE data is inconsistent. | W16. Our model uses the best available topography. In areas where recent topography is not available, topographic data from the SFWMM 2x2 model was used. We are not aware of specific areas where subsidence, has significantly changed the ground elevation, but would not be surprised if some areas have either oxidized or burned. In areas that have experienced subsidence our model output has reported flow depths that are too shallow and consequently, storage above ground that is too low. You are correct in your assessment that historic restoration goals cannot be shown realistically in the models if topography is incorrect. Our goal in this analysis was to compare alternatives objectively. Therefore, our hydrologic boundary conditions were designed to stress the alternatives and test their performance. |
| Joette Lorion,<br>April 26, 2000,<br>USACE Public Workshop | W17. Fragmentation of SEIS improper. | W17. This project is compliant with Section 1502.20 “Tiering” of the Council on Environmental Quality’s Regulations on Implementing National Environmental Policy Act Procedures (40 CFR 1500-1508). Tiering is approved and encouraged by the CEQ, when it is convenient to discuss the conceptual aspects of an action first, and later document details for specific parts of the action. After authorization, a GDM/EIS for the entire MWD Project was completed which addressed all components of MWD. Additional NEPA activities have been required during the detailed design phase. The 8.5 SMA component of MWD clearly is an “action included within the entire program or policy (such as a site specific action)” as cited in S. 1502. The purpose of tiering is to provide additional detail when it becomes available, incorporating the “parent” report and EIS by reference. As required, this Final SEIS discusses only issues and details specific to the considered action (providing flood mitigation for the 8.5 SMA). |
| | W18. WRAP process is flawed. | W18. The Coordination Act Report fulfills the responsibilities of the agencies of the Department of the Interior to provide recommendations to the US Army Corps of Engineers on the considered action. The recommendations and differences, if any, between the Corps and DOI interpretation of modeling results have been fully discussed in the Final SEIS. We concur with use of the WRAP analysis as one aspect of DOI’s evaluation of effects. |
| | W19. Water quality, DERM data is inaccurate. | W19. Additional analysis and research has been conducted concerning water quality and results and conclusions included in the Final document, as appropriate. |

| Name | Comment | Comment Response |
|---|---|---|
| | W20. DERM map does not represent accurate topographical data. | W20. Our model uses the best available topography. In areas where recent topography is not available, topographic data from the SFWMM 2x2 model was used. We are not aware of specific areas where subsidence, has significantly changed the ground elevation, but would not be surprised if some areas have either oxidized or burned. In areas that have experienced subsidence our model output reports flow depths that are too shallow and consequently, storage above ground that is too low. You are correct in your assessment that historic restoration goals cannot be shown realistically in the models if topography is incorrect. Our goal in this analysis was to compare alternatives objectively. Therefore, our hydrologic boundary conditions were designed to stress the alternatives and test their performance. |
| | W21. Schedule/Implementation, any alternative that cannot be implemented by December 2003 is not reasonable. | W21. Comment noted |
| | W22. Agricultural lands will be negatively impacted if 8.5 SMA is bought out. | W22. Agree there will be impacts to agricultural activities within the 8.5 SMA. The degree of impact varies depending on the alternative. Alternative 5, the total buy-out, has the greatest impact in that about 2,642 acres of agricultural lands and their income generating potential will be taken out of production. From an individual, local or perhaps regional perspective the loss of income could be significant. From a national perspective, however, production would shift elsewhere, farm labor would find employment elsewhere. Therefore, the impacts would be relatively short-lived (less than 3 years). |
| | W23. Use of mailing address to identify the # residents is not accurate. | W23. The text of the report and appendix has been modified. References to “loyalties” have been deleted. See also the Part 2 response to Comment W-15. |
| | W24. Tribe views are incorrectly stated. | W24. Comment noted. The text has been modified. |

| Name | Comment | Comment Response |
|---|---|---|
| Maria Gonzales,<br>April 26, 2000<br>USACE Public Workshop | W25. Request that service costs for alternatives that do not provide flood protection not be included in final document. | W25. Comment noted. The assumptions used by USACE in determination of local costs are contained in Appendix F (Local Cost Analysis) to the Final GRR/SEIS. By definition, the goal of flood mitigation for this project is to allow no increase in flooding above what existed prior to the MWD project. It does not necessarily provide an increased level of flood protection. Only Alternative 6B provides flood protection as defined in the February 18, 2000 letter from Miami-Dade County. |
| Brian Scherf,<br>April 26, 2000<br>USACE Public Workshop | W26. Base 95 is not a sufficient comparison. | W26. The Everglades National Park Protection and Expansion Act of 1989 authorized the Secretary of the Army, upon completion of a General Design Memorandum (GDM), to modify the C&SF project to improve water deliveries to ENP and to take steps to restore ENP natural hydrological conditions. The Corps of Engineers completed the GDM in 1992, which specified the necessary modifications. The Chief of the Engineering Division, Directorate of Civil Works approved this GDM in June 1992. This approval fulfilled the requirements of Section 104 of the 1989 ENP Protection and Expansion Act, which directed the Secretary of the Army to select the plan that accomplishes the goals of MWD to the extent practicable. A Record of Decision was executed by the USACE in May 1993. The recommended plan from the 1992 GDM is included in this Final GRR/SEIS as Alternative 1 and serves as the baseline to evaluate all other alternatives.<br>An additional comparison of all alternatives is presented in relation to Base 95 in the Final GRR/SEIS. The Base 95 condition is that which is estimated to most closely resemble the system as it is currently authorized. This comparison was selected to provide information on how the system operation will change (i.e., estimated stages in the 8.5 SMA) as compared to existing conditions.<br>The USACE has provided the results of the hydrologic analysis for NESRS in the Final GRR/SEIS (contained in Appendix A, and summarized in Table 8 of the GRR). Alternative 1 represents the 8.5 SMA component of the MWD Plan contained in the 1992 GDM in accordance with P.L. 101-229. As such, it is the "future without project" condition and is the basis for which all other alternatives are compared. The results of the comparison of all alternatives to the Authorized Plan (Alternative 1) are contained in Table 10 of the GRR. |

| Name | Comment | Comment Response |
|---|---|---|
| Rosalyn Scherf,<br>April 26, 2000<br>USACE Public Workshop | W27. Why aren't the # of willing sellers reflected in graphs and tables? | W27. At least three different surveys for willingness/unwillingness to sell were made, including two by the SFWMD and one by the residents. Estimates of willingness show dramatic swings from one estimate to another, which we suspect, is largely attributable to the environmental and/or political conditions at or immediately preceding the survey. Therefore, the estimates of willingness/unwillingness to sell are not very reliable. This has been noted in the documents. |
| | W28. Alternative 4 relocations/unwilling sellers are not accurately interpreted in percentages. | W28. Comment noted. See also response to Comment W-27. |
| | W29. Impacts to Sparrow should be discussed in tables. | W29. The reasonable and prudent alternatives contained in the Biological Opinion require implementation of the entire MWD project by December 2003. All considered alternatives (1,2B, 3, 4, 5, 6B, 6C, 6D, 7, 8A and 9) were designed to be compatible with the RPA in the 1999 Biological Opinion. There are no special features in any of the alternatives that would make them more or less compatible. There are no nesting habitat areas in the 8.5 SMA or within the likely area of influence of the specific MWD alternatives developed for 8.5 SMA. |
| Tomas Vachuda<br>April 26, 2000<br>USACE Public Workshop | W30. Consider alternatives that provide benefits to T&ES as part of analysis. | W30. Comment noted. |
| | W31. Concern for 6C & 6D being given the same treatment as other alternatives in the SEIS. Request Corps to expedite analysis of new alts. | W31. The USACE asserts that the process used in the development and presentation of the Draft and Final GRR/SEIS is fully compliant with NEPA. The Draft document, containing a comprehensive discussion of information available relating to the environmental impacts of each alternative, was made available to the public on April 3, 2000, and an Addendum to the document was made available on May 16, 2000. In addition, the USACE has provided information directly to the public in 4 public meetings/workshops during April and May 2000. A Governing Board resolution on this project was passed on June 15, 2000. The additional information generated by this process is included in the final SEIS in full compliance with NEPA. A Record of Decision by the USACE will be filed only after the Final document is submitted. |

| Name | Comment | Comment Response |
|---|---|---|
| Juana Fernandez<br>April 26, 2000<br>USACE Public Workshop | W32 Disagree with the DERM data that lists property as "other structure" instead of a home. | W32. Comment noted. |
| Richard Grosso<br>April 26, 2000<br>USACE Public Workshop | W33. No mention of the 1994 Congressional Act in the document. | W33. Comment noted. |
| | W34. Concern that 6C performance is compared to Alt. 1 and not MWD. | W34. The USACE has provided the results of the hydrologic analysis for NESRS in the Final GRR/SEIS (contained in Appendix A, and summarized in Table 8 of the GRR). Alternative 1 represents the 8.5 SMA component of the MWD Plan contained in the 1992 GDM in accordance with P.L. 101-229. As such, it is the "future without project" condition and is the basis for which all other alternatives are compared. The results of the comparison of all alternatives to the Authorized Plan (Alternative No. 1) are contained in Table 10 of the Final GRR. |
| | W35. Cost estimates are not consistent with those of Dade County, they should be. | W35. The assumptions used by USACE in determination of local costs are contained in Appendix F (Local Cost Analysis) to the Final GRR/SEIS. By definition, the goal of flood mitigation for this project is to allow no increase in flooding above what existed prior to the MWD project. It does not necessarily provide an increased level of flood protection. Only Alternative 6B provides flood protection as defined in the February 18, 2000 letter from Miami-Dade County. That information was received after the Draft GRR/SEIS was published. It has been made part of the official record of comments for the Final GRR/SEIS and is included in the Final documents. |
| | W36. 6B water quality analysis is not discussed. | W36. The analysis of water quality impacts has been included in the Final GRR/SEIS as appropriate. |
| | W37. 6B – statement should read that there are 19 homes North of FAA not north of the canal and levee. | W37. Comment noted. |
| | W38. An implementation section should be added for the alternatives. | W38. The costs for delay in implementation of alternatives are stated in general terms in the Final GRR/SEIS. Costs have been re-evaluated for the final document and the document revised as appropriate. |

| Name | Comment | Comment Response |
|---|---|---|
| | W39. Consider the reality of operational changes that could arise. | W39. Comment noted. |
| Michael Chenoweth<br>April 26, 2000<br>USACE Public Workshop | W40. Consider all costs, including infrastructure. | W40. The assumptions used by USACE in determination of local costs are contained in Appendix F (Local Cost Analysis) to the Final GRR/SEIS. By definition, the goal of flood mitigation for this project is to allow no increase in flooding above what existed prior to the MWD project. It does not necessarily provide an increased level of flood protection. Only Alternative 6B provides flood protection as defined in the February 18, 2000 letter from Miami-Dade County. |
| | W41. Environmental Justice issues should be considered in the FSEIS. | W41. The discussion of 'environmental justice' issues (issues of direct, indirect and cumulative adverse effects on minorities) as a result of implementation of all Alternatives, has been expanded in the final SEIS. There are two aspects to the Executive Order on Environmental Justice. The first aspect refers to analyzing actions to avoid disproportionately adverse effects on minorities. In addition to this, agencies are charged with providing ample opportunities for affected minorities to participate in the decision-making process. In this latter aspect, the Corps and the Water Management District have complied as fully as possible. All public meeting invitations have been provided in Spanish and English; a bilingual translation service has been available at all public meetings; a Spanish version of the EIS executive summary has been provided to all those who requested it, and presentations as well as oral and written comments from the public have been accepted in Spanish and English. Bilingual staffs of the Board and the Corps have been on hand to respond to comments and answer questions. |