

Appendix J
Draft Limited Reevaluation Report
Agency and Public Coordination

This page intentionally left blank

FEDERAL

US Department of the Interior
US Environmental Protection Agency

STATE

Florida Department of Environmental Protection
Florida Department of Transportation
Florida Fish and Wildlife Conservation Commission
Florida Department of State, Division of Historical Resources
South Florida Regional Planning Council

TRIBES

Miccosukee Tribe

LOCAL

City of Sanibel

ORGANIZATIONS

Blanco Environmental Groups Sign on Letter
Florida Coastal Everglades LTER, Florida International University
Naples Pathways Coalition, River of Grass Greenway
S.A.F.E.R., Rick Persson, Vice President
Sierra Club, Miami Group
Sierra Club, Johnathan Ullman, South Florida/Everglades Senior Representative
Nicholas School of the Environment and Earth Sciences, Duke University

GENERAL PUBLIC

Deb Arnason
Michelle Avola
Sydney T. Bacchus, Ph.D., Hydroecologist
K Bernabei
Stan Carlin
Guy Hackett
Deux42
JORGEMF
William Loftus
Sean R Melvin
Martha Musgrove
Robbie Siemon
Andrew Stearns, of Stearns, Weaver, Miller, Weissler, Alhadeff & Sitterson, PA
Dewey Steele
Mario Yanez

This page intentionally left blank

MWD TTM LRR Comments and Responses

	Comment	Response
	Federal Agencies	
	US Environmental Protection Agency, Heinz Mueller, Chief NEPA Program Office, Office of Policy and Management, May 8, 2008	
EPA 1	<p>Overall, EPA believes that the proposed plan clearly improves the southward flows, distribution and timing of WCA-3B waters and should benefit Everglades restoration. However, while we understand funding constraints, the 2005 plan was superior in terms of ecological benefits since more culverts would be replaced by the two bridges (total of 3 miles spanned) compared to the proposed one bridge (1 mile spanned). Specifically, the former 2005 plan would have further increased ENP rehydration and associated creation of downstream wetlands, wetland-upland habitat and foraging areas for wading birds, as well as resulted in less need for water management upstream in WCA-3B (i.e., conveying excess water eastward to tide). Nevertheless, given the funding constraints and Congressional directive as well as the benefits of this revised bridging proposal, EPA supports the tentatively selected plan to construct one 1 – mile bridge along Tamiami Trail and to elevate the Trail consistent with Florida DOT standards.</p>	<p>Thank you for expressing your support for the TSP.</p>
EPA 2	<p>The Final EA (FEA), or potential Finding of No Significant Impact (FONSI), should verify if additional culverts in combination with the 1 - mile bridge would be cost-effective.</p>	<p>This is a new alternative that was not analyzed by the team, included in the draft Limited Reevaluation Report, or coordinated with the public. We are not in a position to determine whether it is cost effective relative to the alternatives that were analyzed. We anticipate that there would be some increase in benefits and there would be an increase of cost.</p>
EPA 3	<p>Because of downstream environmental needs and escalating costs, EPA recommends expedited implementation of the tentatively selected plan. We also recommend that flows and downstream effects be monitored in the Everglades to ensure project success.</p>	<p>Concur. In response to environmental needs and escalating costs, this planning process is on an accelerated schedule and will be submitted to Congress in July, 2008. Flows and their effects will be monitored by ENP.</p>
EPA 4	<p>The swale pilot project, to the extent that it is foreseeable, should also be added to the EA's cumulative impacts matrix (Table 5-5) listing the "past, present and reasonably foreseeable actions and plans affecting the study area". In addition, we recommend that the expected impacts, both positive and negative, of all the projects listed in this matrix also be at least qualitatively documented in the matrix.</p>	<p>Since all agencies do not agree that the spreader swales pilot can be characterized as a reasonably foreseeable action, this will not be added to the cumulative impacts table. Swales were split out of the LRR for separate NEPA analysis due to disagreement over their potential benefits and adverse impacts. The NEPA decision document (FONSI or ROD) for the pilot project will determine whether or not pilot swales would be authorized and implemented.</p>
EPA 5	<p>That is, while the EA discusses the general effects of these projects on common resources (ENP, Northeast Shark River Slough, water quality), the document could be improved if the expected impacts (e.g., increased turbidity and sedimentation) and improvements (increased southward flows and nutrient reduction) of each project was also listed.</p>	<p>Table 5-5 has been expanded to include expected project impacts.</p>
	US Department of the Interior, Everglades National Park, Terrance Salt, Director of Everglades Restoration Initiatives, May 9, 2008	

MWD TTM LRR Comments and Responses

DOI 1	The DOI supports the Tentatively Selected Plan, Alternative 3.2.2a State Agencies	Thank you for expressing your support for the TSP.
	Florida Department of Transportation, Stephanie C. Kopelousos, Secretary; Florida Department of Environmental Protection, Michael W. Sole, Secretary; South Florida Water Management District, Carol Ann Wehle, Executive Director May 12, 2008	
STATE 1	We support the Tentatively Selected Plan identified in the Report. While the “plan” is not and cannot be perfect, the ability to almost double the annual average volume of water delivered into Everglades National Park is a significant step. We understand the fiscal concerns identified by the Appropriations Committees. We believe the tentatively selected plan is the minimal alternative for addressing Tamiami Trail and is worthy of the investment by the federal government. Florida State Clearinghouse: May 19, 2008	Thank you for expressing your support for the TSP.
	The Florida State Clearinghouse received State agency comment letters and collectively forwarded them to the Corps. These letters are referenced below from Florida DEP Department of Environmental Protection, Department of Agriculture and Consumer Services, Fish and Wildlife Commission, Department of Transportation, , South Florida Regional Planning Council, Department of State, Division of Historical Resources Bureau of Historic Preservation, and SFWMD	
FL CLHS 1	...the state has determined that, at this stage, the proposed federal action is consistent with the Florida Coastal Management Program (FCMP). The concerns identified by our reviewing agencies must be addressed, however, prior to project implementation. The state's continued concurrence with the project will be based, in part, on the adequate resolution of issues identified during this and subsequent reviews. The state's final concurrence of the project's consistency with the FCMP will be determined during the environmental permitting stage.	Comment noted
	Florida Department of Agriculture and Commerce Services, W. Ray Scott, May 19, 2008	
FDAC 1	...notes that the potential for negative impacts on the Homestead agricultural community is FDACS' area of interest. The FDACS has expressed concerns that a rise in water elevations in North East Shark River Slough will result in the diversion of more seepage from the Park to south Miami Dade County through the L-3IN and C-III canals unless this proposal includes a firm commitment to operate the S-356 pump station as recommended in the CSOP process.	The LRR/EA has stated that future operations will be discussed and developed when the CSOP team is re-activated later this summer. The S-356 pump station is part of the authorized Modified Waters project. Along with the S-357 pump station at the southern end of the 8.5 SMA, there will be capacity to move seepage out of the L-3IN canal, either into L-29, or through the S-357 pump station and STA into the C-111 impoundments and eventually into Taylor Slough. The purpose of the LRR is to receive authorization to build the Tamiami Trail component of Mod Waters. Initially, the system will operate under the Interim Operational Plan (IOP), as modified to incorporate operations of S-357.

MWD TTM LRR Comments and Responses

FDAC 2	<p>...the G-3273 constraint on operating S-333 must not be removed until all the permits needed to operate S-356 per the operational protocol proposed in the Combined Structural and Operational Plan (CSOP) are obtained and the Corps' Water Control Plan is updated to show the use of S-356.</p>	<p>The system is operating under the Interim Operational Plan. There is as yet no "CSOP" Operational Plan. Its development was temporarily halted in early 2007 due to the need to evaluate effects on the Cape Sable seaside sparrow. CSOP planning is scheduled to begin again in July 2008. Currently modifications to operations would include operating the new S-357 pump station at the south end of the 8.5 Square Mile Area to handle additional seepage if the G-3273 constraint is lifted.</p>
<p>Florida Department of State, Division of Historical Resources, Frederick P. Gaske, Director and State Historic Preservation Officer April 17, 2008</p>		
FDOS 1	<p>...raising the elevation of the Tamiami Trail roadway on an elevated bridge structure will have an adverse effect on the integrity of an historic property that has been determined eligible for listing on the <i>National Register of Historic Places</i> (Site No. 8DA6510).</p>	<p>The one-mile segment proposed for the elevated roadway does not contain any identified historic resources other than the road itself. Currently the proponent agencies are developing a Memorandum of Agreement with the State Historic Preservation Officer regarding mitigation for effects on identified cultural resources.</p>
FDOS 2	<p>In addition, the Airboat Association of Florida headquarters (8DA6768) and the Coopertown Airboat Rides and Restaurant property (8DA6767) are eligible for listing in the <i>National Register</i>.</p>	<p>The footprint of the proposed project will not affect properties of the Airboat Association of Florida or Coopertown Airboat Rides and Restaurant.</p>
FDOS 3	<p>Although the Tamiami Canal (8DA6766) was previously determined to be eligible for listing, staff questions that finding since the canal is no longer a roadway ditch and since ca. 1960 has become a major water control and movement structure.</p>	<p>In recent talks with the SHPO's office, it was determined that the Tamiami Canal has been modified many times since its original construction as a roadway ditch. As such, it has lost its integrity and is no longer considered eligible.</p>
FDOS 4	<p>Lastly, there are several cultural resources that may be within the area of potential effect of the proposed project that may be affected directly or indirectly. The resources are the Osceola and Tigertail Camps (likely traditional cultural properties) and 52 prehistoric sites in the Shark Valley Archeological District south of Tamiami Trail in the Everglades National Park.</p>	<p>The camps will most likely require cultural resource surveys. They are within the boundaries of the Park and the agencies are currently discussing how to handle responsibility of the surveys. The indirect effects on any cultural resources would be a result of increased water levels in the Park. Phone consultations with the SHPO and the Park Archeologist have determined that the Corps will not be able to assess those effects until monitoring of water levels begins after project completion.</p>
<p>FDEP, South Florida Restoration Section, Stacey Feken May 15, 2008</p>		
DEP 1	<p>...staff strongly supports implementation of Alternative 3.2.2.a without further delay. Given cost constraints imposed in WRDA 2007, the tentatively selected plan offers the best incremental approach to reconnect the Everglades and restore more natural flows to Everglades National Park and Florida Bay.</p>	<p>Thank you for expressing your support for the TSP, Alternative 3.2.2.a.</p>
DEP 2	<p>DEP reiterates its previous comments supporting moving forward with maintenance/flow way equalization swales as part of the Tamiami Trail project and including NEPA coverage of tile pilot swale project within the subject LRR.</p>	<p>Since the swales would be constructed completely within the boundaries of Everglades National Park and the Park's hydrologists are uncomfortable with building swales until first conducting a pilot test to show if they would be effective, this option (covering the road improvements in the same NEPA document as potential spreader swales) is not practicable. There is disagreement among interpretations of the results of models used to predict the swales' effectiveness;</p>

MWD TTM LRR Comments and Responses

		therefore the agencies have proposed pilot tests. The agencies must report to Congress July 2008 on their recommendations to improve conveyance through the Trail, and cannot wait to see the results of a pilot test. The Department of the Interior and Everglades National Park are aware that the real estate rights must be obtained before water levels are raised and are working so that the timing of acquisition of these rights does not delay achieving ecosystem benefits.
DEP 3	The improved conveyance and the associated benefits of the TSP are dependent upon the increased water elevations in the L-29 canal. The LRR states that the Department of Interior is responsible for securing real estate rights on seven privately owned properties along Tamiami Trail necessary to implement the TSP. The Department requests that the Department of Interior expedite securing such rights in order to ensure that project benefits can be realized as soon as possible.	
DEP 4	1. P.1-10. First paragraph makes reference to graphics in figure 4-10 for describing high levels, which this figure does not display.	Concur. Text has been corrected.
DEP 5	2. Section 1 Introduction. Since the 1992 General Design Memorandum, it has been evident that there is a need to raise the Osceola Camp in order to increase water levels in the L-29 canal. The LRR indicates that ENP is still negotiating with the 'Osceola family regarding how to implement mitigation for increased water levels. As with the other real estate issues surrounding the Mod Waters project, a timeframe and general plan for implementing such activities should be provided.	The progress and results of negotiations are difficult to predict. Both the Corps and ENP recognize that the Osceola Camp must be modified prior to increasing the water levels in the L-29 canal.
DEP 6	3. P.1-13. Third paragraph makes reference to WCA No 38.	This was a typographical error. The corrected reference is "3A."
DEP 7	4. P-1-16, section 1.8. Second bullet makes reference to 2002, 2006. Not sure where or what the 2006 refers to (perhaps the correct reference is 2007?).	The Interim Operational Plan had two EISs: 2002 was the FEIS and due to a court case the Corps supplemented the original 2002 FEIS with the 2006 FSEIS. The text has been amended to state 2002 and 2006.
DEP 8	5. P. 3-5, third paragraph. Please provide the supporting documentation for the statement that water stages in WCA 3B are generally lower than in the L-29 canal.	In order to clarify, language was added into the LRR main body section 3 discussing historical water stage data to support the text.
DEP 9	6. Section 3.4. Water quality section contains old data and references that were presented in the 2003 GRR and are no longer applicable. Department staff worked with the Corps to revise this section for the 2005 GRR. We request that future revisions to the LRR include the most recent information.	The LRR has been modified to include the most recent and relevant water quality information. The 2004-2005 SFWMD WQ data from culvert sampling has been added to section 3.4.
DEP 10	7. Section 3, page 3-7: A Site Specific Alternative Criterion for Dissolved Oxygen in the Everglades Protection Area was adopted by the Department and subsequently approved by the U.S. Environmental Protection Agency in 2005.	This has been reflected in section 3.4 of the document.
DEP 11	8. Section 3, page 3-9, and Appendix F, page F-20. The LRR states that the Hazardous, Toxic, and Radioactive Waste (HTRW) site assessment identified four potential contamination sites. If the TSP results in impacts to these sites, the Environmental Assessment should include information on remediation. Any HTRW cleanup should be closely coordinated with the Department's Waste Cleanup Section in the Southeast District Office in West Palm Beach.	The project implementation for the TSP will first require the construction of the bridge and the road reinforcement work. Per the analysis of the project area with a Phase I&II HTRW investigation, there is no HTRW within the construction footprint. Construction is expected to last about 3.5 years. The next sequence of the TSP implementation will involve application to the FDEP to raise the L29 canal stage. In the operational WQ permit application, the Corps will fully address any potential HTRW issues that could be linked to raising

MWD TTM LRR Comments and Responses

		the canal stage and will coordinate any HTRW issues with the SE FDEP cleanup section. The information derived from the Phase I&II investigations indicate that there are no significant problems on the areas offsite of the construction footprint for the TSP and the Corps believes the minor level of contaminants identified from those investigations can be fully dealt with to the satisfaction of all parties.
DEP 12	9. Page 3-11. Second paragraph indicates that Figure 3-1 shows ENP in south Florida, yet ENP is not identified in the figure, only the location of the project.	The corrected figure reference is "Figure 1-1."
DEP 13	10. Section 3.11 Noise environment. Please provide some type of conclusion with respect to the implications regarding the peak hour noise levels presented.	A sentence was added to clarify the table. However, the table was simply included to demonstrate the existing peak noise levels. No implications are intended.
DEP 14	11 Section 5.7.5. Impacts to State listed threatened and endangered species are not discussed.	Impacts to state listed species are discussed on page 5-22 under "Other Protected Species." No adverse impacts are expected.
DEP 15	12. Annex A, 2.6.1. A mixing zone has not yet been granted. This section should be revised to state that a mixing zone will be requested as part of the permit application.	Annex A, 404(b)(1) section 2.6.1 was revised to reflect that the Corps will request a mixing zone variance from FDEP. ENP supports this request.
DEP 16	13. Annex A, 3.3 The determination of whether the TSP will violate any applicable state water quality standards will be made after an adequate permit application has been received and reviewed by Department staff.	Comment noted.
DEP 17	14. Appendix F. d. Operation and Maintenance requirements. Details of the "research" that is referred to should be provided. This statement is misleading and should be revised.	The first sentence was revised to remove "Research has revealed that".
DEP 18	15. Appendix G. The Department's comments are not included in the summary of scoping comments. Please refer to our March 2008 letter submitted through the State Clearinghouse, also enclosed again for reference	The comments were added to the summary of scoping comments.
	FDOT District Director of Transportation Development, Alice N. Bravo, P.E., District Director of Transportation Development, May 9, 2008	
FDOT 1	(1.) In Section 7.0, Recommendations, you have expressly reserved the right to compensate FDOT with a payment rather than actually constructing the substitute facility. FDOT is strongly opposed to that option and will require an express waiver of that option in the Relocation Agreement. The FDOT has been extremely consistent on this point. We expect the Corps to build the bridge and raise the road as two equal parts of the same project, prior to raising the water levels.	Section 7 was revised to state that road reinforcement is part of the Tamiami Trail Modifications and will be paid for by the Modified Water Deliveries project. Florida Department of Transportation will contribute \$4,500,000 to the road reinforcement as part of their normal maintenance program.
FDOT 2	(2.) Currently the LRR embraces the 8.5' water level. This level is described as a "canal stage elevation" or "operational elevation".... It does not appear to equate to a design high water (DHW) using the 20 year, 24-hour stage. The clearance guidance provided to you by the FDOT earlier this year assumed that you would still honor the traditional design high water concept with a 20 year, 24-hour stage restriction. Otherwise, the road could be potentially undermined, which is, of course, unacceptable. ... The	As discussed at the May 14, 2008 meeting between the FDOT, COE, and SFWMD, the Corps will follow FDOT design criteria in establishing the Design High Water (DHW). Per FDOT Drainage Manual this is based on a storm with a 10-Year return frequency applied to the average October surface water elevation. The Corps will look at three different durations (1, 8, and 24 hours) of a storm event and pick the worse case to set the DHW. After applying the FDOT

MWD TTM LRR Comments and Responses

	<p>Department is currently in a dialogue with the Corps regarding this important issue which may require reduced operating levels during the rainy season and future adjustments of that level as a result of pavement monitoring.</p>	<p>design criteria and utilizing the Combined Structural and Operational Plan (CSOP) Tentatively Selected Plan (TSP) Alternative 5R (Alt5R) which combines the operations of the MWD and C-111 Projects into a cohesive operating plan that works with the rest of the C&SF system. This model run however did not have a stage constraint placed on Tamiami Trail which results in a slightly higher average October water level than what will be produced once the CSOP Team reconvenes to develop the new operational plan based on a stage constraint of 8.5 ft in the L-29 BC. The FDOT and COE jointly prepared a set of criteria for short term stoppage of inflows to L-29 Canal, 2-3 days in advance of named storms and predicted large rainfall events, to reduce the likelihood and/or duration of exceeding 8.5 ft in the canal. See Section 6.1.3 of the Final LRR. These criteria would be considered when the CSOP Team reconvenes.</p>
<p>FDOT 3</p>	<p>(3.) The LRR is silent as to the timing for raising water levels. Water levels should not be raised until the bridge is fully constructed, the road raised, and the existing road north of the bridge removed.</p>	<p>The estimated construction period is 3.5 years. The water will not be raised until the bridge is constructed, the road is reinforced, and the existing road north of the bridge is removed.</p>
<p>FDOT 4</p>	<p>(4.) The LRR is silent as to the current timeline(s) for design and construction of the bridge and the raising of the balance of the roadway. If the roadway design work is lagging, then the benefits of the project will lag.</p>	<p>Bridge and road reinforcement will be awarded as one contract. Target award date is 26 September 2008. Construction duration for both the bridge and road reinforcement is estimated around 3 ½ years. Please see the amended text in Section 6.2.8 of the final LRR.</p>
<p>FDOT 5</p>	<p>(5.) The statement on page 1-10 regarding the withdrawal of the 2003 report and EIS should be elaborated upon. The way the statement reads currently is that it seems to imply that the 2003 report and EIS were withdrawn solely because no agreement could be reached with FDOT regarding the flowage easement and compensation. That report was withdrawn for a multitude of reasons.</p>	<p>The report was withdrawn because the project did not receive concurrence or support from cooperating State agencies including FDOT, DEP and SFWMD. However, it is true that FDOT's comments were a major reason for non-approval of the report by these State agencies, and for rejection by higher level reviewers in the Corps of Engineers. At that time the Corps proposed establishing a trust fund to compensate FDOT for any road repairs that would become necessary due to establishing higher stages in the L-29 Canal. FDOT rejected this idea, stating its opinion that the Project should elevate or repair the affected section of the roadway. This is consistent with FDOT's current position.</p>
<p>FDOT 6</p>	<p>(6.) We have a concern with the language used in the report that describes the Perpetual Flowage Easement. That easement is surely intended to extend only to the land beneath the one mile bridge and, perhaps, the culverts and not "the entire expanse of the roadway within the project limits" as indicated on p. 6-7 or "over the full length of the project lands" as indicated on p. 6-3. FDOT does not anticipate granting authority to otherwise pass water over or under the Tamiami Trail since that could damage the integrity of the roadway. The language of the Flowage Easement will need to contain that clarification and limitation.</p>	<p>The perpetual flowage easement is an easement that is limited to a certain elevation and will necessarily extend for the full length of the roadway within the project area since the Corps is unable to contain the water only to the bridge and culverts areas. In addition, the LRR seeks to raise low portions of the roadway to mitigate future impacts of the project's water levels. If the Corps limited the flowage easement only to those areas where the bridge and culverts are located, then we would similarly have to limit the roadway raising to those areas as well. As such, it is very likely that low areas of the roadway would exist where there are no culverts, hence the FDOT would then be responsible for the raising of those portions. In order to avoid that type of situation, the</p>

MWD TTM LRR Comments and Responses

		Corps must obtain a flowage easement for the entire length of the project area. Further, the Corps will seek to have FDOT maintain the existing culverts and culvert capacity to ensure conveyance for the project.
	Florida Fish and Wildlife Conservation Commission, Mary Ann Poole, Director, Office of Policy and Stakeholder Coordination	
FWC 1	Although the draft LRR mentions that conveyance over the remainder of Tamiami Trail would also be provided through improvements of existing culverts, it includes no details. As previously stated (see our letter to Lauren Milligan dated March 4, 2008), we believe that the strategic placement of box culverts at historic sloughs and/or aligned with the S-355 and other existing or planned water conveyance structures in the L-29 levee, in conjunction with downstream spreader swales, would greatly augment hydraulic and ecological connectivity.	The Recommended Plan or TSP does not include the box culverts or spreader swales mentioned in this comment; reasons include cost and delay factors as well as engineering questions regarding swale efficiency, as explained elsewhere in response to other comments. The eastern bridge will provide significant conveyance through the eastern historic slough. Providing box culvert or bridge conveyance over the western sloughs would require significant design work and real estate requirements leading to further delay of the project, due to this area's proximity to existing private properties.
FWC 2	Although some scientific uncertainties remain, we are encouraged by the COE's most recent modeling results, which predict that the addition of spreader swales below each set of Tamiami Trail culverts would result in an increase in the conveyance capacity of these culverts by approximately 12% at stage of 8.0 feet NGVD in the an L-29 canal. Even greater flows would be realized when the L-29 canal stage reaches 8.5 feet.Furthermore, in order to facilitate the continuity of flows through the Tamiami Trail into the future, we request that a maintenance agreement be formulated between the COE and ENP whereby conveyance features associated with the culverts receive routine maintenance.	Spreader swales are not a part of the TSP or preferred plan. The effectiveness of spreader swales will be tested, as described in the National Park Service's scoping documentation for the Spreader Swale Pilot Project. NPS will take the lead on this report and EA. The Corps and Park cooperatively determined that resolving doubts about spreader swale effectiveness would unduly delay completion of the Tamiami Trail Modifications LRR and broke out the spreader swale study for separate evaluation. A Land Management Agreement is being drafted among ENP, SFWMD, and USACE to address maintenance of the area downstream from the culverts. FDOT currently maintains the culverts. After completion of the project, SFWMD will be responsible for conveyance. Coordination on this issue is ongoing.
FWC 3	In the Evaluation Report of Annex A, the COE states that restrictions would be in place during construction to minimize impacts to the two wood stork rookeries and snail kite management areas. We request that the COE also take appropriate precautions to avoid disrupting the nesting efforts of the state-listed species of wading birds mentioned above that also use these same rookeries. The FWC has developed set-back distances to protect nesting bird colonies from human disturbance (Rogers and Smith 1994).	The Agencies are aware that these are mixed rookeries. We believe that precautions to be applied to protect Federally endangered wood storks will equally protect other species of colonial nesting wading birds.
FWC 4	Everglades minks are known to have used such upland areas as den sites on the Tamiami Trail in the past (Smith 1980). A survey by an experienced biologist should be conducted in areas with suitable potential habitat prior to the initiation of construction activity to help determine whether any mink are present in the study area, and if any den areas may be present.	The Corps will request the Park and FWC assist and cooperate in conducting the survey. However, we cannot commit to protecting mink denning habitat if it falls in the required highway or bridge right of way. The USACE also has concerns regarding the Everglade mink and will cooperate in preparing pre-briefing materials.
FWC 5	To reduce road-related mortality of the Everglades mink and other riparian wildlife, we recommend that underpass shelves be incorporated into bridge and culvert designs.	The two bridge abutments (right and left) are not designed as vertical walls; rather, the rip-rap protected ramps up to the bridge terminate in a 1:2 side slope. This would provide dry passage, above the average

MWD TTM LRR Comments and Responses

FWC 6	<p>The draft LRR states that the one-mile bridge would provide for the movement of small animals beneath it and reduce road-related wildlife mortality by about nine percent. Although not described adequately in the draft LRR, it is our understanding that the COE plans to remove the peat soils down to bedrock beneath the bridge footprint, presumably to improve the conveyance of flows from the L-29 canal into ENP... a water depth of two feet in the marsh would equate to a water depth of three to five feet in the scraped area beneath the bridge. Absent wildlife shelves or other elevated passage features, the deeper water below the bridged expanse would not provide for the safe passage of terrestrial and semi-aquatic animals, as is assumed in the draft LRR. We recommend that those areas beneath the bridge where terrestrial wildlife are most likely to occur retain their peat soil and the additional elevation and vegetative cover that it provides. Such areas should include, at a minimum, the east and west ends of the bridge and the location where the agricultural canal would intersect the proposed bridge.</p>	<p>water line. The L-29 Canal itself is probably a greater impediment to passage of terrestrial animals. The passage would be across via the bridge abutments. L-29 Canal is up to fifteen feet deep. Leaving a peat layer over bedrock under the bridge deck would likely not make a difference, and is not good practice, because the peat would likely provide substrate for invasive exotic vegetation.</p>
SFRP 1	<p>South Florida Regional Planning Council Council staff generally agrees that recommended Alternative 3.2.2.a will benefit the South Florida region and will further our goals for a more livable, sustainable, and competitive South Florida. The goal of restoring the natural hydrologic conditions to Everglades National Park is generally consistent with the <i>Strategic Regional Policy Plan for South Florida...</i> Local Governments</p>	<p>Thank you for expressing your support for the TSP of a 1-mile bridge and L-29 Canal constraint of 8.5 feet.</p>
SAN1	<p>City of Sanibel, Vice Mayor Kevin Ruane May 9, 2008 The City endorses the Corps' decision to take immediate action under the tentatively selected plan to increase annual flow volume, increase marsh connectivity, and rehabilitate slough vegetation habitat by building a one-mile bridge on the Tamiami Trail adjacent to S-334 and raising the L-29 Canal headwater stage constraint to 8.5 feet NGVD.</p>	<p>Thank you for expressing your support for the TSP of a 1-mile bridge and L-29 Canal constraint of 8.5 feet.</p>
SAN2	<p>Although the MWD project will provide notable improvements over the status quo, the City urges the Corps to undertake these modifications with the understanding that this should only represent the first phase of a much needed larger project. The City supports creating a second longer passageway (or series of larger passageways to replace the inadequate existing culverts) along the Tamiami Trail. The City encourages the Corps to make this a planning priority going forward.</p>	<p>After approval of a plan for Tamiami Trail Modifications under the Modified Water Deliveries (MWD) project, we will complete the planning and approval process for the remaining features of the MWD project – openings in the L-67A and L-67C levees, additional removal of the L-67 Extension levee, flood mitigation measures for Osceola Camp, and a new operations plan. Studies of further openings in Tamiami Trail are expected to begin soon. An initial workshop or meeting for future conveyance through Tamiami Trail is being planned tentatively for July or August 2008. Additional details on this event will be made public as soon as they are</p>

MWD TTM LRR Comments and Responses

		available.
	Tribal	
	Lehtinen, Vargas & Riedi, Attorneys at Law, Dexter Lehtinen, May 9, 2008 MICCOSUKEE TRIBE	
Micc 1	<p>1. The Corps is Required to Conduct an EIS or SEIS Under NEPA... The Corps attempts to get around this NEPA requirement by relying on the 2005 RGRR/SEIS, which does not even analyze this alternative... For instance, the 2005 RGRR states that Alt. 14 will be on the “existing alignment”. In contrast, the LRR/EA states that “most of the land on which the bridge would be located is federally owned land that is part of ENP...”... There are significant differences between Alt 3.2.2a in the LRR/EA and Alt. 14 in the 2005 GRR/SEIS... It is improper for the Corps to rely on a segment of a totally different alternative in the 2005 RGRR/SEIS, which never analyzed building only a one mile eastern bridge, to attempt to bypass NEPA requirements. An EA, and Finding of No Significant Impact, will not suffice here. NEPA requires that an EIS, or SEIS be conducted on the TSP.</p> <p>2. The Corps' NEPA Process Was Pre-Decisional... The TSP was selected by, and recommended by, an LRR advisory group that met outside the public process... The Corps and others in the group held a meeting with the DEP to discuss water quality certification for construction of the one mile eastern bridge on 1/25/08, three months before the LRR/EA was issued. At this meeting, the only alternative discussed in detail was the construction of the eastern one mile bridge.</p>	<p>An EA may be prepared to comply with NEPA. If it is determined that significant impacts would result from a project, an EIS would be required. If no significant impacts would result, a Finding of No Significant Impacts (FONSI) would be prepared. In addition, this EA is tiered from the 2005 RGRR/ SEIS and includes the recommended plan from the 2005 report as one of the alternatives.</p>
Micc 2		<p>The selection of the recommended plan was made on the basis of comparing objectives, constraints and performance measures of all alternative actions. In addition, this EA is tiered from the 2005 RGRR/SEIS and includes the recommended plan from the 2005 report as one of the alternatives.</p>
Micc 3	<p>3. The LRR/EA Fails to Analyze, and Improperly Rejects, Reasonable Alternatives... For instance, Alt. 3.2.1 was improperly rejected from consideration by the advisory group even though the matrix shows it approaches the flows and volumes of the TSP at a lower cost... The advisory team used an arbitrary and capricious “velocity” performance measure to improperly reject the lower cost Alt. 3.2.1 from consideration.</p>	<p>Twenty-six alternatives were developed and evaluated on the basis of objectives, constraints and performance measures. Alternatives that failed to meet objectives were rejected; the remainder received more detailed consideration.</p>
Micc 4	<p>4. The LRR/EA Fails to Assess the Cost of Delay As a Performance Measure... Based on Attachment D of the Final GRR/SEIS on the 8.5 Square Mile Area, for each year of delay of MWD, the cost to restore tree islands lost by delay is \$23-\$123 million dollars a year, if they can ever be restored.</p>	<p>Comment noted. The cost of future delays is built into the cost estimate as “escalation.” Therefore, the plans which take longer to build would rate lower on the CEICA evaluation due to the higher cost as a result of escalation. The study included a full suite of performance measures that were considered to be those of greatest importance to the project. It is anticipated that construction of Tamiami Trail modifications would begin in 2008.</p>
Micc 5	<p>5. The LRR/EA Improperly Segments the MWD Project. The 1992 GDM and EIS for the MWD Project... included Tribal lands in WCA 3A but are excluded from the analysis in the LRR/EA. NEPA requires that connected projects should be evaluated in a single EIS... Improper segmentation has caused the LRR/EA to inadequately assess impacts on Tribal lands and resources.</p>	<p>Although NEPA guidance from CEQ prefers discussion of all elements of a proposed Federal action in a single NEPA document, for very large projects where details have to be developed in stages, this is often not practical. The Environmental Protection Agency has the legal mandate, along with CEQ, to review NEPA documents for adequacy and conformance with established policy. Since the re-evaluation of the Tamiami Trail modification was mandated by Congress, it is doubtful</p>

MWD TTM LRR Comments and Responses

<p>Micc 6</p>	<p>6. The LRR/EA Improperly Narrows the Purpose, Scope and Study Area... Section 5.20 of the LRR/EA improperly limits the scope and study area to ENP and NESS... the 1992 GDM for the MWD Project states “when fully operational the MWD project will benefit the ecosystem function and habitat value of appx. 100,000 acres of wetlands in NESRS, 600,000 acres of wetlands in WCA-3A and 200,000 acres of wetlands within the Shark River Slough basin of ENP.” Thus, the LRR/EA scope and study area should have included all the areas that comprise 900,000 acres of Everglades wetlands.</p>	<p>that this NEPA document is an “improper segmentation.” It was written to respond to Congressional requirements. EPA has not indicated concerns with segmentation of the NEPA process.</p> <p>The purpose of the LRR/EA is to “answer directives from the Managers’ language cited in Section 1.1” and no narrowing of the purpose or scope of the MWD project or its component studies is intended or stated in the LRR/EA. The LRR/EA tiers off the 2005 RGRR/SEIS.</p>
<p>Micc 7</p>	<p>7. The Future Without Project Condition Is Improperly Defined... The document states in Section 5.4 that: “The No Action alternative would maintain the existing capacity for conveying water from the L-29 canal, under Tamiami Trail, to ENP without causing deterioration of the road way”. There is no Congressionally authorized Tamiami Trail project.</p> <p>8. The Cumulative Impacts Analysis is Woefully Inadequate... It leaves... WCA-3A out of the discussion of “target resources”, and focuses only on ENP. It lists actions, such as the IOP, in Table 5.5 but makes no attempt to analyze IOP’s past, present, and future impacts. The geographic scope is improperly limited to 63,915 acres below Tamiami Trail... The Corps must conduct an EIS that analyzes the combined impacts of the delay of the MWD Project, coupled with the impacts that the last ten years of operational plans for the sparrow, have had on Tribal lands, endangered species in 3A, and other areas of the Everglades.</p>	<p>The Future Without Project Condition is defined in Section 3.1 as “the conditions expected in the project area if no project is implemented.” This is a reasonable characterization of the “No Action Alternative.”</p> <p>The cumulative impacts analysis was prepared in accordance with the guidance provided in the 1997 Council on Environmental Quality publication, “Considering Cumulative Impacts under the National Environmental Policy Act.”</p> <p>The LRR proposes a construction project that would facilitate flexibility in the operational management of water flows. IOP is an operational plan, the impacts of which were described in the 2006 FSEIS, Interim Operational Plan (IOP) for Protection of the Cape Sable Seaside Sparrow. The modifications to the Tamiami Trail described in the LRR would not affect the operations described in IOP and therefore not affect the water levels in or the flows from WCA-3A. The Tamiami Trail modifications would allow the flows to NESRS to be increased – more water could be passed through S-333 (which could operate at full capacity) and less through the S-12 structures to meet the target flow of 55% of the flow into NESRS and 45% to NWSRS. In addition to increased flows benefiting NESRS, redistributing 55% of the current water budget would benefit NWSRS by reducing S-12 A, B, and C discharges during the early wet season. In addition, decreased total S-12 wet season discharges could reduce wet season water depths and possibly decrease hydroperiods to be more consistent with species and habitat needs.</p>
<p>Micc 9</p>	<p>9. WRDA 2000 Constraints and Congressional Cost Constraints Are Not Disclosed... The LRR/EA ignores the WRDA 2000 constraint language that prohibits Tamiami Trail until the MWD Project is complete. Moreover, it</p>	<p>WRDA 2000 does not constrain the MWD project. Rather, it constrains selected components of CERP. Congress did not provide specific cost constraints other than that the updated cost of Alternative</p>

MWD TTM LRR Comments and Responses

	contains no mention of Congress' guidance that \$150 million dollars should be adequate to complete the MWD Project.	14 from the 2005 report was too high.
Micc 10	10. Alternatives Must be Assessed With and Without Alleged Cost Savings... The analysis admits in Appendix C that not all cost savings are applicable to all alternatives. It is also true that not all cost savings listed by the Corps are certain.	The cost savings described in the draft LRR are reasonable and, while not guaranteed at the time of the draft LRR, have a strong likelihood of being realized/achieved. The team applied the cost savings similarly to all of the final alternatives.
Micc 11	11. The LRR/EA Improperly Modifies the MWD Project Purpose... The purpose of the MWD Project is to improve water deliveries into the Park and, "to the extent practicable" take steps to restore the natural hydrologic conditions... While it appears the advisory group relied on a series of new modeling exercises to assess impacts and environmental benefits, the process is incomprehensible... and cannot be reviewed for independent verification... The Tribe contends that the one mile bridge that was selected is not necessary to improve water deliveries "to the extent practicable" and suspects that the "modeling" was used to support a predetermined conclusion for Tamiami Trail.	The purpose of the LRR/EA is stated in Section 1.4 to "answer directives from the Managers' language cited in Section 1.1". No changes to the MWD project purpose are inferred.
Micc 12	12. The LRR/EA Does Not Detail What Will Be Done to Modify the Road... While raising the road is defined as part of the TSP, the LRR/EA defines it in other sections as road mitigation and/or modifications. Details on how the Corps envisions this will be done, or if it will be done at all, are scant.	The LRR/EA tiers off the 2005 RGRR/SEIS as stated in Section 1.0. The road will be reinforced to FDOT current standards. Because the stage constraint in the LRR recommended plan is raised only 1', the road base will not require widening, as was the case for the RGRR Recommended Plan, which had an unconstrained stage up to 9.7'.
Micc 13	13. The LRR/EA Contains a Skewed Environmental Benefits Analysis... Under NEPA, the Corps is only required to analyze <i>reasonable alternatives</i> . The <i>skyway</i> alternative 17 is not reasonable under MWD Project statutory authority and funding constraints, and should not be used as a benchmark... The skewed analysis used by the LRR advisory group resulted in the screening out of all non-bridge alternatives. The Tribe contends that the lower cost culvert/swale/road raising alternative is the environmentally preferred alternative.	Do not concur. The benefits analysis was conducted by an inter-agency team of scientists which included ENP, SFWMD, UCACE, and USFWS. It is similar to the analysis completed in the 2005 RGRR/SEIS.
Micc 14	14. The LRR/EA Does Not Contain An Adequate Analysis of Water Quality... The LRR/EA merely states that "the State of Florida requires the treatment of stormwater runoff to be included as a component of the highway and bridge construction projects." It does not define the level of treatment, how it will be done, or how much it will cost. There is no support for the Corps' contention in Section 5.5 that the bridge could provide an incremental benefit to water quality by treating a one-mile section of highway runoff. Nor does the LRR/EA mention the fact that the S-9 pump could discharge water to ENP under the MWD project, which could have an impact on water quality.	The LRR/EA tiers off the 2005 RGRR/SEIS as stated in Section 1.0. Greater detail on water quality may be found in that document. The bridge is not expected to change the composition of the water flowing into the ENP. Any flow changes into the ENP will be captured by the Settlement Agreement required monitoring for inflow structures into the NESRS. The stormwater treatment system for the bridge will be coordinated with the FDEP for approval and will be designed to meet the state and federal requirements for runoff treatment. The existing level of runoff treatment is limited in the footprint of the bridge. It is the Corps technical staff's opinion that the planned stormwater treatment system will slightly improve the water quality in that section of the roadway due to the increase of grassed shoulders on the bridge approaches and the treatment system for the bridge runoff.

		<p>We agree that this opinion cannot be conclusively proved at this time. The S9 structure is not within the scope of this project and the construction of the TTM Bridge is not expected to have any changes on the operation of the S9 pump station. Any flows through the S9 structure are monitored, analyzed and reported to the public.</p>
<p>Micc 15</p>	<p>A SECTION 4(f) REVIEW IS REQUIRED FOR A BRIDGE IN THE PARK. Section 4(f) of the Department of Transportation Act of 1966... prohibits the DOT from approving any program that uses publicly owned land unless: 1) there is no feasible and prudent alternative, and 2) such use includes all possible planning to minimize harm. While the LRR/EA states at Section 4.3.3 that "This project is not a transportation project", the reality is that it involves building a bridge to transport people. This is recognized at page 5-38 of the LRR where it discusses "the conversion of parklands to transportation conveyances," and that "the proposed project would convert parklands to highway right-of-way." Moreover, the LRR states that "most of the land on which the bridge would be located is federally owned land that is part of the ENP...". It further states that transfer of these Park lands to the State to construct the bridge will involve U.S. DOT.</p> <p>...Rather than conduct the required Section 4(f) review, the Corps improperly relied on a short letter, not based on the TSP, to incorrectly claim in Appendix F that a Section 4(f) is not required. The Tribe contends that a Section 4(f) review is required here, because the federal government plans to build a bridge on national park lands, and suspects the Corps knows that such a review would show that there are feasible and prudent alternatives to constructing a bridge.</p>	<p>As the Tribe states the Corps looked to other feasible and prudent alternatives than to using property owned by the park and sought to minimize harm. Due to the location of the project area, very few alternatives are available to the Corps. In addition, though the project itself is not a transportation project, it is virtually impossible to flow water under Tamiami Trail without impacting the roadway due to the road acting as a levee between Miami and Naples.</p> <p>Regarding the Section 4(f) review, the Corps and NPS consulted with the Federal Highway Administration (FHWA), a federal agency under the U.S. Department of Transportation (USDOT). FHWA has deemed Section 4(f) review inapplicable to this project for the following reasons:</p> <ol style="list-style-type: none"> 1. Section 4(f) only applies to USDOT projects. Even though this project is a federal government project, the USDOT is not the lead agency. The Corps, in conjunction with the DOI/NPS, are the project proponents. USDOT/FHWA only have tangential involvement in the project; 2. There are no USDOT funds that are involved in the project. All project funds emanate from Public Law 101-229, its amendments, and related appropriation bills. Neither the USDOT nor FHWA will be contributing any funds towards the completion of this project; 3. This project does not require any USDOT or FHWA technical approvals for roadway or bridge construction. Neither USDOT nor FHWA are providing any project oversight before, during or after construction and will not be involved in the operation or maintenance of the project; 4. FHWA is only acting in the capacity of a land transfer agent. By law, the FHWA is the agency that is authorized to transfer park lands in this situation. As such, with the exception of this involvement through the Highway Easement Deed, neither the USDOT nor FHWA is a participant in the project at all; 5. The project is not a USDOT or FHWA sponsored transportation project. The actual construction of the bridge and elevation of the roadway are merely real estate transactions incidental to the major purpose of the project which is the conveyance of water from north of Tamiami Trail to the south

		<p>into the Everglades National Park. Since the existing Tamiami Trail acts as a dam or levee inhibiting the flow of water, the Corps and the park seek to modify the existing structures to induce flows back to their natural levels, to the extent practicable. In order to construct these features, the Corps and the park must obtain the real estate interests from all third party owners within the project area and vicinity necessary to generate those flows. The government must acquire real estate interests where the project impacts will negatively impact those owners. Therefore, in addition to the private owners south of Tamiami Trail, the Corps must also obtain both a flowage easement and channel easement from the Florida Department of Transportation (FDOT). FDOT's status as a state agency does not obviate the need for this acquisition. Currently, neither the Corps nor the park have the legal right to remove an existing portion of the road and replace it with a bridge to increase water conveyance. The fact that there is a transportation facility at this location is merely coincidental and is not the purpose of the project; and</p> <p>6. The Congressional mandate under Public Law 101-229 is to convey water into the Everglades National Park to rehydrate the park to the extent practicable. Therefore, it is clear that the intent of Congress is to restore the park environmentally. Clearly, the fundamental purpose of this environmental restoration project is not to provide the public with a better transportation facility.</p> <p>It is for these reasons that the government believes that the project is exempt from Section 4(f). Copies of the agency correspondence confirming this position will be included with the ENP/NPS FONSI for the project.</p>
<p>Micc 16</p>	<p>THE CORPS FAILED TO COMPLY WITH THE ESA. ...the Corps failed to conduct Section 7 consultation with the FWS prior to issuing the LRR/EA... The March 6, 2008 Planning Aid Letter from the FWS does not substitute for the required Section 7 consultation and a Biological Opinion.</p> <p>The Corps is required to analyze any potential adverse impacts to endangered species...that have been caused, and will continue to be caused, by the delay of the MWD Project resulting from the TSP...Neither the LRR/EA, nor the FWS PAL, mention the alarming 50% decline in the endangered Snail Kite population that has occurred under ISP and IOP, nor analyze whether more delay will jeopardize this endangered species. Finally, the Corps must conduct Section 7 consultation on how the TSP will impact Sparrow populations..., and Snail Kites nesting in ENP.</p>	<p>The Corps received a BO concurring with our determination of May Affect, Not Likely to Adversely Affect for all species in the TTM area in January 2006 for the RGRR/FSEIS, covering Alternative 14. Our current TSP or preferred plan is a sub-set of Alternative 14. We have formally re-initiated Section 7 consultation with FWS and expect to receive a revised BO from FWS prior to construction for the LRR TSP. We note that the timetable for compliance under ESA is not the same as that for NEPA compliance. We expect to be in full compliance prior to scheduled construction of the TSP.</p>

MWD TTM LRR Comments and Responses

<p>Micc 17</p>	<p>THE CORPS FAILED TO COMPLY WITH FACAs. ...The advisory group included non-federal entities, who developed performance measures and screened alternatives at secret meetings... While the Corps attempts to paint this advisory group as a fact finding team, it is clear that the group made policy recommendations to a federal agency.</p>	<p>The LRR team met with both federal and state agency employees for purposes of exchanging information on the project. The team did not and cannot set policy which is only implemented by higher governmental authority. It is our contention that there was no violation of FACAs rules.</p>
<p>Micc 18</p>	<p>THE CORPS DID NOT MEET ITS TRUST RESPONSIBILITY TO THE TRIBE. ... The Corps failed to analyze the culvert/swale alternative in its final array of alternatives... and allowed an LRR advisory group to select the TSP behind closed doors... the advisory group held secret meetings, which the Tribe and the public could not attend. The Tribe only found out about these meetings indirectly or when documents were inadvertently released, even though they had a direct impact on its natural resources.</p>	<p>The Corps met and consulted with the Tribe and even invited the Tribe to certain meetings which the Tribe chose not attend. There were no secret meetings. Meetings held from October-January, prior to the January 25, 2008 scoping and pre-application meeting for the WQC, which the tribe's representatives attended, were Federal agency working meetings, attended by representatives of the US Department of the Interior and the Corps of Engineers. Stu Appelbaum of the Corps presented the preliminary alternatives analysis of this Federal Government Team at the December Task Force and Working Group meetings. This was the first presentation of the re-evaluation of other agency and public representatives. The Corps opened scoping for the LRR/EA in late January, and coordinated the NEPA document and LRR beginning in early March. During scoping, Corps representatives met with representatives of the Tribe to present the screening process and receive comments. There was an April public meeting to discuss and receive comments on the LRR/EA. Therefore, it is the Corps' contention that there was no violation of the government's Trust Responsibility to the Tribe.</p>
<p>Micc 19</p>	<p>Study Authority: ...Unfortunately, the Corps continues to conduct skewed analyses that result in the selection of unnecessary and expensive alternatives for Tamiami Trail that go beyond MWD Project authority</p>	<p>The Corps contends that the project is fully within its authority as prescribed by Congress. DOI and the U.S. Environmental Protection Agency have expressed support for this analysis in their comments included here.</p>
<p>Micc 20</p>	<p>Manager's Language: The LRR/EA at page iv says alternatives were compared against the targets set by the Manager's language, and cost constraints. ... It does not explain, however, why alternative 3.2.1 (culvert/swale/road raising) was eliminated from analysis. ... This section also makes no mention that Congress clearly stated that it felt the MWD Project could be completed for \$150 million dollars. ... selected a TSP that exceeds the \$150 million dollar cost target.</p>	<p>Page iv is part of the Executive Summary. The study team did not attempt to present in the Executive Summary all of the details of all of its analyses. The screening of Alternative 3.2.1 and other alternatives is presented in Section 4.4.3 of the draft LRR. The WRDA 2007 Managers' Language does not contain a dollar cost cap for Tamiami Trail.</p> <p>The discussion of alternative screening in Section 4 of the report has been expanded to explain why culvert-only alternatives were not selected. They were within cost limits but were not as effective as bridge alternatives in providing favorable stage-duration results in ENP marshes or in reducing adverse velocity changes in the benefit zone immediately south of the road, extending into the Park about 1 mile.</p>
<p>Micc 21</p>	<p>Tribal Lands: Section 3.12 contains a woefully inadequate analysis of Tribal lands that could be impacted by the proposed project. The scope of Tribal lands that can be impacted includes a vast area of the Everglades</p>	<p>Benefits to WCA-3A will depend on future operations of the system. The LRR covers a proposed structural (construction) project, not a change in operations of the whole C-111/Mod Waters system. When</p>

	<p>(WCA 3A) that is not discussed here. ...the Corps has ignored these land interests and narrowed the scope of "Tribal lands" to the Tiger Tail and Osceola Camps. Even with this narrow scope, the Corps fails to adequately analyze the impacts. The statement that, "The living facilities of the Tiger Tail Camp were recently elevated above the flow levels anticipated for MWD" is not based on any analysis of the volumes and flow levels of the TSP. Moreover, this section provides no analysis whatsoever of the impact on the Osceola Camp. Under NEPA, the impacts on both these camps must be analyzed, along with the direct and indirect and cumulative impacts to Tribal Reservation and lease lands in WCA 3A, and the Miccosukee Reserved Area. These Tribal lands will all be either adversely or beneficially impacted by the selection of a Tamiami Trail alternative. The Tribe will not accept adverse impacts to Tribal lands. Nor will the Tribe accept any adverse impacts to the Osceola and Tiger Tail camps or any interference with their traditional practices.</p>	<p>the TTM project is completed these would only be potential benefits. Real improvement in flows is expected to reduce ponding in southern WCA-3A, as it will be possible to pass greater volumes of water southward through L-29 Canal into NESRS. We did not use the 2x2 model to select an alternative in the LRR, as it is not sensitive enough to distinguish widespread impacts by alternative. However, when the CSOP (operational modifications) project starts up again in July, 2008, the 2x2 and MODBRANCH model outputs will be used to look at benefits and adverse effects in a broader area, including WCA-3s. We have added potential benefits to WCA 3 and effects in southern Miami-Dade agricultural areas east of L-31 N in the "secondary impacts" section of the revised EA. We do not anticipate adverse effects upon Tribal lands inside ENP, or in Tiger Tail or Osceola camps.</p>
<p>Micc 22</p>	<p>Hurricane Evacuation: The LRR/EA states without any analysis that hurricane evacuation will not be impeded. The Tribe has continuously told the Corps that Tamiami Trail is the only hurricane evacuation route for Tribal members who live along it. As the Miccosukee Tribal members and others in the Service Area use Tamiami Trail to travel across the Everglades, it is vital that the Corps conduct an analysis of the impact that one lane travel would have on hurricane evacuation capability in an EIS. Access must be maintained to protect the health and safety of both Tribal members and the public.</p>	<p>A lane closure analysis as required by FDOT would be performed during design. The road would not be one lane during evacuations or at night. During daylight hours the road would be manned by flagmen in the working area. The area at the bridge location would have two-lane traffic except for when the final tie to the existing road is made then flagmen will be utilized.</p>
<p>Micc 23</p>	<p>Compatibility With CERP: As stated previously, the Tribe supports the federal government's desire for compatibility with CERP, but that desire must not delay the implementation of the MWD Project. The Tribe does not believe that the TSP offers that compatibility, and reiterates that building a bridge in Everglades National Park has a great potential for political and bureaucratic delay. On the other hand, the culvert/swale/road raising alternative would allow the MWD Project to be expeditiously completed so that CERP decompartmentalization could proceed. It appears that the advisory group once again used a skewed modeling and environmental benefits analysis to attempt to fool Congress into wasting vast sums of money on building an unnecessary bridge in a national park.</p>	<p>The TSP in the 2008 LRR is compatible with CERP. If modifications are not made to the Tamiami Trail embankment then no increase in flows above existing conditions is possible. Without raising the embankment elevation and the stage constraints there will not be alleviation of high water events in WCA-3A or reconnection of WCA-3B to NESRS/ENP. As CERP projects move forward re-evaluation of the impacts future projects will have on the embankment and a determination as to additional necessary openings (whether bridges, culverts, swales, etc.) and increased road elevations for this portion of Tamiami Trail will be made.</p>
<p>Micc 24</p>	<p>Socioeconomic Factors: In reference to the socioeconomic factors outlined in Section 3.13, the Corps has discarded the performance measure ("PM") used in the previous Tamiami Trail EIS to avoid and minimize impacts to the Tiger Tail and Osceola Camps as a constraint in evaluating the alternatives. In the past, the Corps had developed a performance measure to assess the impacts to the camps, including access, privacy and encroachment, both during and after the construction phase. The advisory team did not use this PM in the LRR/EA. The Tribe reiterates that it will not</p>	<p>Access to the Tiger Tail and Osceola Camps will be maintained throughout the construction period. The footprint of Tamiami Trail will not expand onto the land of these two Camps.</p> <p>We did not use this PM because it became clear at an early stage that most of the adverse impacts on Tiger Tail or Osceola camps would occur in relation to the longer western bridge alternative evaluated in the RGRR/SEIS of 2005-6, which was incorporated by reference into</p>

MWD TTM LRR Comments and Responses

	<p>accept any adverse impacts to either the Tiger Tail or Osceola Camps and that any interference with the traditional use of these camps is non-negotiable.</p>	<p>the EA evaluations. Long western bridges were not part of any alternative that survived preliminary screening; therefore these impacts were not discussed.</p>
<p>Micc 25</p>	<p>Hydraulics and Hydrology: Again, the Corps appears to have changed its requirement from Section 5 of the 2003 GRR/FEIS, that the final alternative selected need only pass MWD flows, in favor of a new model that passes much greater volumes and flows. The section on hydraulics and hydrology contains language concerning the L-29 canal only.</p>	<p>The 1992 GDM did not specify a required flow volume to be delivered to NESRS, but the total structure capacity of all features that were capable of discharging water into NESRS was approximately 4,000 cfs. In the 2005 RGRR, for the reconstruction of the roadway embankment target water levels from the Natural System Model were used. The NSM target was chosen for the re-construction of the roadway embankment were chosen to make the project compatible with MWD and future restoration projects. As part of the 2008 LRR the COE incrementally examined the effect of raising the canal stage within the L-29 BC. A spreadsheet analysis was developed that analyzed the historical delivery of flows to ENP and then redistributed those flows in a target distribution of 55% to the east and 45% to the west as long as stages were below the L-29BC stage constraint. This inflow volume was then used in a mass balance approach to compute potential increase in stage within North East Shark River Slough if we could have re-distributed inflows into ENP.</p>
<p>Micc 26</p>	<p>Costs and Section 902: The LRR/EA at C-6 incorrectly states that the MWD Project is not subject to Section 902 limits. This misrepresentation has caused the Corps and DOI to have a blank check mentality that has caused the MWD cost to sky rocket!</p>	<p>Modified Waters was authorized under 1989 Everglades Protection and Expansion Act and was funded 100% by Department of Interior through FY 2006. Public Law 109-275 provided for Corps funding in FY 2006 for this project, to be cost shared 50/50 with the DoI from FY 2006 forward. The authorizations did not cite a dollar amount, therefore the 902 limit is not applicable.</p>
<p>Micc 27</p>	<p>WRDA Constraint Language: The LRR/EA cleverly paraphrases the WRDA constraint language to omit the prohibition against bridging Tamiami Trail under Mod Waters. (Page 1-8.) Perhaps the Corps did so, because it knows the selection of the eastern bridge alternative defies Congress's mandate. Section 601 (b)(2) of WRDA 2000 prevents the authorization of Tamiami Trail bridging until the MWD Project is completed. ... It appears that the Corps thinks bridging Tamiami Trail is not contrary to WRDA 2000, as long as the L-29 levee is not removed. ... Congress will be even more incensed to learn that precious tax dollars are being wasted on a white elephant bridge that will do little for flow with the levee still in place.</p>	<p>See replies to Micc 9</p> <p>WRDA 2000 (Section 601 (b)(2)(D)(iv)) does not prevent construction of bridges under MWD or provide any direction to MWD. Rather, the WRDA 2000 language says that there will be no CERP funds appropriated for construction of the CERP Tamiami Trail bridges (and several other CERP components) until MWD is complete.</p> <p>We understand the WRDA 2000 constraint is a direct reference to the CERP element called "WCA-3 Decompartmentalization and Sheet Flow" This CERP component includes 10 short bridges, and its CONSTRUCTION was prohibited until after completion of the Mod Waters project. We do not think the WRDA clause prohibits consideration of any bridge under Mod Waters.</p>
<p>Micc 28</p>	<p>Flooding and Flowage Easements: Section 5.14.2 states that real estate will be required from private landowners impacted by project operation and that operation of the project would not be implemented until the necessary real estate interests have been acquired. Section 6.2.6 states that the Corps</p>	<p>The Corps will obtain a perpetual flowage easement from FDOT by way of the Relocation Contract. The compensation for the easement will be for the Corps to make certain modifications to the existing roadway to mitigate for the effects of higher water elevations in</p>

	<p>intends to obtain a perpetual flowage easement from FDOT for 10.7 miles of Tamiami Trail. The LRR/EA does not contain any analysis of whether, and when, the road will be modified and whether Florida DOT has agreed to not seek any additional compensation for the 10.7 mile flowage easement. The Corps is required to conduct an EIS that fully analyzes flooding impacts and assesses the full costs for any flowage easements.</p>	<p>exchange for receiving a perpetual flowage easement. The required modifications will be determined during the design phase of the project. The Corps intends to contract road improvements and bridge construction under a single contract.</p>
<p>Micc 29</p>	<p>Real Estate Costs Are Not Adequately Assessed: The LRR/EA does not adequately assess all real estate costs that will result from the TSP. For instance, the costs for the modifications to the Osceola Camp discussed at F-20 are not assessed in the LRR/EA. It is also unclear from the LRR/EA whether there will be additional real estate costs associated with obtaining a perpetual flowage easement for 10.7 miles of Tamiami Trail from FDOT or whether costs (or a land swap) will be involved in transferring fee title from Everglades National Park lands to the State. Any such costs related to these matters must be analyzed in an EIS.</p>	<p>The real estate costs included in the total project costs for the LRR are for construction only, no real estate costs for operations. Any costs associated with modifications to the Osceola Camp would be for operations and is not considered a real estate cost as the lands are owned by DOI.</p> <p>The Corps will obtain a perpetual flowage easement from FDOT by way of the Relocation Contract. The compensation for the easement will be for the Corps to make certain modifications to the existing roadway to mitigate for the effects of higher water elevations in exchange for receiving a perpetual flowage easement. The required modifications will be determined during the design phase of the project.</p> <p>Administrative costs for DOI to grant necessary interests to FDOT are included in the real estate cost estimate; however, there are no land costs for DOI lands included in the estimate.</p> <p>As stated elsewhere in response to comments, the next stage of planning will be detailed planning of the remaining structures and operations needed to achieve full benefits. Revised operations will require an EIS.</p>
<p>Micc 30</p>	<p>No Realistic Project Schedule: The LRR/EA contains no realistic project schedule for the bridge building and road modifications associated with the TSP. The LRR/EA merely makes the broad generalization that if bridge construction starts in 2008, it would take three years, and be completed at the end of 2011. There is no construction time estimate for the road modifications. The Tribe contends that the amount of time necessary to complete the project should have been a factor in screening alternatives. It is clear from the admission in the LRR/EA that Congressional approval will be required to transfer federal national park lands to the State of Florida and that a 2008 construction date is overly optimistic. ...</p>	<p>Bridge and road reinforcement will be awarded as one contract. Target award date is 26 September 2008. Construction duration for both the bridge and road reinforcement is estimated around 3 ½ years. Construction duration does play an important part in screening alternatives. In general, the alternatives that require a longer time to construct would cost more because of higher uncertainty and more escalation.</p> <p>Road modifications are expected to have a shorter duration than bridge construction and are expected to be complete within the cited 3 years.</p> <p>See response to Micc 22.</p>
<p>Micc 31</p>	<p>Transportation: In reference to Section 6.1.8, the LRR/EA contains no analysis of the impact that one lane travel during paving would have on hurricane evacuation capability. The Tribe reiterates that the Corps must take all precautions that both transportation and the safety of the Tribe and the public not be compromised during, or after, construction.</p>	
<p>Micc 32</p>	<p>Impact on Tribal Lands: The LRR/EA contains no analysis of the impact</p>	<p>See replies to Micc 21 for 3A.</p>

	<p>that the TSP will have on Tribal lands. The Corps must conduct an EIS that shows the impact that all alternatives, including the cost of delay, will have on the Tribal Everglades in WCA 3A. Moreover, the use of greater than CERP flows must also be analyzed for impacts to the MRA, and other Tribal properties, and to the Tiger Tail and Osceola Camps.</p>	<p>See replies to Micc 21 and Micc 24 for Tiger Tail and Osceola.</p> <p>The LRR/EA explains that we must calculate the maximum possible stages and flows under reasonably foreseeable meteorological conditions to design road improvements. What the Tribe characterizes as “greater than CERP flows” are not additional planned flows but the cumulative effect of high planned flows with a natural storm of a given frequency added.</p>
<p>Micc 33</p>	<p>Impact on Businesses: Section 5.14 of the LRR/EA does not assess the impact that the TSP would have on Tribal businesses, such as the Miccosukee Resort and Gaming Facility, and the Tribe’s Miccosukee Indian Village, Airboats, Restaurant, and Gas Station along Tamiami Trail.</p>	<p>Section 5.14 addresses effects on businesses. No impacts from either construction of the Tamiami Trail modifications or flooding that would result from operations of the MWD project would affect tribal businesses. The Miccosukee Resort is outside the area of road modifications. Driveways into existing facilities along Tamiami Trail will be graded up to the raised road.</p>
<p>Micc 34</p>	<p>Osceola and Tiger Tail Camps: Section 5.17 of the LRR/EA contains no modeling to show the impact that the TSP will have on the Osceola Camp and Tiger Tail camps. ... The LRR/EA contains no modeling of the impacts that the greater flows and volumes of the TSP will have on the Tiger Tail Camp. Thus, there is no basis for the Corps’ statement of no impact. ... The Corps must conduct an analysis of impacts on the Tiger Tail and Osceola camps in an EIS. ...</p>	<p>This modeling was conducted during previous phases of the CSOP study as well as during the Restudy that led to the CERP plan. The Tiger Tail camp was raised to be well above the stages generated by CERP. The plan under consideration reaches stages well below the CERP unconstrained stages of up to 9.7’ in L-29; therefore the document correctly anticipates no adverse impacts.</p>
<p>Micc 35</p>	<p>Environmental Justice: Section 5.19.1 claims, without the requisite analysis, that no long term impacts would be created for the residents of the Tiger Tail and Osceola Camps. The Corps is required to conduct such an analysis under NEPA. The Tribe is especially concerned that the advisory team did not use the previous Performance Measure that analyzed potential adverse impacts of alternatives on the Tiger Tail and Osceola Camps. The Tribe contends that the Corps must ensure that the project is not likely to affect the environmental health or safety, and traditional way of life, of either the Tiger Tail or Osceola Camps. The Tribe also contends that the disparate impacts to Tribal Everglades and its culture and way of life due to the failure to implement the MWD Project, should also be analyzed in an EIS. The TSP will further delay the MWD Project, and will adversely and disproportionately impact the Miccosukee Tribe. Those impacts must be assessed in an EIS.</p>	<p>Construction of a bridge and raising of the highway are expected to have no impacts on the Tigertail or Osceola Camps. Because of the raising of the Tigertail Camp, no impacts from flooding are expected. The previous constraint (not a performance measure) of avoiding adverse impacts to the Tiger Tail and Osceola Camps (in the 2005 RGR) was also a factor in selection of the TSP, but since more extensive alternatives were screened out due to cost limitations, none of the final alternative array would have generated such impacts. Negotiations between the Osceola Camp and ENP are underway to raise the Osceola Camp. Because no impacts would result from the project, no disproportionate impacts would result.</p>
<p>Micc 36</p>	<p>Public Involvement: Section 9.1 claims that the Corps complied with USACE and NEPA policies and sought public input. In reality, the process conducted by the Corps was a secretive back door process that was pre-decisional and excluded the public. An LRR advisory group, which did not comply with FACA and met in private, selected the alternatives and the TSP. The public was brought in after the decisions were made to feign “public involvement,” contrary to both FACA and NEPA.</p>	<p>A general public scoping letter was mailed on January 28, 2008, and was closed on March 7, 2008 inviting all concerned agencies and citizens who provided previous comments to provide information on their ongoing issues, concerns and recommendations for this study. Additionally, the planning and public scoping process for Tamiami Trail Modifications, which this EA aims to finalize, has commenced for years and has involved two previous planning studies that underwent</p>

<p>Micc 37</p>	<p>Modeling Chicanery: In the 2005 GRR/EIS, the advisory group relied on a Natural System Model (NSM), which used greater than CERP acre feet of water, to predict water levels in WCA3B and the L-29 canal to determine the potential impacts to Tamiami Trail. The discussion of modeling in the LRR/EA is so confusing, it is difficult to determine exactly which models were used and whether the results from the 2005 RGRR/SEIS were relied on here. The LRR/EA also does not contain the modeling spread sheet used by the advisory group, so that the public can review it. Moreover, it appears that different models were used to assess different performance measures. This section is so incomprehensible that a Tribal representative called the Corps to attempt to decipher the modeling used. The Tribe was told the advisory group did not use the 2x2 model, which has been used in past EIS processes. It should not be necessary for the Tribe to attempt to make sense out of a NEPA document. A NEPA document is supposed to be understandable. While the Tribe continues to be uncertain as to the exact models used, it appears that the advisory group modeled arbitrary performance measures to rubber stamp an unnecessary and expensive bridge alternative. ...NEPA is required to be comprehensible to the public and to be a full disclosure document. The Corps should conduct an EIS that adequately explains the modeling used and contains the actual model results for independent verification and analysis.</p>	<p>considerable public and agency coordination. This LRR began as an intra-agency effort but has since been coordinated with stakeholders and the public, with that input a large consideration in plan selection.</p> <p>As part of the 2008 LRR the COE incrementally examined the effect of raising the canal stage within the L-29 BC. A spreadsheet analysis was developed that analyzed the historical delivery of flows to ENP and then redistributed those flows in a target distribution of 55% to the east and 45% to the west as long as stages were below the L-29BC stage constraint. This inflow volume was then used in a mass balance approach to compute potential increase in stage within North East Shark River Slough if we could have re-distributed inflows into ENP. As documented in Appendix D section 5 provides the conceptual layout of the spreadsheet analysis. This analysis is based upon a mass balance approach to compute the increase in stage within NESRS as flows are increased. The Appendix was written to step the reader through development of the model.</p> <p>Section 5. Conceptual Model Layout Section 6. Calibration Section 7. Alternative Modeling Strategy</p>	<p>The 2005 GRR/EIS and the 2008 EA both reference NSM levels only as an outside boundary on the highest water stages and greatest wet season flows thought to be attainable. NSM models theoretical hydrology of a pre-development Everglades system without any man-made features, including levees, gates, canals, pump stations or reservoirs, without a Herbert Hoover Dike encircling Lake Okeechobee, and with regular overflow of Lake Okeechobee into the northern part of the 'River of Grass' flow-way.</p> <p>NSM is useful only as a comparison of the wettest conditions imaginable, not as a target. The 2008 EA did not use a whole-Everglades model. It did look (see Fig. 4-15) at the distribution of high flows under current operations, compared to CERP (2050) flows, and put the NSM flows as an upper limit for comparison. It did this because Congress asked the agencies to look at forward compatibility with the CERP projects.</p> <p>See response to Micc 22.</p>
<p>Micc 38</p>	<p>Safety: The Tribe insists that Tribal and public health and safety must be strictly maintained both during, and after, construction of the Tamiami Trail modifications. The Corps should conduct an EIS that analyzes the road modifications in sufficient detail, so that the Tribe can ascertain whether public safety will be maintained.</p>	<p>The Corps has determined that the proposed road modifications will not adversely affect public health and safety. Again, this analysis was explicit in the 2005 GRR/SEIS, and incorporated into the 2008 EA by reference. The 2008 TSP proposes a lower road surface (corresponding to a lower canal stage) and a narrower road footprint, than the 2005 RGRR/FSEIS.</p>	

MWD TTM LRR Comments and Responses

<p>Micc 39</p>	<p>Highway Easement Deed and Congressional Approval: Section 6.2.5 discusses the use of a Highway Easement Deed ("HED") as a legal mechanism for DOI to convey the Park lands needed for the one mile bridge to FDOT through the Federal Highway Administration. The LRR/EA says this is merely a "temporary solution" for transferring the lands to the state, and it is the overall intention of DOI to seek specific legislation from Congress to convey the lands to the state in fee. It is unclear from the LRR/EA whether the Corps intends to use the HED to begin construction prior to DOI obtaining Congressional approval to essentially give away national park lands to the State. This section is indicative of the challenging, and uncertain, process that building a bridge in a National Park will entail. The Tribe contends that Congressional approval is needed prior to construction, and that a Section 4(f) review would result in such approval not being given. There are reasonable and prudent alternatives to building a bridge in the Park that would not require transferring fee title to national park land.</p>	<p>The HED is the real estate mechanism that would allow the Corps, following execution of a relocation agreement with the FDOT, to construct the bridge on the land prior to enactment of legislation transferring the lands to the state in fee simple title. Again, the project was deemed to be exempt from Section 4(f). The Corps contends that due to the location of the Tamiami Trail, use of a very small portion of park lands is reasonable and prudent, especially in light of the increased benefits to the park overall.</p>
<p>PER 1</p>	<p>Non-Government Organizations Rick Persson, Vice President, S.A.F.E.R., Inc rpbr1117@bellsouth.net</p> <p>As Vice President of S.A.F.E.R., Inc I would like to repeat our views on the Tamiami Trail Project. We have for years presented the idea of just Maintaining the culverts or rebuilding them to allow water to flow freely under the Tamiami Trail. By removing the cattail reeds to the South of the Trail, you will allow water to flow without backing up against the road. Sky or other bridges are not necessary, and are too great of an expense. There still does not seem to be an answer to the question "How much is enough water for the Park?"</p>	<p>Removing the vegetation south of Tamiami Trail does not provide for the restoration of NESRS because of the current stage constraint along Tamiami Trail for the protection of the embankment. To restore NESRS not only flows but stages in the canal/marsh need to be raised. The increased stages will allow for a more natural hydroperiod and the restoration of the proper flora and fauna within the area.</p>
<p>BON 1</p>	<p>Maureen Bonness, Naples Pathways Coalition, River of Grass Greenway maureenb@evergladesROGG.org</p> <p>Please accept the enclosed public comments concerning the Limited Reevaluation Report and Environmental Assessment (LRR/EA). The Tamiami Trail is the ONLY road that cyclists can use to get across southern Florida. It is very important that your road design consider cyclists. Additionally, please consider the proposed River of Grass Greenway (brochure enclosed) and how it can be coordinated with your bridge/road design. I would like to discuss the River of Grass Greenway with you.</p>	<p>The shoulder for the proposed bridge would be 10 feet wide and the shoulder for the rest of the road would be 5 feet paved plus 5 feet of grass. We do not plan to construct raised reflectors or rumble strips in the shoulder. Drainage features for the bridge would be located on the outermost edge of the shoulder and would not be expected to be in the travel path for bicycles.</p>
<p>LTER 1</p>	<p>Florida Coastal Everglades LTER Florida International University, Miami, FL 33199, May 9, 2008</p> <p>We feel that the revised plan does not address the goal of improving hydrologic conditions in SRS, and does virtually nothing to support the re-hydration of the marl prairies. We also feel the scientific rigor of the evaluations of the environmental benefits of potential alternatives has been compromised, which effectively weakens their support. The proposal to</p>	<p>The LRR's TSP provides an increment of restoration to NESRS. The benefits analysis was conducted by an inter-agency team of scientists which included ENP, SFWMD, USACE, and USFWS. It is similar to the analysis completed in the 2005 RGR/SEIS. The</p>

MWD TTM LRR Comments and Responses

	<p>build a 1 mile bridge along the eastern edge of Tamiami Trail that allows an 8.5 ft maximum stage in the L29 canal will have limited effectiveness in restoring natural conditions in Everglades National Park, due to the short length of the bridge, its location and the flow allowance. We discuss problems associated with each of these factors below and provide alternative solutions that would meet the long-term goals of modified water deliveries (MWD).</p>	<p>document has undergone external peer review as well as agency and public review.</p>
<p>LTER 2</p>	<p>Distance: The proposal to further reduce to the extent of the bridge was considerably disappointing. Aside from understandable cost inflation during the years of delay, it appears that alternatives supporting longer and/or multiple bridges were also devalued for short-term political and economic reasons that appeared to outweigh their obvious long-term environmental benefits. A 1-mile bridge along a 10.7-mile flow blockade is not an effective plan for restoring sheet-flow to Everglades National Park.</p> <p>Solution: Build into the LRR a plan and schedule for long-term implementation of multiple and extended bridges recommended in prior plans. Further delays will only increase the costs of necessary construction but more importantly, will allow further deterioration of the ecosystem that will cause restoration to become increasingly difficult.</p>	<p>Studies of further openings in Tamiami Trail are expected to begin soon. An initial workshop or meeting for future conveyance through Tamiami Trail is being planned tentatively for July or August 2008. Additional details on this event will be made public as soon as they are available.</p>
<p>LTER 3</p>	<p>Location: We found one of the more confusing aspects of the proposal was the selection of the eastern corner of northeast SRS for the proposed 1 mile bridge. The LRR provided little or no scientific support for resultant improvement of (1) hydrological conditions in northeast SRS or (2) ecological consequences that would result from constructing a bridge to the east rather than west....</p> <p>Solution: Reconsider option of western bridge. Otherwise, the hydrological and ecological grounds for the eastern alternative need to be more clearly defined. If the eastern bridge remains the preferred alternative, build a program of hydrological and ecological monitoring in impacted areas to address its effectiveness and facilitate adaptive management. This monitoring should take place both downstream of construction but also in areas where water and flows may be depleted during implementation (i.e., downstream of existing flow ways – S-12 structures).</p>	<p>A full analysis of eastern and western bridges was performed. The western bridge was found to be less cost effective when considering cost versus ecological benefits. See Section 4.5.3.</p> <p>The location of the bridge was based on the recommendations from the 2005 RGRR. The goal is to restore NESRS to the extent practicable. If one analyzes historical stage data (NESRS-1, NESRS-2, and NESRS-3) within NESRS one would see that during wet conditions the stage in the area is very consistent (almost a flat pool). Seepage losses are typically calculated based on a head differential. Just because the flow enters the system closer to the levee does not mean it will create more seepage; the seepage is related to the stage differential on both sides of the levee. It is expected as stages increase so will the seepage, but the stage in NESRS will increase regardless of where the bridge is located. In addition, the only culverts proposed to be removed are within the bridge footprint. While a majority of the water will be delivered through the bridge, the culverts will also aid in the spatial distribution of flows into NESRS.</p>
<p>LTER 4</p>	<p>Stage: Restoration of this system cannot occur with adjustments to only the maximum wet season water depths. Dry season conditions must also be</p>	<p>Comparison of alternative plans to a No Action alternative is a fundamental requirement of Federal water resources planning. It provides information to the decision-makers on how the Nation would</p>

MWD TTM LRR Comments and Responses

	<p>considered. The LRR evaluation promoted a 8.5 ft stage over 8 ft height in L-29 but it was disappointing to find only a superficial evaluation of the previously proposed 9.7 ft stage height. By comparing 8.0 and 8.5 ft stages against a “do nothing” alternative, the selection process is biased toward a weakly effective result. Instead, the impact of a full suite of stage heights should be evaluated and compared. Again, the ecological effectiveness of the two compromised alternatives (8 vs. 8.5 ft) seem to have been ‘copied and pasted’ from one column to another rather than resulting from a systematic understanding of the consequences of these two different hydrologic settings. Although the natural Everglades water movement was characterized by long durations of sheet flow there is increasing evidence that catastrophic events helped shape this ecosystem (e.g. fires, hurricanes, etc.). Allowing a greater variation in maximum stage (and larger bridge openings properly located) would allow more heterogeneity in flow volumes. A major problem across the Everglades is that large portions of the compartmentalized system are subjected to regulation schedules which are not linked to rainfall causing entire areas to be either too wet or too dry. Designs should allow for heterogeneous flows (including occasional very high water scouring events) which reflect trends in rainfall amounts and which will in turn support ridge and slough development.</p> <p>Solution: Allow the maximum stage values (and thus hydraulic head) driving water into SRS respond to rainfall naturally to allow heterogeneous flow patterns and ridge and slough habitat to develop.</p>	<p>benefit in return for the investment of Federal funds in each of the alternative plans.</p> <p>Full restoration of NESRS is ideal and would require greater fluctuation within the system. However, full restoration is not possible at this time due to funding constraints and the Corps was tasked to the extent practicable to take steps to restore the natural hydrologic conditions within the ENP. The LRR TSP is an increment of restoration of NESRS.</p>
<p>LTER 5</p>	<p>We are especially concerned that effective restorative plans are being perpetually delayed causing further deterioration of the system and escalation in implementation costs. We hope the LRR includes a time-line that shows a schedule of completion for not only this small first step but also specifies when the overall long-term objectives will be met.</p>	<p>Tentatively selected plan for the Tamiami Trail Modifications includes building a bridge and reinforcing U.S. 41. Bridge and road reinforcement will be awarded as one contract. Target award date is 26 September 2008. Construction duration for both the bridge and road reinforcement is estimated to take around 3 ½ years.</p> <p>After approval of a plan for Tamiami Trail Modifications under the Modified Water Deliveries (MWD) project, we will complete the planning and approval process for the remaining features of the MWD project – opening in the L-67A and L-67C levees, additional removal of the L-67 extension levee, flood mitigation measures for Osceola Camp, and a new operations plan.</p> <p>Studies of further openings in Tamiami Trail are expected to begin soon. An initial workshop or meeting for future conveyance through Tamiami Trail is being planned tentatively for July or August 2008. Additional details on this event will be made public as soon as they are available.</p>
<p>Sierra Club, South Florida/Everglades Office 2700 SW 3rd Ave, Ste. 2F, Miami, FL 33129, May 9, 2008</p>		

MWD TTM LRR Comments and Responses

SC 1	<p>There are only two possible ways to restore natural flow into Shark River Slough. One is to eliminate the road. The other is to elevate it. (please see Sierra Club original comments for more details)</p>	<p>Comment noted.</p>
SC 2	<p>We have repeatedly supported elevation of an 11-mile stretch of Tamiami Trail widely referred to as the "Everglades Skyway". In numerous press statements, reports and documents, the Corps of Engineers has identified the Skyway as the environmentally-preferred alternative as well as a "Best Buy." The National Park service and the U.S. Fish and Wildlife Service have also identified the Skyway as the best environmental solution for the Modified Waters delivery project. The Science Coordination Team to the South Florida Ecosystem Restoration Task Force also wrote in 2001 that the Skyway was the best alternative. While no agency disputes the environmental supremacy of the Skyway, the Corps has consistently ruled it out for one reason – cost. ... Sierra Club's preferred alternative continues to be the Skyway as it has in every Mod Waters decision.</p>	<p>We concur that the 11-mile bridge is the environmentally preferred plan that would provide maximum benefits, and that the TSP does not provide as many ecosystem benefits. However, the total cost of the 11-mile bridge alternative prevents its approval and funding.</p>
SC 3	<p>The Sierra Club's main objective is to see Shark River Slough restored. If that can be done timely and cost effectively in one project, we would lend our support. If we believed that it could be achieved timely and cost effectively in two consecutive projects, part in Mod Waters and part in another, we could support that as well. But we must see some verifiable commitment to a second project before we can give our support to a first. We must know that the first project will not stand for a decade while a second project becomes too expensive and ultimately abandoned.</p>	<p>After approval of a plan for Tamiami Trail Modifications under the Modified Water Deliveries (MWD) project, we will complete the planning and approval process for the remaining features of the MWD project – openings in the L-67A and L-67C levees, additional removal of the L-67 Extension levee, flood mitigation measures for Osceola Camp, and a new operations plan.</p> <p>Studies of further openings in Tamiami Trail are expected to begin soon. An initial workshop or meeting for future conveyance through Tamiami Trail is being planned tentatively for July or August 2008. Additional details on this event will be made public as soon as they are available.</p>
SC 4	<p>What are the concrete steps that will follow the TSP leading to restoration of Shark River Slough?</p>	<p>Please see the response to the previous comment. The remaining features of MWD will be completed. A workshop is being planned tentatively for July or August 2008.</p>
SC 5	<p>How long will it take until more bridging can take place? That is unclear; however, the laying of asphalt appears to be cost-effective only if there is a 10 year delay between the TSP's completion and the completion of more bridging. The remainder of the bridging should start immediately after the first project or be simultaneously constructed.</p>	<p>The timing of future construction that would be in addition to the TSP is not known.</p>
SC 6	<p>What are the cost increases expected for the next phase of bridging as a result of choosing this alternative?</p>	<p>Before we can prepare a cost estimate, we would need to establish the features, locations, and dimensions of this yet-to-be-specified next phase.</p>
SC 7	<p>We are very disappointed in the way that the Corps calculates its costs. The plan that we felt had the most merit in the LRR and one we supported was the Blue Shanty plan developed by Everglades National Park. The plan restored natural flow to a corner of WCA 3 and Shark River Slough.</p>	<p>The Blue Shanty plan cost more because of: additional structures needed to obtain the high water elevations; requisite road raising to elevation 13.0'; and levees must maintain the current flood protection for the road.</p>

MWD TTM LRR Comments and Responses

	<p>Although it entailed only a one mile bridge, it provided the greatest environmental benefit per dollar and transitioned easily into the Skyway. The plan should have been comparable to the TSP in cost as it involved the same length of bridge and required only temporary fill on the Blue Shanty Canal. Instead the Corps estimated the cost far above prevailing bridge and fill transport costs and ruled it out.</p>	<p>Raising water levels in the canal with an opening raises water levels in the marsh to the same elevation. Without the remainder of the road raised the levees to the north and south would have to be the height of the existing L-67 levees. They would also have to the length of the L-67 extension to protect the road. A structure was necessary in the L-67 canal that could pass the same flows as S-333 to maintain flood protection on the road. These differences are what drives up the cost.</p>
<p>SC 9</p>	<p>We believe that in order to achieve an October 2008 ground breaking date the LRR may not have follow the standard procedures normally required by the EIS process. The scoping process seemed squeezed-in, almost presented as an afterthought, after decisions were already made. The Corps only met with environmental groups days before a presentation to the Task Force and one day before the LRR was released. Opportunities for input were limited. State negotiations to change the plan significantly from an 8.0 canal stage to an 8.5 (and thus requiring 10 miles of asphalt) in the last three weeks before the LRR release seemed contrary to the public process we had expected. We are especially concerned that effective restorative plans are being perpetually delayed causing further deterioration of the system and escalation in implementation costs. We hope the LRR includes a time-line that shows a schedule of completion for not only this small first step but also specifies when the overall long-term objectives will be met.</p>	<p>A general public scoping letter was mailed on January 28, 2008, and scoping was closed on March 7, 2008 inviting all concerned agencies and citizens who provided previous comments to provide information on their ongoing issues, concerns and recommendations for this study. Additionally, the planning and public scoping process for Tamiami Trail Modifications, which this EA aims to finalize, has been ongoing for years and has involved two previous planning studies that underwent considerable public and agency coordination.</p> <p>This project is on an accelerated schedule to the benefit of restoration goals. The change in canal stage from 8.0 to 8.5 occurred during the cost estimating phase of the planning process, when it was found that ecological benefits could be maximized considerably with only an incremental increase in cost and concomitant increase in canal stage.</p> <p>As directed in the Conference Report for WRDA 2007, the cooperating federal agencies must recommend a plan for modifying Tamiami Trail to Congress by 1 July 2008 to provide immediate steps to increase flows to the Park. Once the plan for modifying Tamiami Trail has been approved, other efforts will be coordinated with agencies and the public to determine the next steps in bringing greater conveyance to NESRS.</p>
<p>SC 10</p>	<p>LRR presented no analyses on the swales, yet by their mention, it seems to imply that the culvert spreader swales remain part of Mod Waters. We believe that this action or any pilot project requires an EIS. We do not feel that constructing more than 60 football fields of swales in a national park will make culverts any more viable as a solution for restoring flow Shark River Slough. The only solution is to remove the road as a barrier.</p>	<p>Swales are not components of any of the four final alternatives in the LRR. Everglades National Park is the lead agency studying and preparing a report to decide whether to construct a Pilot Project for swales at the culverts. This would be a separate action from the LRR. The LRR acknowledges that this separate Pilot study is ongoing.</p>
<p>SC 11</p>	<p>Part of the government's plan for saving the Cape Sable Seaside Sparrow, the Snail Kite and the Wood Stork, and complying with the Endangered Species Act, was the removal of, in significant measure, constraints to flows under Tamiami Trail. That provides more reason why significant bridging must commence immediately.</p>	<p>It is anticipated that construction of the bridge would begin in late 2008. This bridge would reduce the impediment to flows created by the Tamiami Trail highway embankment.</p>
<p>SC 12</p>	<p>Congress indicated in WRDA 2007 that it wanted to see 4,000 cfs in Mod Waters. The only plan that comes close to achieving that goal is the Blue Shanty Plan or the Skyway.</p>	<p>Congress originally under The Everglades National Park Protection and Expansion Act (PL 101-229) Sec 104(a) (1) did not authorize a specific flow rate but states:</p>

MWD TTM LRR Comments and Responses

		<p>“Upon completion of a final report by the Chief of the Army Corps of Engineers, the Secretary of the Army, in consultation with the Secretary, is authorized and directed to construct modifications to the Central and Southern Florida Project to improve water deliveries into the park and shall, to the extent practicable, take steps to restore the natural hydrological conditions within the park.”</p> <p>The goal of MWD is to the extent practicable take steps to restore the natural hydrologic conditions within the park. The restoration of NESRS is not based on any specific flow rate but rather having the ability to reproduce a natural hydroperiod within NESRS. See Section 4 of Appendix D.</p> <p>Thank you for your suggestion. CERP is one existing authority that could be used to study and construct additional conveyance through Tamiami Trail.</p> <p>The intent of MWD project is not to counteract sea level rise but to take steps to the extent practicable to restore the natural hydrologic condition within WCA-3B and NESRS.</p>
<p>SC 13</p>	<p>The next phase of bridging could be part of the CERP if it were moved up on the schedule to immediately follow the TSP. Right now it is not.</p>	
<p>SC 14</p>	<p>The TSP should have considered what the predicted timelines are for sea level rise and done an analysis of how much fresh water flow might be needed and by when to counter the salt water. Sea level rise is the greatest short term threat to the Everglades and one that should guide every decision the Corps makes, especially those will affect the timeliness of delivering restored flow to through Shark River Slough to Florida Bay. The massive economic and social cost of losing the Everglades, western urban areas of South Florida and the water supply to sea level rise must be factored in when determining if the project is cost effective.</p> <p>Ana Blanco, May 9, 2008, on behalf of: David Anderson, Executive Director, Audubon of Florida E. Thom Rumberger, Chairman, Everglades Trust Marti Daltry, President, Caloosahatchee River Citizens Association/Riverwatch Sara E. Fain, Everglades Restoration Program Manager, National Parks Conservation Association Kathleen Aterno, Managing and Florida Director, Clean Water Fund Bradford H. Sewell, Senior Attorney, Natural Resources Defense Council Kirk Fordham, Chief Executive Officer, Everglades Foundation Rae Ann Wessel, Natural Resource Policy Director, Sanibel Captiva Conservation Foundation Laura Reynolds, Executive Director, Tropical Audubon Society Debra Harrison, Director, South Florida Program, World Wildlife Fund</p>	
<p>BLA 1</p>	<p>The tentatively selected plan begins the process of bridging, and is a necessary first step on the road to providing essential environmental benefits to Everglades National Park and the restoration of historic, natural unimpeded water flow through the Everglades, particularly the</p>	<p>Thank you for expressing your support for the TSP of a 1-mile bridge and L-29 Canal constraint of 8.5 feet.</p>

MWD TTM LRR Comments and Responses

	<p>reestablishment of sheetflow into the Northeast Shark River Slough and into Florida Bay. However, this initial modest step must be followed by bridging capable of reestablishing the previously authorized critical natural flow. Clearly the tentatively selected plan alone will not remove Tamiami Trail as a barrier to flow.</p>	
<p>BLA 2</p>	<p>While the Modified Water Deliveries project is a necessary first step on the road to full restoration, the only way we can ever hope to restore the Park is to allow maximum connectivity between Water Conservation Area 3 (“WCA 3”) and Everglades National Park through many miles of elevated roadway. Indeed, the Corps of Engineers has acknowledged that a 10.7 mile bridge spanning Shark River Slough is the environmentally preferred alternative. While we acknowledge that the plan before us is a modest first step, we are disappointed that the project does not achieve those benefits as originally envisioned by Congress when it passed the Everglades National Park Protection and Expansion Act of 1989. While we know that the Mod Waters project was not going to achieve full restoration of Northeast Shark River Slough and Everglades National Park, the current proposed project falls short of our expectations.</p>	<p>We concur that the 11-mile bridge is the environmentally preferred plan that would provide maximum benefits, and that the TSP does not provide as many ecosystem benefits. However, the total cost of the 11-mile bridge alternative prevents its approval and funding.</p>
<p>BLA 4</p>	<p>We urge you to incorporate the following language into Section 6.8:</p> <p>“The U.S. Army Corps of Engineers and the Department of the Interior recognize that this project must not be the only project for modifying Tamiami Trail, and much additional work is needed to adequately restore flows into Northeast Shark River Slough, and ultimately reestablish connectivity through the great Everglades ecosystem and into Florida Bay. Congress understood that the Modified Water Deliveries project alone would not restore the Everglades, and approved further restoration for Everglades National Park in the Comprehensive Everglades Restoration Plan of 2000. The tentatively selected plan constitutes a step in achieving the goals and direction given in the Statement of Managers for the Conference Report of the Water Resources Delivery Act of 2007. It achieves the immediate goal to increase flows to Everglades National Park by 1,400 cubic feet per second. The Federal government is committed to reaching those goals set out in the Conference Report to achieve flows to the Park that “have a minimum target of 4,000 cubic feet per second so as to address the restoration envisioned in the 1989 Act... [and] initiate an evaluation of the Tamiami Trail project component of the Comprehensive Everglades Restoration Plan authorized by section 601 (b)(2)(C)(viii) of the Water Resources Development Act of 2000, or other appropriate authorities, as soon as practicable.” The Federal government commits to working with the state of Florida to begin these next steps to achieve the higher flows immediately upon the release of a Record of Decision for the Preferred Alternative.”</p>	<p>We are unable to use your statement as it is written.</p> <p>Like most parties familiar with Tamiami Trail, we recognize that the TSP, even together with the rest of the MWD features, would not fully restore NESRS and the Everglades ecosystem. We recognize that CERP or other authorities would be needed to achieve higher restoration goals.</p> <p>The Jacksonville District through its planning report makes recommendations to the Administration and Congress. Congress then must issue authority to the Corps to implement the recommendation. This report does not have the authority to commit the Federal government to specific future studies or to numerical performance targets beyond those expected to be achieved by the TSP of this report.</p> <p>The Jacksonville District is continuing to work with the state of Florida to explore next steps for realizing additional benefits in the southern Everglades. Please also see the response to the next comment that an initial workshop is being planned for later in 2008.</p>

MWD TTM LRR Comments and Responses

BLA 5	<p>We urge you to not delay planning for future Tamiami Trail modifications until data from studying the effects of either the preferred alternative or a pilot project for swales (if one is approved) are collected and analyzed. It is inappropriate to delay future progress in order to research these matters further. The federal agencies have already justified and explained the fact that the environmentally preferred alternative is a 10.7 mile bridge. . .</p>	<p>Studies of further openings in Tamiami Trail are expected to begin soon. An initial workshop or meeting for future conveyance through Tamiami Trail is being planned tentatively for July or August 2008. Additional details on this event will be made public as soon as they are available.</p>
BLA 6	<p>In previous comments submitted by several environmental groups to the Corps, concerns about the construction of culvert spreader swales in Everglades National Park were addressed. This LRR presented no analyses on that issue, yet by their mention, it seems to imply that the swales remain part of Mod Waters. We would like specific clarification as to whether the swales are a feature of Mod Waters, under the authority of the Secretary of the Army and part of the C & SF Project when completed. Regardless of whether the authority lies with the Corps or the National Park Service, we believe that, under Federal law and policy, the construction of swales, or a pilot project to test the swales concept, may require an EIS.</p>	<p>Swales at the south ends of culverts were considered early during the development of alternatives for Tamiami Trail. Swales are not components of any of the final array of four alternatives that passed through the screening analysis. Swales are not a component of the TSP. Everglades National Park is the lead agency for a separate NEPA analysis of a proposed Pilot Study for swales. Scoping of issues for the Pilot Study is ongoing. ENP has not completed NEPA and has not decided whether to implement the Pilot Project. If the decision is made to construct the Pilot Project, construction may be funded by the Modified Water Delivery project.</p>
BLA 7	<p>There is another reason to move forward immediately with significant Tamiami Trail bridging: to ensure the continued survival of several of the Everglades' most imperiled species. As you know, the current water management regime, the Interim Operational Plan (IOP), was intended to be temporary, to provide a few years of relief for the highly-imperiled Cape Sable Seaside Sparrow. The IOP does not provide a long-term solution for the Sparrow, and provides little to no benefit for the Snail Kite and Wood Stork. Rather, for almost a decade, the responsible agencies have stressed to the public and to the federal courts that these species will only be saved, as well as the Park restored, if water flows from WCA 3A into WCA 3B and into Northeast Shark River Slough are significantly restored. Part of the government's plan for saving these species, and complying with the Endangered Species Act, was the removal of, in significant measure, constraints to flows under Tamiami Trail.</p>	<p>Concur. The tentatively selected plan is the first step in increasing water conveyance to NESRS. Once the plan for modifying Tamiami Trail has been approved, other efforts will be coordinated with agencies and the public to determine the next steps in bringing greater conveyance to NESRS.</p>
BLA 8	<p>Because subsequent steps to the tentatively selected plan are essential, we urge the Corps to give high priority to those projects under the Comprehensive Everglades Restoration Plan ("CERP") that would build upon restoring sheetflow through the central and southern Everglades, including Water Conservation Area 3 Decompartmentalization and Sheetflow Enhancement and Everglades National Park Seepage Management to take the next steps to increase flows through the Everglades and reconnect the lower portions of WCA3A and 3B to Everglades National Park and Florida Bay.</p>	<p>Comment noted.</p>
BLA 9	<p>We repeat our previous suggestions that another entity beyond the Corps, such as the Department of Transportation or Federal Highway Administration, may be better suited to design and build a more elevated roadway along Tamiami Trail. We urge the Corps to consider other</p>	<p>After approval of a plan for Tamiami Trail Modifications under the Modified Water Deliveries (MWD) project, we will complete the planning and approval process for the remaining features of the MWD project – opening in the L-67A and L-67C levees, additional removal of</p>

MWD TTM LRR Comments and Responses

	<p>possibilities now for immediate future restoration planning. At this time of limited resources, innovation is essential. The Corps should work with these and other agencies to develop the most efficient means of achieving the goals of Everglades restoration.</p>	<p>the L-67 extension levee, flood mitigation measures for Osceola Camp, and a new operations plan.</p> <p>Studies of further openings in Tamiami Trail are expected to begin soon. An initial workshop or meeting for future conveyance through Tamiami Trail is being planned tentatively for July or August 2008. Additional details on this event will be made public as soon as they are available</p>
<p>AAF 1</p>	<p>Andrew E. Stearns, representing Airboat Association of Florida Museum Tower, Suite 2200, 150 West Flagler Street, Miami, FL 33130</p> <p>The Aaof objects to the LRR/EA to the extent it delineates the taking of the Aaof's property by the USACE (through a proposed flowage easement) where a taking of Aaof property was explicitly precluded under the Everglades National Park Protection and Expansion Act of 1989. The USACE's contends that real estate interests in the Aaof's property must be taken by the USACE without providing the legal justification for the purchase of such an interest. If, as the USACE claims, their authority to implement MWD emanates from the Expansion Act, then the project must preserve the Aaof's private property rights, as provided by the Expansion Act.</p>	<p>The 1989 Expansion Act incorporated a map by reference demonstrating the location of the park expansion and what lands the park was authorized to acquire. In that map, the Airboat Association of Florida was excluded from the park boundary; however, the Corps' mandate is to improve water deliveries into the park. The Corps' authorization is not limited by the park's boundary map.</p>
<p>AAF 2</p>	<p>(LRR/EA, F-6). The USACE, within the LRR/EA, fails to propose the preferred and reasonable alternative to the taking of Aaof property: the raising of the elevation of the Aaof's property to a height above the estimated 100 year flood height.</p> <p>The raising of the elevation of property is an alternative that the USACE extended to other stakeholders similarly affected by the USACE's actions with regards to the Modified Water Deliveries to Everglades National Park ("MWD") Project. The raising of the Aaof's property is the preferred alternative to mitigate the prospective damage to the Aaof's property that the USACE contends will occur with the implementation of the MWD Project.</p>	<p>Under an acquisition of a flowage easement, the landowner is paid compensation whereby the landowner may choose to enact a cost to cure solution for his property, though this option is not required. The raising of the site by the government is not an option that is mandated due to the Airboat Association of Florida's status of being excluded from the park boundary map.</p>
<p>AAF 3</p>	<p>The Expansion Act contemplates the taking of property in two circumstances, first, for properties located within the Expansion Area (§ 102(c)(1)), and second, for properties located partially within and partially outside of the Expansion Area (§ 102(d)). Nowhere does the Expansion Act authorize the taking of land wholly outside of the Expansion Area; rather, it unarguably specifically precludes such a taking.</p>	<p>The 1989 Act authorizes the lands slated for acquisition as part of the park's 107,600 acres of lands within the park. The Corps' authorization in that Act was two-fold, 1.) legislation relating to the lands in the 8.5 Square Mile Area, and to 2.) improve water deliveries to the Everglades National Park to the extent practicable. By increasing flows into the park through the Tamiami Trail project, the Corps will necessarily be adding water to those lands south of the Trail. Therefore, it is anticipated that the Airboat Association tract will experience water levels above the existing stages and quantities. In order to avoid an inverse condemnation action in the future, the Corps must obtain the minimum real estate interest required for the project.</p>

<p>AAF 4</p>	<p>Authority of USACE to Take Private Real Property Army Regulation 405-10, Acquisition of Real Property and Interests Therein, outlines the circumstances in which the USACE may acquire real property:</p>	<p>The Airboat Association of Florida specifically cites Section 1-3 of Army Regulation 405-10 as the basis for why the Corps cannot acquire an interest in real estate over the Airboat Association tract since that regulation states that “No military department may acquire real property not owned by the United States unless the acquisition is expressly authorized by law.” It should be noted that Section 1-1 of that same regulation sets forth the scope of the regulation. Specifically, that section states:</p> <p>1-1. Scope</p> <p>This regulation sets forth the authority, policy, responsibility, and procedures for the acquisition of real property and interests therein, for military purposes by the Department of the Army. It implements Department of Defense Directives 4165.6, 4165.12, and 4165.16. This regulation does not apply to Civil Works Projects, which are under the supervision of the Chief of Engineers.</p> <p>As cited above, the regulation is specifically for military projects. The Modified Water Deliveries to Everglades National Park Project is a civil works project operating under separate real estate acquisition authority. The specific authority for this project emanate from the following public laws:</p> <p>River and Harbor and Flood Control Projects.</p> <p>a. River and Harbor Projects. The Act of Congress approved 24 April 1888 (33 U.S.C. 591) authorizes acquisition of land for river and harbor purposes. These include the construction, operation, maintenance and improvement of both natural and artificial waterways, the construction of locks and dams, dikes, bulkheads, jetties, revetment and other bank protection works, and spoil disposal dikes and retaining structures for construction and maintenance; and</p> <p>b. Flood Control Projects. The Act of Congress approved 1 March 1917 [33 U.S.C. 701) authorizes acquisition of land for flood control purposes, and Section 2 of the Act of Congress approved 28 June 1938, as amended (33 U.S.C. 701c-1), authorizes the acquisition of land and interests therein for dam and reservoir projects, channel improvements, and rectification projects for flood control at Federal expense. Dam, reservoir and lake projects are generally constructed entirely at the expense of the United States and are maintained and operated with the use of Federal funds. Local interests are not required to furnish lands, easements and rights-of-way for dam and reservoir projects, unless specifically authorized by law for small reservoirs which provide</p>
--------------	--	---

		<p>localized flood protection (EM 1120-2-101). For local flood protection projects except channel improvement or channel rectification projects authorized by the Flood Control Acts of 1936, 1937 and 1938, local interests must provide, without cost to the United States, all necessary lands, easements, and rights-of-way. They must also hold and save the United States free from damages due to the construction, operation and maintenance of the project, except where such damages are due to the fault or negligence of the United States or its contractors, and maintain and operate all the works after completion, in accordance with regulations prescribed by the Secretary of the Army. Channel improvement and channel rectification projects authorized by the Acts of 1936, 1937 and 1938 are built entirely at Federal expense and no local cooperation is required. Exceptions to these rules are provided by law in the case of certain specific projects such as hurricane protection, shore protection, beach erosion control or other purposes. As in river and harbor projects, a cash contribution may also be required if enhancement of land values results from disposal of spoil dredged from project areas (ER 1150-2-301 and EM 1120-2-101).</p>
<p>AAF 5</p>	<p>The AAoF's Property Was "Carved Out" of the Expansion Area by the Expansion Act</p>	<p>Again, the Airboat Association of Florida is correct in that their 10 acre parcel of land was excluded from the National Park Service (NPS) Boundary Map, hence the NPS is not authorized to acquire that property; however, the fact that Congress did not intend for that property to be incorporated within the park's boundary is not a permanent prohibition for any or all federal agency acquisition of that land.</p>
<p>AAF 6</p>	<p>In summary, the USACE's proposed easement provides that the AAoF is to abandon practically all of its rights to its property situated below 9.0 feet NGVD. Such a "flowage easement" is in reality equivalent to a fee simple interest in property, whereby AAoF would be asked to abandon practically all of its rights of possession, use, and enjoyment of its property. The LRR/EA elevation exhibit of the AAoF's property clearly shows how the proposed a "flowage easement" would actually be a taking of nearly the entire property:</p>	<p>The current average water level on the properties south of Tamiami Trail is roughly 7.5 feet over the period of record while in post-project conditions, it is anticipated that portions of the southern half of the subject property may experience water levels in the 7.5 to 8.5 levels with extreme high water levels for a 100 year event equating to a 9.0 foot level. Due to the fact that the Airboat Association of Florida was excluded from the park boundary, the Corps sought to allow usage of the property in post-project conditions, even though it is understood that a large portion of the property will be negatively impacted in high water situations. Accordingly, the Corps will pay just compensation for those impacts, mainly a perpetual and occasional flowage easement; however, should the landowner consider their ownership to be so severely impacted that they will not retain any usage of the property in post-project conditions, the Corps is willing (and authorized) to acquire the property in fee simple title.</p>
<p>AAF 7</p>	<p>Contrary to the assertion by the USACE in the LRR/EA, the USACE and AAoF have never negotiated terms of a flowage easement relating to the AAoF's property. The AAoF contends the USACE estimate of the ten acre</p>	<p>The LRR/EA mischaracterized the negotiations involved with the Airboat Association of Florida. The Corps has not negotiated the terms of a flowage easement. The LRR/EA has been edited to state that the</p>

MWD TTM LRR Comments and Responses

	<p>property of \$1,625,000 is significantly lower than the actual value. The AAoF refuses to accept the terms of the USACE's March 3, 2005 proposal.</p>	<p>Jacksonville District has been negotiating the acquisition of a flowage easement with the Airboat Association of Florida, rather than actually negotiating the terms of the flowage easement. The estimate of value is currently more than two years old and took into consideration the then planned water levels of 9.7 feet under the RGRR. Due to the lower water levels under the current LRR/EA, the Corps will have to reevaluate the estimated value of the real estate interest that the Corps requires prior to any new negotiations with the property owner. The Corps understands the Airboat Association of Florida's rejection of our prior offer to acquire a flowage easement. Upon approval of the LRR/EA, the Corps will seek new appraisals to determine the value of the site under the LRR/EA plan and begin negotiations with the landowner thereafter.</p>
	<p>Sydney T. Bacchus, Ph.D., Hydroecologist, Applied Environmental Services, LLC PO Box 174 Athens, GA 30603, May 11, 2008</p>	
<p>BAC 1</p>	<p>On March 21, 2004 and March 5, 2008 I provided comments on the proposed elevation of the Tamiami Trail, purportedly promoted as a form of Everglades restoration. ... there is no evidence that your agency even considered the alternatives or impacts described in my previous comment letters. Specifically, there is no scientific evidence that elevating the Tamiami Trail will result in an increase in flow through the Everglades.</p>	<p>A large suite of 26 alternatives was considered and screened. We feel this covered all reasonable and feasible paths of action. All previous comments have been considered.</p>
<p>BAC 2</p>	<p>Your agency failed to consider alternatives that are known to increase flows of both surface and groundwaters. Those alternatives include reductions in existing groundwater and surfacewater withdrawals from the Everglades Basin by agricultural, municipal and industrial users. Those withdrawals are not confined to mechanical pumping (e.g., supply wells and dewatering pumps). They include nonmechanical dewatering of the aquifer system by excavations (e.g., mine pits) throughout the Everglades, due to increased evaporative loss and volumetric displacement of groundwater into excavated areas.</p>	<p>The MWD project has no regulatory authority to require agricultural, municipal or industrial reductions in groundwater or surface water withdrawals.</p>
<p>BAC 3</p>	<p>Failure to Conduct a Comprehensive Cumulative Impacts Analysis The Environmental Analysis (EA), Environmental Impact Statement (EIS) and Cumulative Impacts Analysis conducted by your agency and the FWS all failed to consider the cumulative adverse impacts associated with your proposed agency action for this project, as well as your past and proposed approvals of other mining and construction projects in the Everglades Basin. Because both your agency and the FWS failed to consider all of the cumulative impacts of the proposed project, your agency's conclusions by Mr. Woodley, Jr. on January 25, 2006 regarding the "Means to Avoid or Minimize Adverse Effects" also failed to account for cumulative impacts. For example, in Table 6 of the FWS's "Florida Panther Habitat Matrix" only the "Project Footprint" was considered, rather than the additional</p>	<p>The cumulative impacts analysis was prepared in accordance with the guidance provided in the 1997 Council on Environmental Quality publication, Considering Cumulative Impacts under the National Environmental Policy Act.</p>

MWD TTM LRR Comments and Responses

	dewatering and destructive wildfires that the proposed alternative would cause in the Everglades.	
BAC 4	I concur with the conclusion stated by Dexter W. Lehtinen in his letter dated January 9, 2006, that the proposed alternative (and considered alternatives) is not consistent with the purpose in PL 101-229 WRDA 2000. The estimated cost of approximately \$255 million in tax dollars for the proposed large-scale construction project ignores the fact that adequate water could be supplied to the entire Everglades Basin, at no cost to the tax payers, if your agency and FWS would identify all related cumulative impacts, issue no additional permits in the Everglades that would reduce water availability to the Everglades ecosystems and require mandatory avoidance and minimization of groundwater use and dewatering associated with existing permits you have issued in the Everglades basin.	Comment noted.
	Individual/Private Citizens or Businesses	
	Guy Hackett, 405 NE 23rd AVE, Cape Coral, Florida ghackett@comcast.net	
HAC 1	Please keep this road bicycle friendly. No obstructions in the shoulder, such as rumble strips, raised reflectors, or drainage grates. If any of these obstructions are required please keep them as far to the right as possible. Keep most of the 10 foot shoulder smooth and clear for skinny tire road bikes.	The shoulder for the proposed bridge would 10 feet wide and the shoulder for the rest of the road would be 5 feet paved plus 5 feet of grass. We do not plan to construct raised reflectors or rumble strips in the shoulder. Drainage features for the bridge would be located on the outermost edge of the shoulder and would not be expected to be in the travel path for bicycles.
	Sean R. Melvin, Partner, Island Bike Shop, Naples, FL seanmelvin@mac.com	
MEL 1	On this project keep the needs of cyclists in mind.. from the mom and dad to the guy putting in 400 miles a week we need a safe way to get around and putt in miles as well	The shoulder for the proposed bridge would 10 feet wide and the shoulder for the rest of the road would be 5 feet paved plus 5 feet of grass. We do not plan to construct raised reflectors or rumble strips in the shoulder. Drainage features for the bridge would be located on the outermost edge of the shoulder and would not be expected to be in the travel path for bicycles.
	JORGEMF@comcast.net	
JOR 1	Would the public meetings be an appropriate place to request that a bike/nature trail be instituted as part of this project?	Paved shoulders along this segment of Tamiami Trail will be 5 feet wide for most of the length and 10 feet wide on the proposed bridge.
	Mario Yanez, 8201 SW 99 Court, Miami, FL 33173 mario@earth-learning.org	
YAN 1	The 1-mile bridge is so insufficient and is not the intent of the CERP. As you may remember, CERP's original intent was to restore the functionality of the Greater Everglades system. Please reconsider the implementing 11-mile SkyWay. Nothing short of that will suffice. Dare to make your work relevant to the health of the Greater Everglades.	We concur that the 11-mile bridge is the environmentally preferred plan that would provide maximum benefits, and that the TSP does not provide as many ecosystem benefits. However, the total cost of the 11-mile bridge alternative prevents its approval and funding.
	Dewey Steele, 22320 SW 256 Street, Homestead FL 33031 stee9190@bellsouth.net	

MWD TTM LRR Comments and Responses

STE 1	<p>In the past half century I have witnessed:</p> <ul style="list-style-type: none"> * water being blocked by the Tamiami Trail resulting in flooding of tree islands to the north and death and destruction of wildlife and habitat. * reduced water flow to the south resulting in destruction of habitat and algae build up in Florida Bay * polluted water being dumped into Biscayne and Manatee Bays destroying wildlife <p>I am totally opposed to beginning any project, such as a one mile bridge, that does not incorporate the idea of fully restoring water flow to the southern Everglades.</p>	<p>We concur that the TSP does not provide as many ecosystem benefits as alternatives with longer bridges. However, the total costs of the 2-mile + 1-mile bridges alternative and the 11-mile bridge alternative prevent their approval and funding.</p>
STE 2	<p>I am all for beginning a project immediately aimed at restoring historical water flow funded, in part, by Defense Department allocations, tourist taxes, rock mining per ton fees and development impact fees.</p>	<p>The Corps and the Everglades National Park also want construction to begin as soon as possible. The Corps of Engineers does not have authority to use these alternative sources of funds for the MWD project.</p>
LOF 1	<p>williamloftus@bellsouth.net</p> <p>While the proposed alternative may provide incremental benefit for the southern Everglades, it does not provide nearly the amount of flow across a wide-enough cross-section of Tamiami Trail to restore the hydrological conditions of Shark River Slough. Neither will it allow enough water to pass the western area of the cross-section near S-333 to alleviate flood conditions in WCA-3A during high rainfall years. Why throw good money after bad? It makes more sense to do this project correctly by elevating as much of the cross-section as possible, rather than spending millions doing an inadequate job. Only by eliminating this hydrological barrier will Shark River Slough begin its recovery.</p>	<p>We concur that the 11-mile bridge is the environmentally preferred plan that would provide maximum benefits, and that the TSP does not provide as many ecosystem benefits as alternatives with longer bridges. However, the total cost of the longer bridge alternative prevents their approval and funding under MWD.</p>
LOF 2	<p>Although the document states that the project is in compliance with EE 13112, it addresses only exotic plants. There are at least a dozen species of exotic fishes and several non-native snails in the canals that are not addresses in the document. How will the swales and any spreader canals affect populations of these animals and prevent their entry into the ENP?</p>	<p>Because technical disagreements exist regarding the ability to adequately simulate spreader swale performance, the NPS is taking the lead on a separate planning and NEPA process to consider a spreader swale pilot project and evaluate the potential effects of spreader swales along the Tamiami Trail.</p>
ARN 1	<p>Deb Arnason, 12 Dill St, Alva, FL 33920 DiamondteDeb@aol.com</p> <p>I urge the Army Corps to focus on the big picture in the Everglades, especially since we are spending \$billions to restore the Everglades, both within the State of Florida and Nationally to try to preserve our unique River of Grass. Please, do not put in a quick, cheap fix of a 1-mile bridge when the whole 11-mile Skyway is needed to solve the underlying problem to restore sheet flow in the Everglades.</p>	<p>We concur that the 11-mile bridge alternative would provide maximum benefits, and that the TSP does not provide as many ecosystem benefits. However, the total cost of the 11-mile bridge alternative prevents its approval and funding.</p>
ARN 2	<p>Since the Federal Government is spending half of the \$11 Billion budgeted to restore the Everglades, I encourage you, as a Federal Agency, to coordinate with Everglades Restoration to find the funds there to build the 11-mile skyway for the best solution, not just a quick fix. Half measures</p>	<p>We are continuing to coordinate with teams working on the Comprehensive Everglades Restoration Plan (CERP). The Water Resources Development Act of 2000 requires a separation of construction funds between MWD and CERP.</p>

MWD TTM LRR Comments and Responses

ARN 3	<p>will avail us nothing.</p> <p>Please review the comments by Dr Wanless, an expert on Florida and sea level rise, also a keynote speaker at the Everglades Coalition I attended on Sanibel with Governor Crist and other prominent political and environmental leaders in the State:</p> <p>* The science chair of Miami-Dade County's Global Warming Task Force and University of Miami Geology Chair, Dr. Harold Wanless, predicts a 3 to 5 foot sea level rise by 2100. He said that restoring natural historic flows may be pivotal to saving the Everglades. This week marks the 80th Anniversary of the completion of Tamiami Trail. In another 80 years, the road and much if not all the Everglades could be underwater if we don't make the right choices now. We hope State and Federal officials agree on a post-Mod Waters bridging plan by July to address these predictions.</p>	<p>The intent of MWD project is not to counteract sea level rise but to take steps to the extent practicable to restore the natural hydrologic condition within WCA-3B and NESRS.</p>
ARN 4	<p>Independent experts have said the bridge could be built in 4 years or less. The Skyway Coalition is investigating creative financing arrangements from state and federal governments and public/private partnerships. Tolling revenues from new and existing sources could be tapped for this effort. Please do not let monetary concerns prevent the Corps from doing the right thing for our Everglades. That would be "penny-wise and dollar-foolish"</p>	<p>We concur that the 11-mile bridge is the environmentally preferred plan that would provide maximum benefits, and that the TSP does not provide as many ecosystem benefits. However, the total cost of the 11-mile bridge alternative prevents its approval and funding through the MWD authority. We are not authorized to use these alternate funding methods at this time.</p>
SIE 1	<p>Robbie Siemon, 208 Ashworth St, West Palm Beach, FL 33405 rsiemon@hgdmain.net</p> <p>I support finishing the original Mod Waters Act of 1989 (nine years ago!!!) so that we can start restoration. We need to act not deliberately endlessly while the ecosystem dies. We can try to fund the bridge at a later time but let's get started.</p>	<p>Since 1989 the Corps' understanding of restoring NESRS has advanced and it is now understood that the culverts cannot pass sufficient water needed to restore, to the extent practical, NESRS without also addressing the safety of the Tamiami Trail.</p>
AVO 1	<p>Michelle Avola, michelle@naplespathways.org</p> <p>PLEASE do not to allow your project to prevent, impede or delay construction of the "River of Grass Greenway". Also, cyclists should be considered in bridge designs (e.g., should be free of obstructions such as rumble strips, raised reflectors, and drainage grates).</p>	<p>The shoulder for the proposed bridge would 10 feet wide and the shoulder for the rest of the road would be 5 feet paved plus 5 feet of grass. We do not plan to construct raised reflectors or rumble strips in the shoulder. Drainage features for the bridge would be located on the outermost edge of the shoulder and would not be expected to be in the travel path for bicycles.</p>
DEI 1	<p>Deux42@aol.com</p> <p>Access for sportsman, and airboat is not avail., north or south, of Trail and should be.</p> <p>Access to area 3a, for airboat in case of plane crash is not avail., and should be.</p> <p>Flowage easement to Airboat Association of Florida, should NOT change day to day operations, or recreation access.</p> <p>The bridge, is too expensive, the 55 curvets will flow enough with higher water level in L-29</p>	<p>No effects on boat ramps or non-commercial airboating and related activities would occur. Even during high-water events, the bridge would provide enough clearance for small airboats to access ENP and the L-29 Canal under the Trail.</p> <p>WCA 3A is not in the project area and would not be impacted by the tentatively selected plan.</p> <p>Obtaining a flowage easement from the Airboat Association would not change day-to-day operations or recreation access.</p>

MWD TTM LRR Comments and Responses

		<p>Flowing more water through the 55 culverts is not feasible. Studies subsequent to the 1992 General Design Memorandum showed that while the design volumes of water could indeed be passed through the culverts into NESRS, this flow rate through the culverts would only occur after water levels on the north side of the road increased enough to force water through. Such high levels would exceed a stage of 7.5 feet in L-29 canal, the level considered safe by Florida Department of Transportation (FDOT) standards. If levels higher than 7.5 feet were to occur regularly or persist for longer periods, they would make the road vulnerable to structural damage.</p>
	<p>Martha Musgrove, 2432 Edgewater Dr., West Palm Beach, FL 33406, malmusgrove@yahoo.com, May 11, 2008</p>	
MUS 1	<p>I support your proposed plan to build a Tamiami Trail bridge to complete the Modified Waters Delivery Project. This will allow more water to flow into the Northeast Shark River Slough section of Everglades National Park, and it will clear the way to implement additional Everglades Restoration projects (known locally as decompartmentalization and sheetflow enhancement) to restore sheetflow through Conservation Area 3. Completion of the Modified Water Deliveries Project has been too long delayed.</p>	<p>Thank you for expressing your support for the TSP.</p>
MUS 2	<p>Ultimately Tamiami Trail will have to become a series of bridges to pass all the water needed to ensure the viability of Everglades National Park. That goal begins with construction of the first bridge, for which I hope Congress will appropriate what is necessary.</p>	<p>Studies of further openings in Tamiami Trail are expected to begin soon. An initial workshop or meeting for future conveyance through Tamiami Trail is being planned tentatively for July or August 2008. Additional details on this event will be made public as soon as they are available.</p>
MUS 3	<p>I have followed these issues for many years. It is my considered opinion that there is nothing the COE or Congress could do this year that would provide more direct benefits to Everglades National Park. Those of us committed to saving and restoring the Everglades recognize that it is irresponsible to let our pursuit of perfection trample the good.</p>	<p>Thank you for expressing your support for the TSP. We recognize that there are alternatives in the LRR that would provide more ecosystem benefits than the TSP. However, the total costs of these alternatives prevent their approval and funding at this time under MWD.</p>
	<p>Stan Carlin, Gator Park P. O. Box 517, Melbourne FL 32902-0517; 321-729-8387 * 305-559-4136</p>	
CAR 1	<p>In 1992 and 1993 White Construction repaved roadway and extended 8' to 10' south, and extended culverts one length south. White Construction said 80% or more of existing culverts were clogged with mud and trash. We asked if they were cleaning out the culverts so water could flow 100%. White Construction said "no" because it was not in their contract. There has also been no maintenance on the water distribution canals that run south of the culverts. A clean out/maintenance contract should be issued now for all clogged culverts and canals so 100% of even water flow would be restored this year. This could be done rapidly and would be cost effective.</p>	<p>In recent years, the culverts have been maintained by Florida Department of Transportation and are clean. The areas south of the existing culverts are owned by and maintained by Everglades National Park. The vegetation that is blocking the downstream flow from the culverts will be addressed under a separate project.</p>

MWD TTM LRR Comments and Responses

BER 1	<p>Catherine Bernabei, 1713 SW 103 Pl., Miami, FL 33165</p> <p>Please build the one-mile bridge ASAP!! And let's keep the hope alive for a 10.7 mile skyway! We need to do what is right by the creatures of the Glades, return to them a healthy home, their habitat. The world is watching what we do with this precious Heritage Site! A workforce of volunteers (similar to Baynanza, or prison-force – not far from Evergl. N. P. is a prison) can keep the culverts clean, and also water flowing under the bridge. Money can come from selling plaques to attach to bridge (or bricks) with donors' names. Many billionaires in America. Thank you for what you are doing, but hurry!</p> <p>Public Meeting (22Apr2008) Comments</p> <p>Joe Holland</p>	<p>Thank you for your support for the TSP.</p> <p>We concur that the 11-mile bridge is the environmentally preferred plan that would provide maximum benefits, and that the TSP does not provide as many ecosystem benefits.</p> <p>The MWD project is not authorized at this time to use these sources of labor and funds.</p>
HOL 1	<p>I feel unencumbered in urging you to look at funding while expanding traffic and getting somewhere. I am encouraging continuity in phasing from 1-mile to 10-mile projects, because costs will only increase. Also look at efficiencies in mobilization. Let's do everything we can to go from 1-mile to 10-mile.</p> <p>Julie Hill, Audubon of Florida</p> <p>We know that this is not the perfect plan. We hope to see more than a 1-mile plan. Hope to see a formal statement indicating the next steps to get more. We will not be satisfied with this twenty years from now.</p>	<p>Planning for future conveyance under Tamiami Trail will continue as soon as this study is complete. A workshop or meeting is being planned tentatively for July or August 2008. The public will be notified as soon as details become available.</p>
HIL 1	<p>Future conveyance under Tamiami Trail will be considered at a workshop or meeting planned tentatively for July or August 2008. The public will be advised of the workshop/meeting as soon as additional details are available.</p>	<p>Future conveyance under Tamiami Trail will be considered at a workshop or meeting planned tentatively for July or August 2008. The public will be advised of the workshop/meeting as soon as additional details are available.</p>
MOR 1	<p>Larry Morrison</p> <p>Miami Beach will probably underwater in the future because we are not doing what is right --- build the long bridge. Sorry to hear that it can't be done.</p> <p>Charles Radner, Trust</p>	<p>Comment noted.</p>
RAD 1	<p>I have a question about the location of the bridge. It looks as if it is on the south side of the Tamiami Trail. How was the location selected, who owns that land, and what was the cost to secure it?</p>	<p>It is south of the trail for 2 reasons. We do not have to stop traffic during construction. Also, ENP owns most of it, so it is cheaper in the long run.</p>
RIE 1	<p>Mr. Riedi, Miccosukee Tribe</p> <p>The Miccosukee Tribe is opposed to the bridge. The bridge does not complete MWD, which needs to be completed.</p>	<p>Tamiami Trail modification is not the only feature of MWD that remains to be completed. Additional work is needed for L-67A, L-67C, L-67 Extension, Osceola Camp, and a new operations plan.</p>
RIE 2	<p>The road bed needs to be raised. There are no concrete plans to raise the road.</p>	<p>After the road reinforcement described in the LRR is complete, the road will be higher.</p>
RIE 3	<p>In order to increase water to the park you must increase the water available.</p>	<p>Concur. In order to increase the water delivered to Northeast Shark River Slough of ENP, there must be more water available in the L-29 Canal.</p>
RIE 4	<p>We are concerned about the excessive costs of this plan. We believe that it will be more expensive. I am confident that it will cost more.</p>	<p>The cost estimates presented in the draft LRR include risk analysis procedures and represent the 90 percent confidence not likely to exceed level.</p>

MWD TTM LRR Comments and Responses

RIE 5	<p>The first thing that needs to happen is to clean out the culverts. Pictures show that they are clogged. Flow efficiency has dropped since they have been built. The flow is impeded by Brazilian pepper and sediment build up. We hope that you will consider clean out.</p>	<p>In part due to substantial differences of opinion among agencies on the effectiveness of vegetation and sediment removal for improving flow through the culverts, a Pilot Study has been proposed. ENP has initiated a separate NEPA analysis on whether to implement the Pilot Study.</p>
FAI 1	<p>Sara Fain, National Parks Conservation Association This plan falls short. The plan is a only a first step which will provide more water flow into ENP. I am glad that you have the bridge, which does help with the connectivity. But it is just a step. We need to get LRR done and we desire a commitment from Corps and DOI on what the next steps are. Let's move decompartmentalization forward. What are the next steps to truly restore the Everglades?</p>	<p>The study team recognizes that some of the alternatives in the draft LRR would provide more ecosystem benefits than the TSP. The decompartmentalization study in CERP is one of the major efforts toward future steps for restoration of the Everglades.</p>
LEN 1	<p>Dr. Thomas Van Lent, Everglades Foundation MWD project needs to move forward. I am glad there is a bridge and support and glad that stage targets moved from 8.0 feet to 8.5 feet. I would like to see the Corps get out of the bridge building business and see FDOT get more involved and help solve the TTM. We were expecting more. I am looking forward to a clear way forward in the short term and the long term. Let's remove obstacles that are slowing us down – L30 and DECOMP of CERP. I would like to see this project implemented.</p>	<p>Thank you for expressing your support for the TSP. We recognize that there are alternatives in the LRR that would provide more ecosystem benefits than the TSP. However, the total costs of these alternatives prevent their approval and funding at this time under MWD. Studies of further openings in Tamiami Trail are expected to begin soon. An initial workshop or meeting for future conveyance through Tamiami Trail is being planned tentatively for July or August 2008. Additional details on this event will be made public as soon as they are available.</p>
LEN 2	<p>I want to be sure reinforcement includes pavement to support 8.5 foot stage.</p>	<p>The plan does include reinforcement to support 8.5 foot stage.</p>
PER 1	<p>Rick Persson, SAFER I oppose any alternatives that adversely impact the business south of the Trail. It is the least expensive way.</p>	<p>Although acquisition of a construction easement from FP&L would be needed, none of the airboat touring businesses would be directly affected by construction activities. However, the project provides the opportunity for increased water levels south of the highway, which would increase the potential for the businesses to be impacted by flooding. The Real Estate Plan (Appendix F) concluded that perpetual and occasional flowage easements from businesses would be required to provide compensation for flooding potential.</p>
BRY 1	<p>Albert Bryan, President of Conservation Club We have asked to have airboat access from the north to the south. At some point, will we need this access for emergencies.</p>	<p>Airboat access would not be changed by the tentatively selected plan.</p>
BRY 2	<p>There is a need to have ground access for bank fishing, rest stops, or parking for recreation. There should be access for hunting or fishing.</p>	<p>We anticipate that Florida Department of Transportation would prohibit fishing from the proposed bridge and approaches. Bank fishing from the unbridged road would remain similar to current conditions. Due to wetlands and water along each side of the road, no additional rest areas or parking areas are planned at this time.</p>

MWD TTM LRR Comments and Responses

BRY 3	What is the level in 3B going to be? How high is the water going to be? What is the normal hydroperiod?	The objective of the MWD Project is not only to restore the natural hydrologic conditions within NESRS but to reconnect WCA-3B as an integral part of the Everglades system. As flows are passed from WCA-3A to WCA-3B to ENP the stages will decrease from area to area. For example if the L-29 BC was being held at 8.5 ft the stage in the southern part of WCA-3B would be slightly higher dependent upon the flow volume going through the structures in the L-29 levee and the resistance of the marsh within WCA-3B to pass that volume to the structure. This would increase the stage approximately 0.1-0.5 feet or more dependent on stages and volume of flow. Very good point. We need to work on this point during the operations.
BRY 4	Target is on the high side. Are you aware that we are going to wipe out all of the fur bearing animals if we add 15 inches or more, which is a waste land?	
UNK 1	Unknown Meeting Attendee The money that was spent so far probably could have built the project already. Has Dade County put any money into this project? Why aren't they?	Dade County has not contributed funds.
UNK 2	Has the culture been studied? Are we making provisions for Everglades Safari, Cooperstown, etc.?	We are looking at cultural resources
UNK 1	Unknown Meeting Attendee You should be working with the community and I would be happy to serve on a Task Force. Has any one asked us about our culture? I would like my kids to see it the way it is and was.	We are looking at cultural resources.
UNK 2	Should these bridges be tied into the sloughs? It seems like common sense.	All valid points.
LOD 1	Dr. Tom Lodge, author of the Everglades Handbook We still do not know what is all needed to promote ridge and slough, but we are fairly certain that it has to do with the extremes – catastrophic events. In communication with Fred Dayton, enormous amounts of water flow over the trail during two catastrophic hurricanes in 1947. WCA 3B was probably 6 ft deep during 1947 hurricane. It is a mistake not bridging the entire area for accommodating the flows that we are hoping to reattain. I advocate for allowance massive flows.	We concur that the 11-mile bridge is the environmentally preferred plan that would provide maximum benefits, and that the TSP does not provide as many ecosystem benefits. Future conveyance under Tamiami Trail will be considered at a workshop or meeting planned tentatively for July or August 2008. The public will be advised of the workshop/meeting as soon as additional details are available.
DEN 1	Frank Denninger On page B-1: reinforcement – 8.0 foot versus 8.5 foot. Lowest portions of road to clear for 8.0 foot not 8.5 foot.	We will definitely correct it.
ROW 1	Bruce Rowlett In 2005, Alternative 14 was selected and recommended, because 55 culverts were not moving water through Shark Valley. An 11-mile bridge would allow sheet flow, which seems most logical. A 2-mile and 1-mile bridge total only 5,000 – 10,000 feet. Why only these small openings for the water to flow to the Everglades? Let the water flow freely. There are 10 egresses for the 11 miles for the business. Just tell congress to appropriate the	We concur that the 11-mile bridge is the environmentally preferred plan that would provide maximum benefits, and that the TSP does not provide as many ecosystem benefits.

MWD TTM LRR Comments and Responses

	<p>money. There should be a bridge from Krome to 30-mile bend to allow sheet flow. I've been out there 50 years. Get the money from congress.</p> <p>Bill Hutchinson</p>	
HUT 1	<p>We cannot always afford what we want. Thank you for selecting a reasonable alternative. It is reasonably scoped and has a positive benefit/cost ratio.</p>	<p>??</p> <p>Thank you for expressing your support.</p>
HUT 2	<p>Have you all engaged in a futurist, or what would you like or dislike about the project 50 years from now? Are there things that you will have to undo? Have you looked way out in the future for adverse impacts?</p>	<p>We are trying to keep the project compatible with CERP and the future. We do not want to build something only to have to rip it out later. We wanted to minimize having to redo projects. The team made sure that there is compatibility with future projects.</p> <p>We will try to do better in not using acronyms.</p>
HUT 3	<p>Please use fewer abbreviations. I need to reconstruct the acronym.</p> <p>Catherine Burnabei, Sierra Club leader</p>	
BER 1	<p>Can we build with recycled materials? Other countries do it (Yangtze River Bridge in China, bridge in Germany). This would bring the costs down.</p>	<p>This will be an option that the contractor may consider. The Corps, FDOT and FDEP have regulations regarding which materials may and/or may not be suitable for use or recycle, and the construction will be strictly according to Corps, State of Florida DOT and environmental regulations.</p>
BER 2	<p>Can prisoners be put to work?</p>	<p>We do not have authority to use this source of labor.</p>
BER 3	<p>I heard and agree with Miccosukee – why is there not a plan to keep the 55 culverts clean.</p> <p>Fred ?, 8.5SMA</p>	<p>Culverts are inspected regularly, and monitored by USGS with photo cameras. The interiors are clean. Downstream they have concerns.</p>
FRD 1	<p>On the south side of Tamiami there is a spoil bank. Wildlife use it. Is there some mitigation opportunity for introduction of tree islands?</p>	<p>They are very natural tree islands. The tree island is on the embankment of the road and that is not going to change. We are only changing the approaches to the bridge.</p>
UKA 1	<p>Unknown Meeting Attendee</p> <p>I support the two bridges.</p> <p>Aren't we trying to deliver 5500 cfs? Will you have the capacity to move the MWD target? Will you still need an increase in stage? Don't we want some kind of weir so that we do not dry out?</p>	<p>Congress originally under The Everglades National Park Protection and Expansion Act (PL 101-229) Sec 104(a) (1) did not authorize a specific flow rate but states:</p> <p>“Upon completion of a final report by the Chief of the Army Corps of Engineers, the Secretary of the Army, in consultation with the Secretary, is authorized and directed to construct modifications to the Central and Southern Florida Project to improve water deliveries into the park and shall, to the extent practicable, take steps to restore the natural hydrological conditions within the park.”</p> <p>The goal of MWD is to the extent practicable take steps to restore the natural hydrologic conditions within the park. The restoration of NESRS is not based on any specific flow rate but rather having the ability to reproduce a natural hydroperiod within NESRS. See Section 4 of Appendix D.</p>

MWD TTM LRR Comments and Responses

		Yes, an increase in stage is required for restoration of NESRS. Cost and stage constraints have limitations on what can flow.
	Keith Price	
PRI 1	I work at the SFWMD. I have personally flown the camera through each one and had to wrestle one of the cameras from an alligator.	Comment noted. Thank you.
PRI 2	I work on Sundays as president of Airboat Association. Every alternative has been okay but they all run into cost concerns. Governors have only stepped in to cut taxes. Projects are reduced, and we are having to do more with less.	We have worked to make the tentatively selected plan meet cost requirements set by Congress. We hope that the plan will be funded.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

May 9, 2008

Colonel Paul Grosskruger
Commander
United States Army Corps of Engineers
Jacksonville District
P.O. Box 4970
Jacksonville, FL 32232-0019

Dear Colonel Grosskruger:

Thank you for the opportunity to review and provide comments on the April 2008 *Modified Water Deliveries to Everglades National Park, Tamiami Trail Modification Limited Reevaluation Report and Environmental Assessment (LRR/EA), Miami-Dade County, Florida*. We appreciate the collaborative approach employed in producing the LRR/EA through the joint efforts of your staff and staff from the National Park Service and U.S. Fish and Wildlife Service.

The Department of Interior supports the Tentatively Selected Plan, Alternative 3.2.2a, which combines the installation of a 1 mile bridge in the eastern location along Tamiami Trail (U.S. 41) with raising the stage constraint at L-29 Canal by one foot, to 8.5 feet, and providing road mitigation to this level. As stated in the LRR/EA, the project provides water flow benefits consistent with the congressional direction, increases the ecosystem performance outputs, and is compatible with future Comprehensive Everglades Restoration Plan improvements.

We look forward to our continued coordination with you on the completion of this important document. We have additional clarifying comments which we will provide separately. We are committed to working towards the completion of the remaining features of the overall Modified Water Deliveries Project, especially the conveyance and seepage plans and the revised Operating Plan. In addition, we look forward to the start up and participation in the development of Phase 2 for the Tamiami Trail.

Sincerely,

Terrence C. Salt
Director of Everglades Restoration Initiatives



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

May 8, 2008

Dr. Rebecca S. Griffith
Chief, Planning Division
U.S. Army Corps of Engineers
Jacksonville District
P.O. Box 4970
Jacksonville, FL 32232-0019

Subject: EPA NEPA Comments on the COE's "Modified Water Deliveries to Everglades National Park, Tamiami Trail Modifications, Limited Reevaluation Report and Environmental Assessment"; Broward and Monroe Counties, FL

Dear Dr. Griffith:

Consistent with our responsibilities under Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has reviewed the subject U.S. Army Corps of Engineers' (COE) Environmental Assessment (EA) for improvements to a section of Tamiami Trail (US 41). These structural improvements would increase water flows to the Everglades consistent with the COE's 1992 Modified Water Deliveries ("Mod Waters") memorandum and plan.

The proposed project includes both bridging portions of the Tamiami Trail and raising the elevation of the roadway. Specifically, a 1-mile bridge is proposed to replace an eastern portion of the roadway to increase flows from Water Conservation Area (WCA) 3B and the L-29 Canal above the Tamiami Trail to the Northeast Shark River Slough, the historic primary flow-way in the Everglades below the Trail. The project would be constructed on a 10.7-mile section of Tamiami Trail between S-333 to the west and S-334 to the east. Flows are currently conveyed through culverts under the Trail roadbed, which are inadequate to deliver ecologically beneficial volumes to the Everglades (specifically the Everglades National Park: ENP), cannot accommodate flooding volumes and restrict flows to discrete points. Flows of at least 1,400 cfs would benefit the rehydration of the Everglades by increasing water flows and distribution southward, while flows of 4,000 cfs would need to be accommodated during the rainy season to prevent the flooding of the roadbed and drowning of tree islands in WCA 3B backwaters.

Although compatible with the Comprehensive Everglades Restoration Plan (CERP), this project has a long history that pre-dates CERP and has been significantly modified over the years. In 2005, an COE EIS was completed that proposed (Alternative 14) two bridges along this stretch of Tamiami Trail – a 1-mile bridge in the eastern portion (similar to the present proposal) plus a second 2-mile bridge in the western

portion. This COE-approved proposal was submitted to Congress for approval; however, due to high costs (\$144M escalating to \$452M), this project was not funded by Congress. Instead, the Congressional managers directed the COE to identify and resubmit a lower-cost plan that was still consistent with Mod Waters. The present EA constitutes that resubmittal. The preferred alternative (tentatively selected plan) for the present proposal (Alternative 3.2.2.a) provides an eastern 1-mile bridge and elevates the roadbed and the L-29 Levee by one foot to an 8.5-ft elevation at a cost of \$244M.

Overall, EPA believes that the proposed plan clearly improves the southward flows, distribution and timing of WCA-3B waters and should benefit Everglades restoration. However, while we understand funding constraints, the 2005 plan was superior in terms of ecological benefits since more culverts would be replaced by the two bridges (total of 3 miles spanned) compared to the proposed one bridge (1 mile spanned). Specifically, the former 2005 plan would have further increased ENP rehydration and associated creation of downstream wetlands, wetland-upland habitat and foraging areas for wading birds, as well as resulted in less need for water management upstream in WCA-3B (i.e., conveying excess water eastward to tide). Nevertheless, given the funding constraints and Congressional directive as well as the benefits of this revised bridging proposal, EPA supports the tentatively selected plan to construct one 1-mile bridge along Tamiami Trail and to elevate the Trail consistent with Florida DOT standards.

Notwithstanding our project support, a hybrid alternative may exist of one bridge in combination with an increased number of culverts in the unbridged portion of the Trail to further increase the ecological performance downstream. However, based on page iv of the EA, we understand that "...doubling the number of culverts alone..." was more costly than Alternative 14 selected in the 2005 EIS. The Final EA (FEA), or potential Finding of No Significant Impact (FONSI), should verify if additional culverts in combination with the 1-mile bridge would be cost-effective.

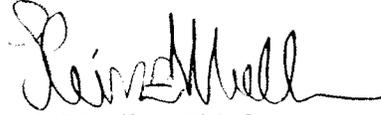
Because of downstream environmental needs and escalating costs, EPA recommends expedited implementation of the tentatively selected plan. We also recommend that flows and downstream effects be monitored in the Everglades to ensure project success. In this regard, we understand that a follow-on project is proposed for the near future (i.e., Tamiami Trail Swale pilot project: National Park Service/COE co-lead). This swale pilot project would propose the construction of 1,000-ft long swales on the south side of Tamiami Trail at two locations. The project would help determine whether the swales, in addition to the proposed 1-mile bridging and upstream canal increase to 8.5 feet in L-29, will significantly improve flows south into the ENP.

The swale pilot project, to the extent that it is foreseeable, should also be added to the EA's cumulative impacts matrix (Table 5-5) listing the "past, present and reasonably foreseeable actions and plans affecting the study area". In addition, we recommend that the expected impacts, both positive and negative, of all the projects listed in this matrix also be at least qualitatively documented in the matrix. That is, while the EA discusses

the general effects of these projects on common resources (ENP, Northeast Shark River Slough, water quality), the document could be improved if the expected impacts (e.g., increased turbidity and sedimentation) and improvements (increased southward flows and nutrient reduction) of each project was also listed. Likewise, the pending NEPA document for the swale project should include discussion of the present Tamiami Trail bridging project (if approved) in its cumulative impacts section.

We appreciate the opportunity to review the EA. Should you have questions regarding our comments, feel free to contact Chris Hoberg of my staff for NEPA-related issues (404/562-9619 or hoberg.chris@epa.gov) or Eric Hughes in our EPA Water Management Division (located in your Jacksonville District office) for technical issues (904/232-2464 or hughes.eric@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Heinz Mueller", with a long horizontal flourish extending to the right.

Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management



Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

May 19, 2008

Mr. Bradley A. Foster
Jacksonville District, Planning Division
U. S. Army Corps of Engineers
P. O. Box 4970
Jacksonville, FL 32232-0019

RE: Department of the Army, Jacksonville District Corps of Engineers - Draft Limited Reevaluation Report and Environmental Assessment (LRR/EA) on the Modified Water Deliveries to Everglades National Park, Tamiami Trail Modification - Miami-Dade County, Florida.
SAI # FL200804154170C (Reference SAI # FL200802053982C)

Dear Mr. Foster:

The Florida State Clearinghouse, pursuant to Presidential Executive Order 12372, Gubernatorial Executive Order 95-359, the Coastal Zone Management Act, 16 U.S.C. §§ 1451-1464, as amended, and the National Environmental Policy Act, 42 U.S.C. §§ 4321, 4331-4335, 4341-4347, as amended, has coordinated a review of the Draft Limited Reevaluation Report and Environmental Assessment (LRR/EA).

The Florida Department of Environmental Protection (DEP) notes that, since the Water Resource Development Act (WRDA) of 2000 requires construction of Modified Water Deliveries to Everglades National Park prior to implementing significant components of the Comprehensive Everglades Restoration Plan, staff strongly supports implementation of Alternative 3.2.2.a without further delay. Given cost constraints imposed in WRDA 2007, the tentatively selected plan offers the best incremental approach to reconnect the Everglades and restore more natural flows to Everglades National Park and Florida Bay. Although reduced from the previously recommended alternative which consisted of two bridges, the one-mile bridge continues to provide significant ecological benefits by improving connectivity and conveyance between the waters north of the Trail and the downstream wetlands and sloughs within Everglades National Park. DEP reiterates its previous comments supporting moving forward with maintenance/flow way equalization swales as part of the Tamiami Trail project and including NEPA coverage of the pilot swale project within the subject LRR. Please see the attached DEP memorandum for further details and specific comments on the Draft LRR/EA.

Mr. Bradley A. Foster
May 19, 2008
Page 2 of 3

The Florida Department of Transportation (FDOT) has expressed serious concerns regarding the USACE's plans to compensate FDOT with funds rather than constructing the substitute facility. Discrepancies between the 20-year, 24-hour stage design high water elevation versus the canal stage or operational elevation are also unresolved at this time. Please continue to consult with FDOT staff to resolve these and other water level, roadway design, scheduling and easement concerns as soon as possible. Please refer to the enclosed FDOT letter for additional information.

The Florida Fish and Wildlife Conservation Commission (FWC) notes that the detailed comments, concerns and recommendations provided on the project over the years since 2000 remain valid. Staff supports Alternative 3.2.2.a, which raises the lower section of roadway one foot above the existing operating stage and adds the one-mile bridge, as the tentatively selected plan. Although the draft LRR/EA mentions that conveyance over the remainder of Tamiami Trail would be provided through culvert improvements, it included no details. Strategic placement of box culverts at historic sloughs and/or aligned with the S-355 and other water conveyance structures in the L-29 levee, in conjunction with downstream spreader swales, would greatly augment hydraulic and ecological connectivity. Though the FWC fully supports the ecological benefits expected from the proposed project and will continue to work closely with the Corps of Engineers through the project's implementation, staff requests that the concerns and recommendations contained in the enclosed FWC letter and previous letters conveyed over the past eight years be addressed.

The Florida Department of Agriculture and Consumer Services (FDACS) appreciates the opportunity to provide comments on the Draft LRR/EA and notes that the potential for negative impacts on the Homestead agricultural community is FDACS' area of interest. The FDACS has expressed concerns that a rise in water elevations in Northeast Shark River Slough will result in the diversion of more seepage from the Park to south Miami-Dade County through the L-31N and C-111 canals unless this proposal includes a firm commitment to operate the S-356 pump station as recommended in the CSOP process. This diversion of unwanted seepage has been a significant problem for the last 20 years and the S-356 structure was authorized, designed and built specifically to address the problem. Unfortunately, the Corps of Engineers has not been able to operate the pump, even though it was constructed years ago. In addition, the G-3273 constraint on operating S-333 must not be removed until all the permits needed to operate S-356 per the operational protocol proposed in the Combined Structural and Operational Plan (CSOP) are obtained and the Corps' Water Control Plan is updated to show the use of S-356. For further information and assistance, please contact Mr. W. Ray Scott at (850) 410-6714.

The Florida Department of State (DOS) indicates that raising the elevation of the Tamiami Trail roadway on an elevated bridge structure will have an adverse effect on the integrity of an historic property that has been determined eligible for listing on the *National Register*

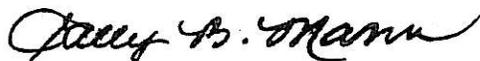
Mr. Bradley A. Foster
May 19, 2008
Page 3 of 3

of *Historic Places* (Site No. 8DA6510). In addition, the Airboat Association of Florida headquarters (8DA6768) and the Coopertown Airboat Rides and Restaurant property (8DA6767) are eligible for listing in the *National Register*. Although the Tamiami Canal (8DA6766) was previously determined to be eligible for listing, staff questions that finding since the canal has become a major water control and movement structure. As there are several cultural resources within the area of potential effect, staff looks forward to continued consultation and coordination with the Corps of Engineers to complete the environmental and historic preservation documents in fulfillment of all requirements. Please see the enclosed DOS letter for additional information.

Based on the information contained in the Draft LRR/EA and the enclosed state agency comments, the state has determined that, at this stage, the proposed federal action is consistent with the Florida Coastal Management Program (FCMP). The concerns identified by our reviewing agencies must be addressed, however, prior to project implementation. The state's continued concurrence with the project will be based, in part, on the adequate resolution of issues identified during this and subsequent reviews. The state's final concurrence of the project's consistency with the FCMP will be determined during the environmental permitting stage.

Thank you for the opportunity to review the proposed project. Should you have any questions regarding this letter, please contact Mr. Chris Stahl at (850) 245-2169.

Yours sincerely,



Sally B. Mann, Director
Office of Intergovernmental Programs

SBM/cjs
Enclosures

cc: John Outland, DEP, MS 45
Stacey Feken, DEP, MS 3560
Tim Gray, DEP, Southeast District
Lisa Stone, FDOT
Marjorie Bixby, FDOT, District VI
Mary Ann Poole, FWC
Forrest Watson, FDACS
Ray Scott, FDACS
Laura Kammerer, DOS



Florida

Department of Environmental Protection

"More Protection. Less Process"



Categories

[DEP Home](#) | [OIP Home](#) | [Contact DEP](#) | [Search](#) | [DEP Site Map](#)

Project Information	
Project:	FL200804154170C
Comments Due:	05/15/2008
Letter Due:	05/28/2008
Description:	DEPARTMENT OF THE ARMY, JACKSONVILLE DISTRICT CORPS OF ENGINEERS - DRAFT LIMITED REEVALUATION REPORT AND ENVIRONMENTAL ASSESSMENT (LRR/EA) ON THE MODIFIED WATER DELIVERIES TO EVERGLADES NATIONAL PARK, TAMIAMI TRAIL MODIFICATION - MIAMI-DADE COUNTY, FLORIDA.
Keywords:	ACOE - LRR/EA MOD WATER DELIVERIES, TAMIAMI TRAIL MODIFICATION - MIAMI-DADE CO.
CFDA #:	99.997
Agency Comments:	
SOUTH FL RPC - SOUTH FLORIDA REGIONAL PLANNING COUNCIL	
The South Florida Regional Planning Council generally agrees that recommended Alternative 3.2.2.a will benefit the South Florida region and will further their goals for a more livable, sustainable and competitive South Florida. The goal of restoring the natural hydrologic conditions to Everglades National Park is generally consistent with the "Strategic Regional Policy Plan for South Florida."	
MIAMI-DADE -	
AGRICULTURE - FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES	
The Florida Department of Agriculture and Consumer Services (FDACS) appreciates the opportunity to provide comments on the Draft Limited Reevaluation Report and Environmental Assessment (LRR/EA) for the Modified Water Deliveries to Everglades National Park, Tamiami Trail Modification - Miami-Dade County, Florida. The potential for negative impacts on the Homestead agricultural community is our area of interest. FDACS is concerned that a rise in water elevations in Northeast Shark River Slough will result in the diversion of more seepage from the Park to south Miami-Dade County through the L-31N and C-111 canals unless this proposal includes a firm commitment to operate the S-356 pump station as recommended in the CSOP process. This diversion of unwanted seepage has been a significant problem for the last 20 years and the S-356 structure was authorized, designed and built specifically to address the problem. Unfortunately, the Corps has not been able to operate the pump, even though it was constructed years ago. In addition, the G-3273 constraint on operating S-333 must not be removed until all the permits needed to operate S-356 per the operational protocol proposed in the Combined Structural and Operational Plan (CSOP) are obtained and the Corps' Water Control Plan is updated to show the use of S-356. FDACS appreciates the opportunity to provide comments on the Draft Limited Reevaluation Report and Environmental Assessment (LRR/EA) for the Modified Water Deliveries to Everglades National Park, Tamiami Trail Modification - Miami-Dade County, Florida. If you have questions regarding FDACS' comments, please contact Mr. W. Ray Scott at (850) 410-6714.	
FISH and WILDLIFE COMMISSION - FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION	
The Florida Fish and Wildlife Conservation Commission (FWC) notes that the detailed comments, concerns and recommendations provided on the project over the years since 2000 remain valid. Staff supports Alternative 3.2.2a, which raises the unbridged roadway one foot above the existing operating stage and adds the one-mile bridge, as the tentatively selected plan. Although the draft LRR mentions that conveyance over the remainder of Tamiami Trail would be provided through culvert improvements, it included no details. Strategic placement of box culverts at historic sloughs and/or aligned with the S-355 and other water conveyance structures in the L-29 levee, in conjunction with downstream spreader swales,	

would greatly augment hydraulic and ecological connectivity. Though the FWC fully supports the ecological benefits expected from the proposed project and will continue to work closely with the Corps of Engineers through the project's implementation, staff requests that the concerns and recommendations contained in the enclosed FWC letter and previous letters conveyed over the past eight years be addressed.

STATE - FLORIDA DEPARTMENT OF STATE

The DOS indicates that raising the elevation of the Tamiami Trail roadway on an elevated bridge structure will have an adverse effect on the integrity of an historic property that has been determined eligible for listing on the National Register of Historic Places (Site No. 8DA6510). In addition, the Airboat Association of Florida headquarters (8DA6768) and the Coopertown Airboat Rides and Restaurant property (8DA6767) are eligible for listing in the National Register. Although the Tamiami Canal (8DA6766) was previously determined to be eligible for listing, staff questions that finding since the canal has become a major water control and movement structure. As there are several cultural resources within the area of potential effect, staff looks forward to continued consultation and coordination with the Corps of Engineers to complete the environmental and historic preservation documents in fulfillment of all requirements.

TRANSPORTATION - FLORIDA DEPARTMENT OF TRANSPORTATION

The FDOT has expressed serious concerns regarding the USACE's plans to compensate FDOT with funds rather than constructing the substitute facility. Discrepancies between the 20-year, 24-hour stage design high water elevation versus the canal stage or operational elevation are also unresolved at this time. Please continue to consult with FDOT staff to resolve these and other water level, roadway design, scheduling and easement concerns as soon as possible.

ENVIRONMENTAL PROTECTION - FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

The DEP notes that, since the Water Resource Development Act (WRDA) of 2000 requires construction of Modified Water Deliveries to Everglades National Park prior to implementing significant components of the Comprehensive Everglades Restoration Plan, staff strongly supports implementation of Alternative 3.2.2.a without further delay. Given cost constraints imposed in WRDA 2007, the tentatively selected plan offers the best incremental approach to reconnect the Everglades and restore more natural flows to Everglades National Park and Florida Bay. Although reduced from the previously recommended alternative which consisted of two bridges, the one-mile bridge continues to provide significant ecological benefits by improving connectivity and conveyance between the waters north of the Trail and the downstream wetlands and sloughs within Everglades National Park. DEP reiterates its previous comments supporting moving forward with maintenance/flow way equalization swales as part of the Tamiami Trail project and including NEPA coverage of the pilot swale project within the subject LRR. Please see the attached DEP memorandum for further details and specific comments on the Draft LRR/EA.

SOUTH FLORIDA WMD - SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Released Without Comment

For more information or to submit comments, please contact the Clearinghouse Office at:

3900 COMMONWEALTH BOULEVARD, M.S. 47
TALLAHASSEE, FLORIDA 32399-3000
TELEPHONE: (850) 245-2161
FAX: (850) 245-2190

Visit the [Clearinghouse Home Page](#) to query other projects.

[Copyright and Disclaimer](#)
[Privacy Statement](#)



Memorandum

TO: Florida State Clearinghouse

THROUGH: Stacey Feken
South Florida Restoration Section

FROM: John Outland and Inger Hansen

DATE: May 15, 2008

SUBJECT: Draft Limited Reevaluation Report and Environmental Assessment for the Tamiami Trail Modification, Modified Water Deliveries to Everglades National Park, Miami-Dade County, Florida

SAI #: FL08-4170

The Florida Department of Environmental Protection (Department) has reviewed the Tamiami Trail Limited Reevaluation Report (LRR) dated April 2008. Department staff has actively participated in the plan formulation process and has provided extensive comments on previous proposals. Please refer to the consolidated comments from prior document reviews associated with the project included as an attachment to our March 5, 2008 letter on the scoping notice for the LRR.

Background: The U.S. Army Corps of Engineers (Corps), National Park Service and U.S. Fish and Wildlife Service, have reevaluated alternatives to restore Everglades National Park (ENP) by redistributing and providing additional water conveyance into the Park through U.S. 41, Tamiami Trail. The tentatively selected plan (TSP), Alternative 3.2.2.a., consists of two actions: 1) build a one-mile long bridge in the project area's eastern segment, 2) raise the headwater stage constraint in the L-29 borrow Canal by 1 foot to 8.5 feet; which will require road mitigation on parts of U.S. 41, located between S-333 on the west and S-334 on the east. Additional conveyance over the remainder of Tamiami Trail would be provided through the use of the existing and improved culverts.

General Comments:

- The Water Resource Development Act (WRDA) of 2000 requires construction of Modified Water Deliveries to Everglades National Park (Mod Waters) prior to implementing significant components of the Comprehensive Everglades Restoration Plan (CERP) including WCA-3 Decompartmentalization. These projects are critical to the restoration of the greater Everglades and the Department strongly supports implementation of Alternative 3.2.2.a without further delay.

- Given cost constraints imposed in WRDA 2007, the tentatively selected plan (TSP) offers the best incremental approach to reconnect the Everglades and restore more natural flows to Everglades National Park and Florida Bay. The proposed one-mile bridge, raising the headwater stage constraint in the L-29 borrow Canal by 1 foot to 8.5 feet with associated road mitigation is also compatible with anticipated stages of 9.7 feet associated with future Everglades restoration project implementation.
- Though reduced from the previously recommended alternative which consisted of two bridges, the one bridge (Alternative 3.2.2.a) continues to provide significant ecological benefits by improving connectivity and conveyance between the waters north of the Trail and the downstream wetlands and sloughs within Everglades National Park. The TSP will provide a 92 percent increase in flows to ENP, a 47 percent increase in peak flows to Everglades National Park, providing a corridor for wildlife passage, and treatment of stormwater runoff from the bridge. In the long term, the project has the potential of increasing habitat connectivity between the park and remnant Everglades wetlands to the north when modifications to the L-29 levee have been completed.
- The improved conveyance and the associated benefits of the TSP are dependent upon the increased water elevations in the L-29 canal. The LRR states that the Department of Interior is responsible for securing real estate rights on seven privately owned properties along Tamiami Trail necessary to implement the TSP. The Department requests that the Department of Interior expedite securing such rights in order to ensure that project benefits can be realized as soon as possible.
- The Department would like to reiterate our previous comments that we are supportive of moving forward with maintenance / flow way equalization swales as part of the Tamiami Trail project and including NEPA coverage of the pilot swale project within the LRR.

Specific Comments:

1. P1-10. First paragraph makes reference to graphics in figure 4-10 for describing high levels, which this figure does not display.
2. Section 1, introduction. Since the 1992 General Design Memorandum, it has been evident that there is a need to raise the Osceola Camp in order to increase water levels in the L-29 canal. The LRR indicates that ENP is still negotiating with the Osceola family regarding how to implement mitigation for increased water levels. As with the other real estate issues surrounding the Mod Waters project, a timeframe and general plan for implementing such activities should be provided.
3. P 1-13. Third paragraph makes reference to WCA No 38.
4. P-1-16, section 1.8. Second bullet makes reference to 2002, 2006. Not sure where or what the 2006 refers to (perhaps the correct reference is 2007?).

5. P 3-5, third paragraph. Please provide the supporting documentation for the statement that water stages in WCA 3B are generally lower than in the L-29 canal.
6. Section 3.4. Water quality section contains old data and references that were presented in the 2003 GRR and are no longer applicable. Department staff worked with the Corps to revise this section for the 2005 GRR. We request that future revisions to the LRR include the most recent information.
7. Section 3, page 3-7: A Site Specific Alternative Criterion for Dissolved Oxygen in the Everglades Protection Area was adopted by the Department and subsequently approved by the U.S. Environmental Protection Agency in 2005.
8. Section 3, page 3-9, and Appendix F, page F-20. The LRR states that the Hazardous, Toxic, and Radioactive Waste (HTRW) site assessment identified four potential contamination sites. If the TSP results in impacts to these sites, the Environmental Assessment should include information on remediation. Any HTRW cleanup should be closely coordinated with the Department's Waste Cleanup Section in the Southeast District Office in West Palm Beach.
9. Page 3-11. Second paragraph indicates that Figure 3-1 shows ENP in south Florida, yet ENP is not identified in the figure, only the location of the project.
10. Section 3.11 Noise environment. Please provide some type of conclusion with respect to the implications regarding the peak hour noise levels presented.
11. Section 5.7.5. Impacts to State listed threatened and endangered species are not discussed.
12. Annex A, 2.6.1. A mixing zone has not yet been granted. This section should be revised to state that a mixing zone will be requested as part of the permit application.
13. Annex A, 3.3 The determination of whether the TSP will violate any applicable state water quality standards will be made after an adequate permit application has been received and reviewed by Department staff.
14. Appendix F. d. Operation and Maintenance requirements. Details of the "research" that is referred to should be provided. This statement is misleading and should be revised.
15. Appendix G. The Department's comments are not included in the summary of scoping comments. Please refer to our March 2008 letter submitted through the State Clearinghouse, also enclosed again for reference.

As commented previously, the Modified Waters Delivery project, which includes the Tamiami Trail Modifications, is a foundation project that should be fully implemented prior moving forward with Comprehensive Everglades Restoration Plan (CERP) projects in the region. Moving this project forward is critical to the restoration of the greater Everglades, as certain future CERP projects that will further restore flow to ENP cannot move forward prior to Modified Waters Deliveries being completed. We look forward to continuing to coordinate with

the USACE and the South Florida Water Management District in order to achieve the goal of initiating construction in October 2008. If you have any questions regarding these comments, please contact Stacey Feken at 850-245-8421.

Electronic copies to:

John Outland
Stacey Feken
Ernie Marks
Chad Kennedy
Inger Hansen
Tim Gray
Annet Forkink



Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

DISTRICT SIX
1000 NW 111th Avenue
Miami, Florida 33172-5800

STEPHANIE C. KOPELOUSOS
SECRETARY

May 9, 2008

Rebecca S. Griffith, Ph.D., PMP
Chief Planning Division
Department of the Army
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, FL 32232-0019

Re: Draft LRR/EA
Modified Water Deliveries to Everglades National Park
Tamiami Trail Modification

Dear Ms. Griffith:

We have reviewed your April 11 draft Limited Reevaluation Report (“LRR”) for the Tamiami Trail Modifications for Modified Water Deliveries to the Everglades National Park. We reserve our specific engineering comments to a later time, after your submittal of detailed engineering documents and ultimately signed and sealed cross sections and other specific design drawings. Also, please keep in mind that we still have not completed discussions regarding the Relocation Agreement and the Highway Easement Deed. For ease of review, I have numbered our comments:

(1) In Section 7.0, Recommendations, you have expressly reserved the right to compensate FDOT with a payment rather than actually constructing the substitute facility. FDOT is strongly opposed to that option and will require an express waiver of that option in the Relocation Agreement. The FDOT has been extremely consistent on this point. We expect the Corps to build the bridge and raise the road as two equal parts of the same project, prior to raising the water levels.

(2) In recent meetings between our staffs, an important terminology conflict has been identified and preliminarily discussed. When our agencies were talking about a 9.7’ water elevation in L-29, we had the following assurance: “based on our collaboration and subsequent recommendations from the FDOT staff, the COE intends to use the 20 year, 24-hour stage (9.7 feet, NGVD 1929) as the DHW for the pavement design.” Reference Col. Carpenter’s letter to Jose Abreu, April 5, 2005. Currently, the LRR embraces the 8.5’ water level. This level is described as a “canal stage elevation” or “operational elevation.” This level does not account for higher water levels resulting from rainfall. It does not appear to equate to a design high water

(DHW) using the 20 year, 24-hour stage. The clearance guidance provided to you by the FDOT earlier this year assumed that you would still honor the traditional design high water concept with a 20 year, 24-hour stage restriction. Otherwise, the road could be potentially undermined, which is, of course, unacceptable. The Department is currently in a dialogue with the Corps regarding this important issue which may require reduced operating levels during the rainy season and future adjustments of that level as a result of pavement monitoring. There are still several deliverables from the Corps in that regard.

(3.) The LRR is silent as to the timing for raising water levels. Water levels should not be raised until the bridge is fully constructed, the road raised, and the existing road north of bridge removed.

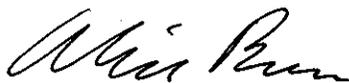
(4.) The LRR is silent as to the current timeline(s) for design and construction of the bridge and the raising of the balance of the roadway. If the roadway design work is lagging, then the benefits of the project will lag.

(5.) The statement on page 1-10 regarding the withdrawal of the 2003 report and EIS should be elaborated upon. The way the statement reads currently is that it seems to imply that the 2003 report and EIS were withdrawn solely because no agreement could be reached with FDOT regarding the flowage easement and compensation. That report was withdrawn for a multitude of reasons.

(6.) We have a concern with the language used in the report that describes the Perpetual Flowage Easement. That easement is surely intended to extend only to the land beneath the one mile bridge and, perhaps, the culverts and not "the entire expanse of the roadway within the project limits" as indicated on p. 6-7 or "over the full length of the project lands" as indicated on p. 6-3. FDOT does not anticipate granting authority to otherwise pass water over or under the Tamiami Trail since that could damage the integrity of the roadway. The language of the Flowage Easement will need to contain that clarification and limitation.

We look forward to working with you toward the resolution of these concerns.

Sincerely,



Alice N. Bravo, P.E.
District Director of Transportation Development

cc: Stephanie Kopelousos, Secretary, Florida Department of Transportation
Debbie Hunt, Assistant Secretary, Florida Department of Transportation
Gus Pego, District Six Secretary, Florida Department of Transportation
Col. Grossgruker, Commander, U.S. Army Corps of Engineers Jacksonville District
Mike Sole, Secretary, Florida Department of Environmental Protection
Carol Wehle, Executive Director, South Florida Water Management District



May 14, 2008

RECEIVED

MAY 16 2008

OIP/OLGA

Florida Fish and Wildlife Conservation Commission

Ms. Lauren Milligan
Florida State Clearinghouse
Department of Environmental Protection
3900 Commonwealth Boulevard, MS 47
Tallahassee, FL 32399-3000

Re: SAI #FL200804154170C, U.S. Army Corps of Engineers (COE), Draft Limited Reevaluation Report and Environmental Assessment (LRR/EA) on the Modified Water Deliveries to Everglades National Park, Tamiami Trail Modification, Miami-Dade County

Commissioners
Rodney Barreto
Chair
Miami

Brian S. Yablonski
Vice-Chair
Tallahassee

Kathy Barco
Jacksonville

Ronald M. Bergeron
Fort Lauderdale

Richard A. Corbett
Tampa

Dwight Stephenson
Delray Beach

Kenneth W. Wright
Winter Park

Dear Ms. Milligan:

The Habitat Conservation Scientific Services Section of the Florida Fish and Wildlife Conservation Commission (FWC) has coordinated agency review for the referenced project, and reiterates the following concerns that we would like to see addressed prior to the release of the Final Limited Reevaluation Report and Environmental Assessment (EA).

Project Description

The Tamiami Trail is one of the four major components of the COE's 1992 General Design Memorandum of the Modified Water Deliveries to Everglades National Park project ("Mod Waters"). The purpose of this project is to increase flows to Northeast Shark River Slough and to help restore the ecosystem of the park. This EA addresses a modification to the features authorized for Tamiami Trail by the 1992 General Design Memorandum and the 2005 Revised General Reevaluation Report/Supplemental Environmental Impact Statement (RGRR/SEIS). A total of 27 alternatives have been developed to examine the effects of variations of water stages in the L-29 canal together with several options for conveyance of water through the road from the L-29 canal into Northeast Shark River Slough. Conveyance options include spreader swales, additional culverts, pump stations, and various configurations of bridges. The selected plan from the 2005 RGRR/SEIS consisted of a two-mile and a one-mile bridge, and raising the remaining roadway to a height capable of withstanding water levels in the L-29 canal of up to 9.7 feet National Vertical Geodetic Datum (NGVD).

Executive Staff
Kenneth D. Haddad
Executive Director

Victor J. Heller
Assistant Executive Director

Karen Ventimiglia
Deputy Chief of Staff

Office of Policy and Stakeholder Coordination
Mary Ann Poole
Director
(850) 410-5272
(850) 922-5679 FAX

Project delays and funding constraints have necessitated the development of additional cost-saving alternatives that would limit the extent to which the Tamiami Trail would be raised and further reduce the length of the roadway that would be bridged. This limited reevaluation has resulted in Alternative 3.2.2a being chosen as the tentatively selected plan. This plan would raise the roadway to a height sufficient to withstand an L-29 canal stage of 8.5 feet NGVD, and construct a one-mile bridge opening near the eastern end of the project area. The bridge would begin approximately 1.5 miles west of the L-31 N levee and extend to the west for 1 mile, capturing an old north-south agricultural canal. The bridge would be located 40 feet south of the existing highway alignment, and require the construction of transitions from the existing highway alignment, resulting in the loss of 2.3 acres of wetlands. A 50-foot wide construction easement needed for the operation of cranes and other heavy equipment to construct the bridge would involve the removal

Managing fish and wildlife resources for their long-term well-being and the benefit of people.

620 South Meridian Street
Tallahassee, Florida
32399-1600
Voice: (850) 488-4676

Hearing/speech impaired:
(800) 955-8771 (T)
(800) 955-8770 (V)

MyFWC.com

of existing vegetation on approximately 6.6 acres of wetlands, including 2.7 acres of forested wetlands.

Potentially Affected Resources

Wading birds

The one-mile bridge would lie between, and equidistant from, two wading bird rookeries (Tamiami East and Tamiami West) located immediately south of the Tamiami Trail. Several listed species of wading birds, including the white ibis (*Eudocimus albus*), tricolored heron (*Egretta tricolor*), little blue heron (*Egretta caerulea*), and snowy egret (*Egretta thula*) (all state-listed as species of special concern); and the wood stork (*Mycteria americana*) (state- and federally listed as endangered) are known to nest in these colonies (Frederick 1995, Gawlik 1999). The U.S. Fish and Wildlife Service (USFWS) conducted a road-kill survey in 2002-2003 (USFWS 2004) and documented the mortality of a wood stork and a snowy egret along the current roadway. With an elevated bridge, wading birds departing from the two rookeries or from foraging sites in the nearby marsh would be required to gain additional altitude to avoid passing traffic. This situation could lead to a slight increase in the risk of wading birds being struck by passing traffic.

Snail kite

A number of snail kites (*Rostrhamus sociabilis*) (state- and federally listed as endangered) have also been documented as nesting within the Francis S. Taylor Wildlife Management Area (Water Conservation Area 3B) during the past six years. At least five of these nests were located along the old agricultural canal directly north of where the one-mile bridge is being proposed (Marsha Ward, FWC, pers. comm.).

Everglades mink

The Everglades mink (*Mustela vison evergladensis*) is listed as threatened by the FWC, and approaches the eastern limits of its distribution in the project area. It is secretive and seldom seen even where common (Humphrey 1992). The Everglades mink is known to use all types of shallow wetland habitats, but exhibits a decided preference for swamp forest habitat. Smith (1980) found Everglades mink to be most abundant around old agricultural canals, levees, and the Tamiami Trail roadway. Although road-kill data indicate that minks historically occurred along the entire length of the ten-mile roadway, a higher incidence of mortality tended to occur where old agricultural canals and/or spoil areas intersected the Tamiami Trail (Smith 1980). Consequently, these man-made upland habitats are more likely to be used by the Everglades mink for hunting and den placement. We note that the one-mile bridge traverses an old agricultural canal that may be affected by road removal and/or bridge construction.

Florida panther

Based on telemetry data, five Florida panthers (*Felis concolor coryi*) have been recorded within five miles of the project area on 117 occasions since 1989, with a large cluster of data points located immediately south of the footprint for the proposed one-mile bridge (USFWS 2006). No panthers have been documented north of the Tamiami Trail in this area, however, suggesting that the roadway and/or L-29 canal act as a barrier to panther movements here.

Concerns and Recommendations

Our original concerns on raising the Tamiami Trail were conveyed previously to the COE in a letter (enclosed) dated June 13, 2000, to James C. Duck, and these concerns remain relevant. Subsequently, we have relayed additional detailed comments, concerns, and recommendations on the various Tamiami Trail features directly to the COE through several Fish and Wildlife Coordination Act Report (FWCAR) documents as well as through the Florida State Clearinghouse. This correspondence includes a preliminary supplemental FWCAR (enclosed) dated August 11, 2005; a letter (enclosed) dated March 17, 2004, to James C. Duck; a preliminary FWCAR (enclosed) dated June 24, 2003, on the preliminary draft GRR/SEIS; a Planning Aid Letter (PAL; enclosed) dated February 26, 2001; a letter (enclosed) dated September 14, 2001, to Col. James G. May; and letters (enclosed) via the Florida State Clearinghouse dated March 4, 2008, to Lauren Milligan, and another dated January 16, 2002, to Jasmine Raffington. Due to our thorough evaluation of the previous alternatives examined in the above-referenced documents, the following comments will pertain to Alternative 3.3.2a, the current tentatively selected plan for the Tamiami Trail.

Conveyance improvements

We applaud the COE in their choice of Alternative 3.2.2a as the tentatively selected plan. This alternative would raise the unbridged roadway sufficiently to allow the stage in the L-29 canal to reach a height of 8.5 feet NGVD, one foot above the existing operating stage. This action in combination with a one-mile bridge is expected to increase the conveyance capacity under this portion of the Tamiami Trail from 1,250 to 1,848 cubic feet per second (cfs) and to increase flow volumes to Northeast Shark River Slough of Everglades National Park (ENP) by 92%.

Although the draft LRR mentions that conveyance over the remainder of Tamiami Trail would also be provided through improvements of existing culverts, it includes no details. As previously stated (see our letter to Lauren Milligan dated March 4, 2008), we believe that the strategic placement of box culverts at historic sloughs and/or aligned with the S-355 and other existing or planned water conveyance structures in the L-29 levee, in conjunction with downstream spreader swales, would greatly augment hydraulic and ecological connectivity. Additional culverts would be particularly beneficial in the western portion of the project corridor where the COE's environmental benefits analysis predicts enhanced ecological benefits with more openings that would improve flows into downstream slough communities of ENP while at the same time helping to further reduce high water impacts in Water Conservation Area 3 (the Everglades and Francis S. Taylor Wildlife Management Area, or EWMA) located north of the roadway.

Although some scientific uncertainties remain, we are encouraged by the COE's most recent modeling results, which predict that the addition of spreader swales below each set of Tamiami Trail culverts would result in an increase in the conveyance capacity of these culverts by approximately 12% at stage of 8.0 feet NGVD in the L-29 canal. Even greater flows would be realized when the L-29 canal stage reaches 8.5 feet. This and any other similar additional measures that would significantly increase depths and hydroperiods over thousands of acres in Northeast Shark River Slough would help enhance and restore the ecological functions of ENP as envisioned by the ENP Protection and Expansion Act of 1989. Such improvements in conveyance through the Tamiami

Trail also reduce the severity of flood-induced impacts to Everglades vegetative and wildlife communities located upstream in the EWMA. Furthermore, in order to facilitate the continuity of flows through the Tamiami Trail into the future, we request that a maintenance agreement be formulated between the COE and ENP whereby conveyance features associated with the culverts receive routine maintenance.

Listed species concerns

In the Evaluation Report of Annex A, the COE states that restrictions would be in place during construction to minimize impacts to the two wood stork rookeries and snail kite management areas. We request that the COE also take appropriate precautions to avoid disrupting the nesting efforts of the state-listed species of wading birds mentioned above that also use these same rookeries. The FWC has developed set-back distances to protect nesting bird colonies from human disturbance (Rogers and Smith 1994). These guidelines establish a 100-meter recommended set-back distance around mixed wading bird colonies where human disturbance should be restricted during the nesting season and during periods where wading birds are roosting at the colony site.

The COE does not mention what measures would be taken to avoid or minimize potential impacts to the state-threatened Everglades mink that may occur on old fill pads adjacent to the roadway, forested spoil areas associated with the agricultural canals, forested wetlands, and/or in the highway embankment. Everglades minks are known to have used such upland areas as den sites on the Tamiami Trail in the past (Smith 1980). A survey by an experienced biologist should be conducted in areas with suitable potential habitat prior to the initiation of construction activity to help determine whether any mink are present in the study area, and if any den areas may be present. Ideally, the survey should be done during the mink mating season, which extends from September through November. Although chalk-dusted trackboards and anal scent attractant has proven effective in detecting the Everglades mink (Humphrey and Zinn 1982), camera traps are another option, and are currently being tested as an alternate survey method in the Fakahatchee Strand (David Shindle, The Conservancy of Southwest Florida, pers. comm.). Ecotone areas between swamp forest habitats and the marsh, including the agricultural canal within the footprint of the one-mile bridge, would be preferred sampling locations. We recommend that the COE conduct a survey, and if Everglades minks are detected, we ask that the COE take appropriate precautionary measures to avoid or minimize impacts during construction-related activities.

Wildlife passage improvements

The Tamiami Trail road-kill survey conducted by the FWS in 2002-03 documented 991 road-killed vertebrates along two miles of selected transects over 13 monthly sampling periods (USFWS 2004). It is worth noting that the two transects with the highest amount of road-killed animals (66% of the total when combined) were located on either side of the proposed one-mile bridge. The transect associated with the agricultural canal at Coopertown located approximately two miles west of the proposed one-mile bridge possessed the highest proportion of roadkills (47% of the total; USFWS 2004). These data suggest that these north-south agricultural canals serve as travel corridors for wildlife in this portion of the Everglades. Everglades minks, which have been documented from roadkills along this section of the Tamiami Trail (Smith 1980), are

particularly vulnerable to highway-related mortality (Humphrey 1992). To reduce road-related mortality of the Everglades mink and other riparian wildlife, we recommend that underpass shelves be incorporated into bridge and culvert designs. Wildlife underpass shelves have proven to be effective in promoting the safe passage of three mustelid species in The Netherlands (Veenbaas and Brandjes 1999). The installation of wildlife crossing shelves on the bridge abutments of the eastern one-mile bridge would create a safe passage corridor for large mammals (including the endangered Florida panther [*Puma concolor coryi*]), medium-sized mammals, and other wildlife that use the L-31 levee and the tree-lined agricultural canal that traverses the Tamiami Trail here. A shelf width of 10 to 15 feet placed at an elevation slightly above the mean high water line would accommodate the larger animals as well as the small. A shelf width of 2 to 3 feet would be sufficient to accommodate the Everglades mink. Please refer to our preliminary FWCAR dated June 24, 2003, for further details concerning features for reducing road related wildlife mortality.

The draft LRR states that the one-mile bridge would provide for the movement of small animals beneath it and reduce road-related wildlife mortality by about nine percent. Although not described adequately in the draft LRR, it is our understanding that the COE plans to remove the peat soils down to bedrock beneath the bridge footprint, presumably to improve the conveyance of flows from the L-29 canal into ENP. Soil depths in the vicinity of the Tamiami Trail here are reported to range from one to three feet (Scheidt 2000). Consequently, a water depth of two feet in the marsh would equate to a water depth of three to five feet in the scraped area beneath the bridge. Absent wildlife shelves or other elevated passage features, the deeper water below the bridged expanse would not provide for the safe passage of terrestrial and semi-aquatic animals, as is assumed in the draft LRR. We recommend that those areas beneath the bridge where terrestrial wildlife are most likely to occur retain their peat soil and the additional elevation and vegetative cover that it provides. Such areas should include, at a minimum, the east and west ends of the bridge and the location where the agricultural canal would intersect the proposed bridge.

Summary

We fully support the ecological benefits expected from this project, and will continue to work closely with the COE through the project's implementation. In order to realize the ecological benefits of constructing the features described in the draft LRR to both the EWMA and ENP, it is imperative that the remaining conveyance structures for Mod Waters be constructed and the accompanying Combined Structural and Operational Plan (CSOP) be completed and implemented upon completion of the Tamiami Trail component. Although we continue to believe that the placement of additional culverts at key locations in the western portion of the project corridor would provide further ecological benefits to both the EWMA and ENP, we realize that budget constraints exist. We asked that the COE give strong consideration to additional conveyance along this sector of the Tamiami Trail in upcoming CERP projects such as Decentralization of WCA-3. Although we do not find this project to be inconsistent with Chapters 370 or 372, Florida Statutes, under the Florida Coastal Management Plan, we ask that the COE address our concerns and recommendations contained in this letter as well as prior ones that have been conveyed to them over the course of the last eight years to ensure that any

unintentional adverse impacts to the area's natural resources, particularly to state-listed wildlife species, are either avoided or minimized.

If you or your staff would like to coordinate further on the recommendations contained in this report, please contact me at (850) 410-5272 or email me at maryann.poole@MyFWC.com, and I will be glad to help make the necessary arrangements. If you or your staff has any specific questions regarding our comments, I encourage them to contact Tim Towles at (772) 778-6354; email tim.towles@myFWC.com. If you or your staff would like to coordinate further on our recommendations for surveying for the presence of state-listed species along the project corridor, I encourage them to contact Marsha Ward at (954) 746-1789; email marsha.ward@myFWC.com.

Sincerely,



Mary Ann Poole, Director
Office of Policy and Stakeholder Coordination

map/dtt/tr

ENV 1-3-2

Tamiami Trail_1253

Enclosures

cc: Pauline Smith, COE, Jacksonville
Marie Burns, COE, Jacksonville
Greg Knecht, DEP, Tallahassee
Inger Hansen, DEP, West Palm Beach
Paul Linton, SFWMD, West Palm Beach
Paul Souza, FWS, Vero Beach
Kevin Palmer, FWS, Vero Beach
Dan Kimball, ENP, Homestead
Chuck Collins, FWC, West Palm Beach
Marsha Ward, FWC, Sunrise

Literature Cited

Frederick, P.C. 1995. Wading Bird Nesting Success Studies in the Water Conservation Areas of the Everglades, 1992 – 1995. Final Report to South Florida Water Management District. West Palm Beach, FL. 92 pp.

Gawlik, Dale E. 1999. South Florida Wading Bird Report. Volume 5, Issue 1, October 1999. South Florida Water Management District. West Palm Beach, FL. 18pp.

- Humphrey, S.R., ed. 1992. Rare and Endangered Biota of Florida. Volume I. Mammals. University Press of Florida. Gainesville, FL. 392pp.
- Humphrey, S.R. and T.I. Zinn. 1982. Seasonal habitat use by river otters and Everglades mink in Florida. *Journal of Wildlife Management* 46:375-381.
- Rodgers, J.A. and H.T. Smith. 1994. Set-back distances to protect nesting bird colonies from human disturbance in Florida. *Conservation Biology* 64:89-99.
- Scheidt, D. 2000. South Florida Ecosystem Assessment: Everglades Water Management, Soil Loss, Euthrophication and Habitat. EPA 904-R-00-003. U.S. Environmental Protection Agency, South Florida Office, West Palm Beach, FL. 38pp.
- Smith, Andrew T. 1980. An Environmental Study of Everglades Mink (*Mustela vison*). Report T-555. South Florida Research Center, Everglades National Park, Homestead, FL.
- USFWS. 2004. Tamiami Trail Roadkill Survey, Miami-Dade County, Final Report. Fish and Wildlife Service, South Florida Ecological Services office, Vero Beach, FL.
- USFWS. 2006. Biological Opinion for the Tamiami Trail portion of the Modified Water Deliveries to Everglades National Park project. South Florida Ecological Services Office, Vero Beach, FL.
- Veenbaas, G. and J. Brandjes. 1999. Use of Fauna Passages Along Waterways Under Highways in Proceedings of the Third International Conference on Wildlife Ecology and Transportation. FL-ER-73-99. Florida Department of Transportation, Tallahassee, FL. 330pp.



FLORIDA DEPARTMENT OF STATE
Kurt S. Browning
Secretary of State
DIVISION OF HISTORICAL RESOURCES

RECEIVED

APR 22 2008

OIP / OLGA

April 17, 2008

Ms. Marie G. Burns
Acting Chief, Planning Division
Jacksonville District Corps of Engineers
Planning Division
Post Office Box 4970
Jacksonville, Florida 32232-0019

Re: SHPO/DHR Project File No.: 2008-425
Received: February 8, 2008
SAI#: FL200802053982C
Environmental Assessment – Tamiami Trail Modifications Limited Reevaluation Report
Miami- Dade County

Dear Ms. Burns:

This agency received a copy of your January 28, 2008 letter regarding the preparation of an environmental assessment for the Tamiami Trail modifications submitted to the Florida State Clearinghouse. However, we did not respond to the Clearinghouse within their timeframe, but reviewed the referenced project in accordance with Section 106 of the National Historic Preservation Act as amended, and the National Environmental Policy Act as amended. It is the responsibility of this office to advise and assist, as appropriate, the U.S. Army Corps of Engineers in carrying out historic preservation responsibilities. We cooperate with your agency to ensure that historic properties are taken into consideration at all levels of planning and development. This office consults with the your office on undertakings that may affect historic properties, and provides guidance to ensure the content and sufficiency of environmental documentation and project plans identify and protect, minimize or mitigate harm to such properties.

As you are already aware, raising the elevation of the Tamiami Trail roadway on an elevated bridge structure will have an adverse effect on the integrity of a historic property that has been determined eligible for listing in the National Register of Historic Places (8DA6510). In addition, the Airboat Association of Florida headquarters (8DA6768), and the Coopertown Airboat Rides and Restaurant property (8DA6767), are eligible for listing in the National Register.

500 S. Bronough Street • Tallahassee, FL 32399-0250 • <http://www.flheritage.com>

Director's Office
(850) 245-6300 • FAX: 245-6436

Archaeological Research
(850) 245-6444 • FAX: 245-6452

Historic Preservation
(850) 245-6333 • FAX: 245-6437

Historical Museums
(850) 245-6400 • FAX: 245-6433

South Regional Office
(561) 416-2115 • FAX: 416-2149

North Regional Office
(850) 245-6445 • FAX: 245-6435

Central Regional Office
(813) 272-3843 • FAX: 272-2340

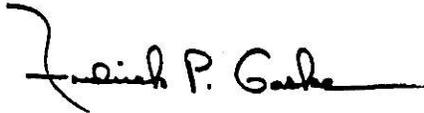
Ms. Marie G. Burns
April 17, 2008
Page 2

The Tamiami Canal (8DA6766) was previously determined to be eligible for inclusion in the National Register; however, we question that finding upon further evaluation of that property by this office. That 10-mile segment of the canal is no longer a roadway ditch and since ca. 1960 has become a major water control and movement structure.

Lastly, there are several cultural resources that may be within the area of potential effect of the proposed project that may be affected directly or indirectly. The resources are the Osceola and Tigertail Camps (likely traditional cultural properties) and 52 prehistoric sites in the Shark Valley Archeological District south of Tamiami Trail in the Everglades National Park.

We look forward to continued consultation and coordination with your agency and other interested parties in completion of environmental, historic preservation documents in fulfillment of all requirements, including Coastal Zone Consistency. If you have any questions concerning the brochure, or need any assistance, please contact Laura Kammerer, Deputy State Historic Preservation Officer for Review and Compliance, at 850-245-6333 or lkammerer@dos.state.fl.us.

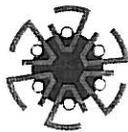
Sincerely,

A handwritten signature in black ink that reads "Frederick P. Gaske". The signature is written in a cursive style with a long horizontal line extending to the right.

Frederick P. Gaske, Director, and
State Historic Preservation Officer

Xc: Lauren Milligan, Florida State Clearinghouse
Melissa Memory, Everglades National Park

South
Florida
Regional
Planning
Council



April 30, 2008

Ms. Lauren P. Milligan
Florida State Clearinghouse
Florida Department of Environmental Protection
3900 Commonwealth Blvd, Mail Station 47
Tallahassee, Florida 32399-3000

RE: SFRPC#08-0418, SAI#FL200804154170C, Department of the Army, Jacksonville District Corps of Engineers, Limited Reevaluation Report and Environmental Assessment (LRR/EA) for Modified Water Deliveries to Everglades National Park and Tamiami Trail Modification, Miami-Dade County, Florida.

Dear Ms. Milligan:

We have reviewed the above-referenced LRR/EA detailing the recommended Tentatively Selected Plan Alternative 3.2.2.a to help restore natural hydrologic conditions within the Everglades National Park. We understand that Alternative 3.2.2.a was chosen as the best alternative of 27 in regards to hydrologic and ecologic performance, targets, cost and time. We have the following comments:

- Council staff generally agrees that recommended Alternative 3.2.2.a will benefit the South Florida region and will further our goals for a more livable, sustainable, and competitive South Florida. The goal of restoring the natural hydrologic conditions to Everglades National Park is generally consistent with the *Strategic Regional Policy Plan for South Florida (SRPP)*, specifically the following goals and policies:

Goal 14 Preserve, protect, and restore Natural Resources of Regional Significance.

Policy 14.1 Address environmental issues, including the health of our air, water, habitats, and other natural resources, that affect quality of life and sustainability of our Region.

Policy 14.2 Improve the quality and connectedness of Natural Resources of Regional Significance by eliminating inappropriate uses of land, improving land use designations, and utilizing land acquisition where necessary.

Goal 15 Restore and protect the ecological values and functions of the Everglades Ecosystem by increasing habitat area, increasing regional water storage, and restoring water quality.

Policy 15.2 Restore natural volume, timing, quality, and distribution of water to the Everglades, Florida Bay, Biscayne Bay, other estuaries, and the Atlantic Ocean by:

- a. implementing structural and operational modifications to the Central and Southern Florida Project including Modified Water Deliveries to Everglades National Park, the C-111 Project, and the Comprehensive Everglades Restoration Plan;
- b. implementing the East Coast Buffer/Water Preserve Areas; and
- c. implementing the Lower East Coast Water Supply Plan so that the needs of the natural system are met consistent with ecosystem restoration.

Thank you for the opportunity to comment. If you require further information, please contact me at 954-985-4416.

Sincerely,

Rachel M. Kalin
Planning Technician

RMK/kal

RECEIVED

MAY 05 2008

OIP / OLGA

cc: Subrata Basu, Interim Director, Planning and Zoning, Miami-Dade County
Lee Hefty, Chief, Environmental Regulation Division, Miami-Dade County DERM

3440 Hollywood Boulevard, Suite 140, Hollywood, Florida 33021
Broward (954) 985-4416, State (800) 985-4416
FAX (954) 985-4417, email: sfadmin@sfrpc.com, website: www.sfrpc.com

mos #20 #168 Tim Towles

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION



RODNEY BARRETO
Miami

SANDRA T. KAUPE
Palm Beach

H.A. "HERKY" HUFFMAN
Enterprise

DAVID K. MEEHAN
St. Petersburg

KATHY BARCO
Jacksonville

RICHARD A. CORBETT
Tampa

BRIAN S. YABLONSKI
Tallahassee

KENNETH D. HADDAD, Executive Director
VICTOR J. HELLER, Assistant Executive Director

MARY ANN POOLE, DIRECTOR
OFFICE OF POLICY AND STAKEHOLDER COORDINATION
(850)488-8661 TDD (850)488-9542
FAX (850)922-5679

August 11, 2005

Colonel Robert M. Carpenter
District Engineer
U.S. Army Corps of Engineers
701 San Marco Boulevard, Room 372
Jacksonville, Florida 32207-8175

Re: Supporting documents for the Draft Revised
General Reevaluation Report/Supplemental
Environmental Impact Statement
(RGRR/SEIS) for the Tamiami Trail,
Modified Water Deliveries to Everglades
National Park, Miami-Dade County

Dear Colonel Carpenter:

The Habitat Conservation Scientific Services Section of the Florida Fish and Wildlife Conservation Commission (FWC) has coordinated agency review of the supporting documents being used to craft the Draft Revised General Reevaluation Report/Supplemental Environmental Impact Statement (RGRR/SEIS) for the Tamiami Trail Project of Modified Water Deliveries to Everglades National Park (MWD). These documents include the MWD Tamiami Trail Modifications Benefits Analysis, results from RMA-2 modeling of bridge lengths in Tamiami Trail, an Alternative Optimization Report prepared by Everglades National Park (ENP Report), and a Tamiami Trail Road-kill Survey report prepared by the U.S. Fish and Wildlife Service (FWS). Our comments and concerns on the Tamiami Trail Project are included in the following preliminary supplemental Fish and Wildlife Coordination Act Report (FWCAR), which is being submitted under the authority of the Fish and Wildlife Coordination Act of 1958.

Background

This project is one of four components that have arisen from the original 1992 Modified Water Deliveries General Design Memorandum. The other highly interrelated components include flood protection of the 8.5 Square Mile Area residential development along the eastern side of Northeast Shark River Slough (NESRS); conveyance of water between Water Conservation Area (WCA)-3A, WCA-3B, and NESRS; and an overall operational plan for the newly constructed water control structures.

REC'D AUG 15 2005

Project Description

The reason that the 2003 GRR/SEIS is being revised is that new information regarding probable damage to the Tamiami Trail was raised during and subsequent to the public and agency review of the final report, leading to a determination by the U.S. Army Corps of Engineers (COE) that the recommended plan did not contain all of the features necessary for implementation. Recent modeling indicates that an increase in the design high-water stage for the L-29 canal from 9.3 ft to 9.7 ft would be necessary, accompanied by the need for a different, and potentially more costly, method such as raising the road to mitigate effects to the Tamiami Trail. Compounding this added expense, worldwide cost of construction materials increased greatly, resulting in substantial increases in cost estimates for the alternatives. Due to these cumulative increases in costs, the tradeoffs between benefits and costs were reanalyzed for the purpose of determining whether a different alternative might make better use of limited funds.

Of the nine basic alternatives previously addressed by our FWCAR dated June 24, 2003, three have been retained for re-evaluation, and a new alignment has been proposed for one of these. Those retained for further evaluation include: Alternative 9, the 3,000-foot bridge located east of the Blue Shanty Canal (the previous Tentatively Selected Plan) with a higher roadway elevation; Alternative 10, a centrally located 4-mile bridge with a higher roadway elevation ("central 4-mile bridge"); Alternative 11, an eastern 4-mile bridge with a higher roadway elevation ("east 4-mile bridge"); and Alternative 17, a 10-mile bridge. The central 4-mile bridge is a slight realignment of Alternative 6a from the 2003 GRR/SEIS, and had been considered by Everglades National Park (ENP) and the COE as a strong contender for the new tentatively selected plan. However, further increases in construction cost estimates led the COE once again into alternative formulation to take into consideration shorter bridge lengths at various locations. Six additional alternatives were identified and are as follows: Alternative 12, a centrally located 3-mile bridge ("central 3-mile bridge"); Alternative 13, a centrally located 2-mile bridge ("central 2-mile bridge"); Alternative 14, a 2-mile bridge on the west end of the project area and a 1-mile bridge on the east end ("2-mile west/1-mile east bridges"); Alternative 15, a 1.3-mile bridge on the west end of the project area and a 0.7-mile bridge on the east end ("1.3-mile west/0.7-mile east bridges"); and Alternative 16, three 3,000-foot bridges in the central portion of NESRS (Figure 1). We understand that the COE is now proposing the 2-mile west/1-mile east bridge (Alternative 14) as the new Tentatively Selected Plan. The western 2-mile bridge would begin approximately 1.5 miles west of the L-67 Levee and extend to the east of the Blue Shanty Canal, requiring one access ramp to the Everglades Safari airboat concession located on the Blue Shanty Canal. The eastern 1-mile bridge would begin approximately 1.5 miles west of the L-31 N levee and extend to the west for 1 mile, capturing an old north-south agricultural canal. This bridge would lie between, and equidistant from, the two wading bird rookeries located immediately south of the Tamiami Trail. For our comments concerning Alternative 17, the 10-mile bridge (previously known as Alternative 5), please refer to our previous FWCAR dated June 24, 2003.

Our three major areas of concern with regard to the potential impacts of this project remain as follows: (1) impacts to existing recreational facilities and access points of the Francis S. Taylor Wildlife Management Area (WCA-3B), (2) impacts to fish and wildlife resources, and (3) potential loss or degradation of Everglades marsh. Many of our comments and concerns on the

August 11, 2005

Tamiami Trail feature have been conveyed previously to the COE in a letter dated March 17, 2004 (attached), to James C. Duck; in a review of a preliminary draft GRR/SEIS via a preliminary FWCAR (attached) dated June 24, 2003; through a Planning Aid Letter (PAL) dated February 26, 2001; and via the Florida State Clearinghouse in a letter dated January 16, 2002, to Ms. Jasmin Raffington. Our comments in this current letter focus on Alternatives 10 through 16, as well as the ecological benefits to be expected from each. We have already reviewed the design for the 10-mile bridge in our FWCAR dated June 24, 2003.

ENP Report and Benefits Analysis Procedures

The MWD Tamiami Trail Modifications Benefits Analysis was constructed largely from the ENP Report through two collaborative interagency workshops held by the COE in May and July, 2005. Although the ENP report integrated a great deal of historical and ecological information, its direct applicability to the Tamiami Trail RGR is limited by a number of its assumptions. A screening process was therefore conducted by the interagency team whereby the number of performance measures (PMs) in the ENP Report was reduced from 33 to 12 PMs. The remaining 12 PMs address four important characteristics of ENP: hydrology, ridge and slough processes, vegetation, and fish and wildlife resources. An additional hydrologic PM for restoring water deliveries to ENP was added during the July workshop, resulting in a total of 13 PMs. The quantitative and qualitative values for the PMs were converted into scores (0 to 7) for each of the PMs. These scores were added together to produce an index of the quality of restoration for each alternative. Average annual habitat unit benefits were then calculated for each of the alternatives for relative comparison. The details of the above processes are explained in the COE document entitled "MWD Tamiami Trail Modification Benefits Analysis Procedures August 2005."

Although we support the overall objectives upon which the 13 performance measures for calculating benefits are based, we do not necessarily agree with all the hypotheses that the ENP Report used to justify the selected PMs. For example, we agree that the restoration of ridge and slough processes is an appropriate objective, and that the performance measure to reverse filling in of sloughs is appropriate. However, we do not believe that there is sufficient scientific evidence to support the higher water depths that the report suggests would be necessary to re-create ridge and slough habitat. The report states that the 100% restoration goal for the area downstream of the 4-mile centrally located bridge would require water depths greater than 2 feet for 80 - 100% of the time in the sloughs. On the contrary, we have supporting evidence from the current Everglades system that extreme high water depths of relatively long duration lead to a deterioration of ridge and slough landscape features and to declines in their associated wildlife populations. Southern WCA-3A has experienced severe degradation of its ridge components (sawgrass ridges and tree islands) due to excessive depths and durations during the past 40 years (Heisler et al. 2002, McPherson 1973, Patterson and Finck 1999). The Heisler et al. study found that marsh water levels exceeding 2.0 feet led to tree island flooding impacts demonstrated by a statistically significant ($P < 0.0001$) reduction in tree and shrub species richness. If we agree that tree islands, ridges, and sloughs are all defining components of a restored Everglades, then clearly more work needs to be done to reconcile the recommendation for a hydroperiod that promotes ridge and slough maintenance while also supporting tree islands.

Colonel Robert M. Carpenter

Page 4

August 11, 2005

The other objectives being used to calculate habitat units for alternative comparisons include restoring water deliveries to ENP, restoring vegetative communities, and restoring fish and wildlife resources. There appear to be credible sources of both historical and ecological information presented in the ENP Report that could be used to help evaluate the ecological benefits of the five remaining alternatives for conveying flows through the Tamiami Trail. These include hydrologic connectivity, velocity distributions downstream of the bridges, ground elevation, historic flow information, and historic slough locations based on an unpublished 1917 survey by J. W. King.

Comparison of the 4-Mile Bridge Alternatives (Alternatives 10 and 11) to a 3,000-Foot Bridge (Alternative 9)

The implementation of a 4-mile bridge alternative would provide for greater compatibility between MWD and the proposed Comprehensive Everglades Restoration Plan (CERP) Decentralization ("Decomp") project by reducing the amount of retrofitting needed for the Tamiami Trail in that project. Information contained in the COE's Benefits Analysis determined that the central 4-mile bridge (Alternative 10) would produce 32,674 average annual habitat unit benefits and the east 4-mile bridge (Alternative 11) would produce 28,549 unit benefits. In contrast, the 3,000-foot bridge would only produce 12,453 average annual habitat unit benefits. Unfortunately, the COE has indicated that there are no longer sufficient funds to construct a 4-mile bridge.

The greater bridge lengths in Alternatives 10 and 11 would have augmented the hydrologic connectivity between the L-29 canal and ENP marshes to the south, facilitating the movement of aquatic biota between these two areas. As stated in the ENP Report, this enhanced connectivity may lead to improvements in micro-topography in the ridge and slough system in the long term by creating a larger area with open water or sparse vegetation. When water depths are shallow, such habitats are known to harbor greater fish densities and to be more productive foraging sites for wading birds (J.A. Surdick 1998). Improved foraging habitat should benefit the wading bird rookeries located in the vicinity of the Tamiami Trail. For additional comments on connectivity effects, please refer to our previous letter dated June 24, 2003.

The Tamiami Trail road-kill survey conducted by the FWS in 2002-03 documented 991 road-killed vertebrates along two miles of selected transects over 13 monthly sampling periods. Reptiles including turtles, snakes, and alligators were the most commonly found carcasses, constituting 84% of the total, while mammals, birds, and amphibians comprised the remaining 14% of the road-killed animals. Based on the two miles of transects surveyed in the FWS Tamiami Trail road-kill survey, there was an average of 262 road-kills/mile/year. An extrapolation of this data to a 4-mile bridge alternative may reduce the risk of wildlife mortality by seven-fold, resulting in 900 fewer road-killed animals per year than would occur with the 3,000-foot bridge alternative. Both the central and the east 4-mile bridge alternatives would result in a reduction of present road-related wildlife mortality by approximately 37% compared to only 5% reduction by the 3,000-foot alternative. If additional box culverts in these alternatives are strategically placed, further reductions in wildlife mortality could be realized. The FWS survey also reinforces the need for placement of a wildlife crossing at the juncture of

Colonel Robert M. Carpenter

Page 5

August 11, 2005

the L-30 and L-31 levees. For more details of our suggestions for reducing road-related mortality, please refer to our previous letter dated June 24, 2003.

Analysis by the COE using the RMA-2 hydrologic model was conducted to evaluate the velocity distribution of flows south of the Tamiami Trail for the different bridge configurations. The COE estimated that velocities in excess of 0.1 feet/second (ft/sec) would be excessive and destructive to the maintenance of the ridge and slough habitat. The RMA-2 modeling results predicted that 411 acres of marsh would be negatively affected by the 3,000-foot bridge, compared to only 98 acres by the central 4-mile bridge and 105 acres by the east 4-mile bridge. The ENP Report identified a lower velocity threshold of 0.045 ft/sec to evaluate differences between alternatives. Using this criterion, velocities greater than 0.045 ft/sec were estimated to negatively affect 1,649 acres under the east 4-mile bridge alternative and 438 acres under the central 4-mile bridge alternative. Although it is assumed that more natural flow velocities would provide greater benefits to aquatic biota, the appropriate target flow velocities, as well as the extent of benefits and their relative importance to wildlife populations is difficult to ascertain.

Another potential issue concerning the greater bridge lengths under Alternatives 10 and 11 is the longer construction time required. Under Alternative 7a (the 3,000-foot bridge) in the 2003 GRR, the construction period was estimated to last 24 months, whereas the length of time for completing construction of any one of the new alternatives is estimated to take 36 months. We hope that any additional time needed to complete the Tamiami Trail modifications does not delay the COE's ability to implement the portion of MWD that will be addressed under the Combined Structural and Operational Plan.

Comparison of central 4-mile (Alternatives 10) and east 4-mile bridge (Alternative 11)

Future plans under Decomp would remove the southern portion of the L-67A levee and the L-29 levee, facilitating sheetflow through the western portion of WCA-3B into NESRS. Alternative 10, with its more centrally located bridge, would provide the most direct routing for these future flows, and, we are hopeful, would reduce potential flooding impacts to WCA-3B.

According to the ENP Report, the average ground elevation at the central 4-mile bridge location is somewhat lower than it is at the east 4-mile bridge location. Culvert flow data during the peak of the 1947 flood were used to demonstrate that 51% of the flows across the Tamiami Trail occurred at the central location, while only 37% of the flows occurred at the eastern location. Information compiled by the COE using recent USGS survey data for ground surface elevations in NESRS 1,000 feet south of the Tamiami Trail confirms the more general ground elevation information contained in the ENP Report. A graphical presentation of this survey data depicts two "deep" sloughs at ground surface elevations less than 6.0 feet NGVD at both the east 4-mile bridge location and the west 4-mile bridge location (Figure 1). The ENP Report likewise analyzes historic photographs from 1917 in the project area and determines that a greater number of "deep" sloughs historically occurred at the central location than at the eastern location. We believe that further benefits could be accrued by placing additional box culverts at historic slough locations, particularly in the deep centrally located slough at Frog City.

The east 4-mile bridge could lead to greater impacts to the Tamiami East and Tamiami West rookery sites located immediately south of the roadway. Several listed species of wading birds, including the white ibis (*Eudocimus albus*), tricolored heron (*Egretta tricolor*), little blue heron (*Egretta caerulea*), and snowy egret (*Egretta thula*) (all state-listed as species of special concern), and the wood stork (*Mycteria americana*) (state- and federally listed as endangered) are known to nest in these colonies (T. Towles, FWC, personal observation, 1997). The FWS roadkill survey documented the mortality of wood storks and snowy egrets along the current roadway. An elevated bridge could lead to an increased risk of wading bird strikes by passing traffic, and reduce productivity through the visual disturbance created by traffic passing within the sight of canopy-nesting wading birds.

The Everglades mink (*Mustela vison evergladensis*) is listed as threatened by the FWC, and approaches the eastern limits of its distribution in the project area. The greatest number of historic Everglades mink roadkills documented for this portion of the Tamiami Trail was in the western portion of the project area, and specifically centered at the Blue Shanty Canal (Smith 1980). Consequently, the central location of Alternative 10, spanning the Blue Shanty Canal, may reduce the risk of Everglades mink road-related mortality to a greater extent than would the more easterly alignment of Alternative 11.

According to the RMA-2 analysis conducted by the COE, the central 4-mile bridge would result in fewer acres being negatively affected by relatively high flow velocities than would occur with the east 4-mile bridge. Using the COE's criterion of 0.1 ft/sec, an additional 187 acres of marsh would be affected by higher velocities in the central bridge alignment than in the eastern bridge alignment. No velocity estimates were calculated for Alternative 11 in the ENP Report.

Comparison of 2-mile west/1-mile east bridges (Alternative 14), a 3-mile central bridge (Alternatives 12), a 2-mile central bridge (Alternative 13), and a 3,000-foot bridge (Alternative 9)

Results of the Benefits Analysis demonstrated that the combined hydrologic and ecologic average annual lift of the 2-mile west/1-mile east alternative (28,371 habitat units [hu]) was slightly greater than the 3-mile central bridge alternative (27,973 hu), but the 2-mile central bridge alternative also demonstrated a considerable amount of lift (22,422 hu). All of these alternatives exceeded the performance of the 3,000-foot bridge (12,453 hu) by quite a margin. The 2-mile west/1-mile bridge design was shown to provide slightly greater hydrologic average lift (24,522 hu) than a single 3-mile bridge (23,998 hu). Improvements in hydrologic connectivity between the L-29 Canal and NESRS and in the distribution of flows from west to east along the Tamiami Trail in the 2-mile west/1-mile east bridges alternative were the primary contributors to this lift. The 2-mile west/1-mile east bridges alternative, with a connectivity value of 34%, offers greater connectivity than does a single central 3-mile bridge, with a value of 30%. As stated in the ENP Report, such enhanced connectivity may lead to improvements in micro-topography in the ridge and slough system in the long term by creating a larger area with open water or sparse vegetation. When water depths are shallow, such habitats are known to harbor greater fish densities and to be more productive foraging sites for wading birds (J.A. Surdick 1998). The creation of such habitat improvements at the eastern bridge location of

Colonel Robert M. Carpenter

Page 7

August 11, 2005

Alternative 14 may be of particular benefit to wading birds due to the two rookeries that would be situated at both the east and west ends of this bridge. The 2-mile west/1-mile east bridge alternative was also more effective in re-creating the normal east to west distribution of flows that would occur if the Tamiami Trail did not exist. This alternative matched 59% of the natural east to west distribution, whereas both the 3,000-foot bridge and the central 3-mile bridge matched 57% of the east to west distribution, and the single 2-mile bridge matched only 51% of this distribution. The redistribution of flows is important since it is a primary overarching objective of the MWD project.

We also learned from engineering staff of the South Florida Water Management District (SFWMD) that additional bridge capacity along the eastern reach of the L-29 canal may facilitate the transfer of greater quantities of water from WCA-3B into the L-29 canal and NESRS, which may help reduce the severity of extreme high water predicted to occur in eastern WCA-3B under the Combined Structural and Operational Plan. Flows from the L-29 canal under a 1-mile bridge into the three relatively deep sloughs in the east during dry conditions would also provide for a more uniform and gradual recession rate and reduce unnatural dry downs, possibly enhancing wading bird nesting success. There may also be a greater capacity in the eastern than in the western portion of NESRS for receiving flows due to the greater amount of subsidence that has occurred in the east since 1946 (from 2 to 3 feet) than in the west (none to 2 feet) (Scheidt et al. 2000). Such physical and hydrological characteristics that act to increase the conveyance of flows from the L-29 canal to the south, and augment the capacity of the L-29 canal to receive flows from WCA-3, would be considered as beneficial to Everglades habitat in both WCA-3 and in NESRS.

Both the 2-mile west/1-mile east bridge and the central 3-mile bridge alternatives would result in a reduction of present road-related wildlife mortality by approximately 29% compared to 19% for the central 2-mile bridge, and only 5% reduction by the 3,000-foot alternative. If additional box culverts in these alternatives are strategically placed, further reductions in wildlife mortality could be realized. Based on the two miles of transects on the Tamiami Trail roadway surveyed in the FWS Tamiami Trail road-kill survey, there was an average of 262 road-kills/mile/year. An extrapolation of this data to a three-mile bridge alternative may reduce the risk of wildlife related mortality by more than five-fold, resulting in 635 fewer road-killed animals per year than would occur with the 3,000-foot bridge alternative. The 2-mile bridge alternative may reduce the risk of wildlife related mortality by more than three-fold, resulting in 374 fewer road-killed animals per year than would occur with the 3,000-foot bridge alternative. For more details of our suggestions for reducing road-related mortality, please refer to our previous letter dated June 24, 2003.

The 2-mile west/1-mile east bridges, central 3-mile bridge, and central 2-mile bridge alternatives would not be expected to have any adverse effects on the two Tamiami Trail wading bird rookeries. The 2-mile west/1-mile east bridge alternative avoids potential impacts by locating the eastern 1-mile bridge in between the two wading bird rookeries. The increased flows and hydroperiods to be expected by this bridge alignment may improve foraging habitat for wading birds nesting in these colonies.

The greatest number of historic Everglades mink road-kills documented for the eastern portion of the Tamiami Trail was centered at the Blue Shanty Canal (Smith 1980). Since the western 2-mile bridge of Alternative 14 spans the Blue Shanty Canal, the risk of Everglades mink road-related mortality may be reduced. The reconnection of the linear and natural "upland" and aquatic features associated with the Blue Shanty may also facilitate safe passage for other terrestrial and aquatic wildlife that utilize the Blue Shanty as a travel corridor.

Information contained in the COE's Benefits Analysis determined that the RMA-2 modeling results predicted that 295 acres of marsh would be negatively affected by velocities > 0.1 ft/s under the 2-mile west/1-mile east alternative, compared to 411 acres affected by the 3,000-foot bridge alternative. The 3-mile and 2-mile bridge alternatives would affect somewhat fewer acres than the 2-mile west/1-mile east bridge. Since the ecological significance of these higher velocities is difficult to define and the acreage affected is relatively minor considering the larger benefits to be derived through lengthening inundation periods over much of NESRS, these relatively minor effects would be acceptable for any of the alternatives presently being considered.

Although the implementation of a 2-mile west/1-mile east bridge alternative would not provide as many benefits as a 4-mile bridge, it is believed to offer a sufficient amount of compatibility between MWD and future restoration under the Decomp project, and would reduce the amount of retrofitting needed for the Tamiami Trail under Decomp. We also understand that the central 3-mile bridge and 2-mile west/1-mile east bridge alternatives, as it now stands, both exceed the cost limitations for the project. In the event that construction costs further limit the length of bridge than can be built, we believe that the results obtained from the Benefits Analysis would support as a minimum either the 1.3-mile west/ 0.7-mile east bridge alternative or the 2-mile central bridge alternative as being adequate to convey and distribute MWD flows to ENP. We furthermore believe that the additional benefits identified in the split bridge alternatives warrant maintaining this design and that at least one-third of the total bridge length should be apportioned to the east portion of NESRS. This ratio would improve the redistribution of flows to the full breadth of NESRS, and would improve connectivity between the L-29 canal and ENP to a greater extent than would be afforded by a single bridge span.

Recreation concerns

Those concerns that were previously addressed pertaining to potential impacts to FWC recreational facilities and access points under Alternatives 1 through 8 (see attached June 24, 2003 preliminary FWCAR) remain. The only public recreational access that is anticipated to be lost under either Alternatives 12 or 14 would be the permanent loss of access to three miles of the south side of the L-29 canal and to culvert outfall sites on the south side of the Tamiami Trail for bank anglers. It is assumed that there would also be a temporary loss of access to the south bank of the remaining seven miles of the roadway during the construction period. Perhaps the reduced access to the south bank of the L-29 canal could be compensated for by providing scenic view pull-offs on the two bridges that could also serve as fishing platforms. The increase in connectivity between the L-29 canal and ENP marshes under either three-mile bridge alternative may enhance the recreational fishery value of the L-29 canal to a greater extent than would the

Colonel Robert M. Carpenter

Page 9

August 11, 2005

connectivity created by a 3,000-foot bridge. We further understand that Alternatives 12 and 14 would not affect vehicular access to the L-29 Levee or boat access to the L-29 canal.

Other related issues

We understand that water quality treatment for the roadway will probably not be required at this time since the impervious surface of the highway is not expected to significantly increase. On the other hand, we understand that an expensive water quality treatment system is being incorporated into the construction design for the bridge spans. We would support best management practices, such as using stormceptors or similar technologies for improving water quality of stormwater being discharged while minimizing wetland impacts. We encourage further investigation into cost effective treatment technologies for reducing bridge stormwater runoff, so that the bridge lengths and associated ecological benefits can be maximized.

We recognize that some private property issues related to increasing flood stages and possibly to rights of ways south of the Tamiami Trail are under resolution at the present time. We hope that these issues can be satisfactorily resolved such that the ecological benefits of project implementation can be realized in a timely manner.

Concerns and Recommendations

The stated authority limitations of the COE and the financial limitations of ENP will likely preclude them from implementing the more ecologically preferred alternatives, such as Alternatives 10 or 17 for the Tamiami Trail portion of the MWD project. Therefore, Alternative 14, or a derivative thereof, would appear to be the most reasonable interim alternative to implement prior to the approval of a more permanent solution under CERP. In our preliminary FWCAR for the GRR, dated June 24, 2003, we had previously agreed that a 3,000-foot bridge length would suffice due to fiscal constraints at that time. Should budget shortfalls for this project occur, we would continue to support the construction of one or more bridges intermediate in combined length between two and three miles, in order to avoid any further delays in completing the Tamiami Trail, and ultimately the MWD project. In summary, we offer the following recommendations concerning the alternatives under consideration.

1. We continue to support the idea of selecting an alternative that would be as compatible as possible with the upcoming CERP Decomp project, and reduce costly retrofitting of the Tamiami Trail in the future. Contingent on funding commitments from the Department of the Interior, we believe that Alternative 14 best addresses this compatibility.
2. Of the two most promising alternatives now being considered for this project, Alternative 14 would appear to offer the most benefits for fish and wildlife resources while avoiding potential impacts. This alternative would reduce the risk of wildlife mortality at the Blue Shanty Canal, particularly that of the threatened Everglades mink, since this canal would

Colonel Robert M. Carpenter
Page 10
August 11, 2005

bridge. This alternative would also avoid possible impacts to two important wading bird bridge between them.

3. Although Alternative 14 is expected to eliminate three miles of bank access along the south bank of the L-29 canal and cause a temporary loss of access to the remainder of the south bank during construction, we consider these impacts to be minimal when compared to some other alternatives. However, special attention will need to be given to the siting of construction staging areas so that access is not blocked to the three boat ramps and parking facilities associated with the popular Recreation Site No. 4, the boat ramp and parking facility at Recreation Site No. 1, or to the boat ramp facility located west of the S-12D structure.
4. Wading bird and snail kite nesting patterns, as well as Everglades mink territories, may vary with the prevailing hydrological conditions, during the multiple years that construction will likely be occurring. Therefore, surveys should be conducted by qualified biologists on an annual basis over the period of active construction to determine whether any mink territories or nesting efforts of state- and federally protected bird species would potentially be affected.

If you or your staff would like to coordinate further on the recommendations contained in this report, please contact me at 850-488-6661, or email me at maryann.poole@MyFWC.com, and I will be glad to help make the necessary arrangements. If your staff has any specific questions regarding our comments, I encourage them to contact Dr. Joseph Walsh at our office in Vero Beach (772-778-5094; email joe.walsh@MyFWC.com).

Sincerely,



Mary Ann Poole, Director
Office of Policy and Stakeholder Coord.

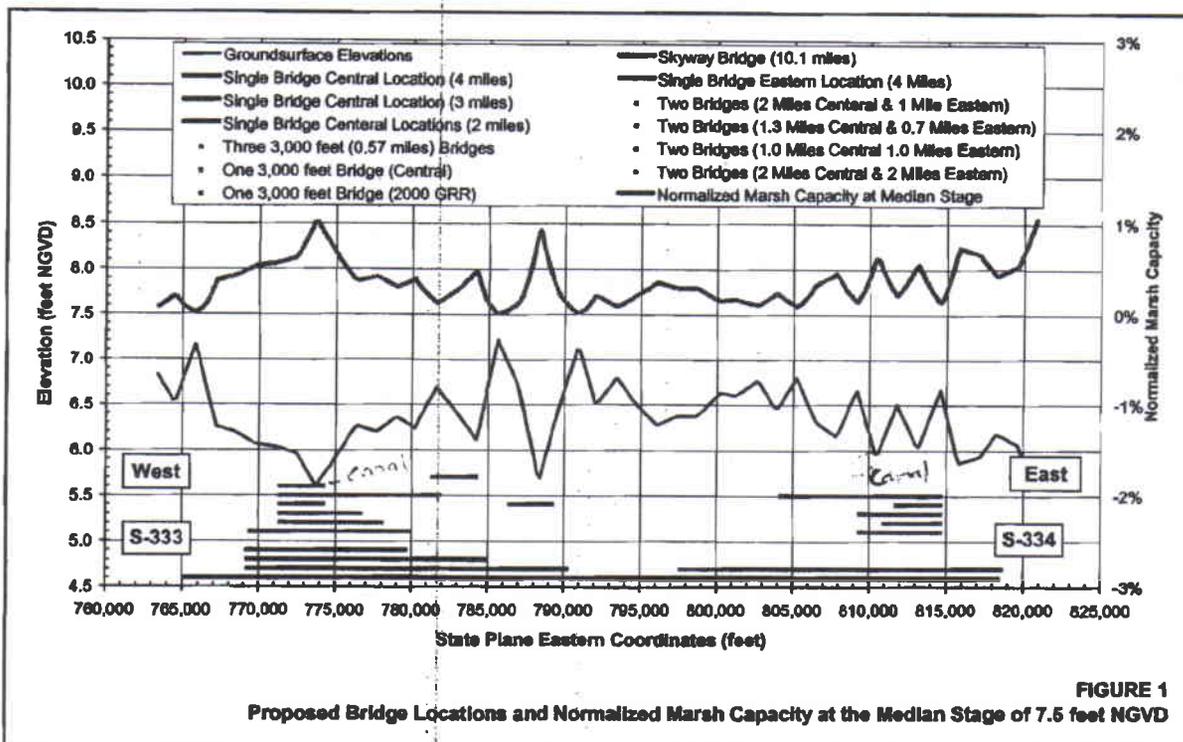
map/jw/dtt

ENV 1-3-2

Enclosures (2)

a:\Tam_Trail_Prel_CAR_Revised GRR-08_05-V#3DDT

CC: Mr. Jay Slack, USFWS, Vero Beach
Mr. Dan Kimball, ENP, Homestead
Ms. Tambour Eller, COE, Jacksonville
Mr. Chuck Collins, FWC, West Palm Beach
Mr. Larry Gerry, SFWMD, West Palm Beach



Literature Cited

- Heisler, I.L., D.T. Towles, L.A. Brandt, and R.A. Pace. 2002. Chapter 9: Tree island vegetation and water management in the central Everglades. In: van der Valk, A., and F.H. Sklar (eds), *Tree Islands of the Everglades*, Kluwer Academic Publishing, Dordrecht, The Netherlands.
- McPherson, B.F. 1973. *Vegetation in Relation to Water Depths in Conservation Area 3, Florida*. Open File Report 73025, United States Geological Survey, Tallahassee, Florida.
- Patterson, K., and R. Finck. 1999. *Tree Islands of WCA3 Aerial Photointerpretation and Trend Analysis Project Summary Report*. Produced for the South Florida Water Management District, West Palm Beach, Florida, by Geonex Corporation, St. Petersburg, Florida.
- Scheidt, D., J. Stober, R. Jones, and K. Thornton. 2000. *South Florida Ecosystem Assessment: Everglades Water Management, Soil Loss, Eutrophication and Habitat*. EPA 904-R-00-003. US EPA Region 4 Science and Ecosystem Support Division and Office of Research and Development. Athens, Georgia. 38 p.
- Smith, Andrew T. 1980. *An Environmental Study of Everglades Mink (Mustela vison)*. Report T-555. South Florida Research Center, Everglades National Park.
- Surdick, James A. 1998. *Biotic and abiotic indicators of foraging site selection and Foraging success of four Ciconiiform species in the freshwater Everglades of Florida*. M.S. Thesis, University of Florida.

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION



EDWIN P. ROBERTS, DC
Pensacola

RODNEY BARRETO
Miami

SANDRA T. KAUF
Palm Beach

H.A. "HERKY" HUFFMAN
Enterprise

DAVID K. MEERAN
St. Petersburg

JOHN D. ROOD
Jacksonville

RICHARD A. CORBETT
Tampa

KENNETH D. HADDOAD, Executive Director
VICTOR J. HELLER, Assistant Executive Director

BRIAN S. BARNETT, INTERIM DIRECTOR
OFFICE OF ENVIRONMENTAL SERVICES
(850)468-6661 TDD (850)468-9542
FAX (850)822-3679

June 24, 2003

Colonel James G. May
District Engineer
U.S. Army Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

Re: **General Reevaluation Report/
Supplemental Environmental Impact
Statement (GRR/SEIS) for the
Tamiami Trail, Modified Water
Deliveries to Everglades National
Park, Miami-Dade County**

Dear Colonel May:

The Office of Environmental Services of the Florida Fish and Wildlife Conservation Commission (FWC) has reviewed the revised preliminary draft GRR/SEIS for the Tamiami Trail Project of Modified Water Deliveries to Everglades National Park ("Mod Waters"), dated June 2001. This project is one of four components that have arisen from the original 1992 Modified Water Deliveries General Design Memorandum. The other highly interrelated components include flood protection of the 8.5-square-mile area residential development along the eastern side of Northeast Shark River Slough (NESRS); conveyance of water between Water Conservation Area (WCA)-3A, WCA-3B, and NESRS; and an overall operational plan for the newly constructed water control structures. This report is being submitted following a hiatus in activity on the Tamiami Trail Project due to a legal challenge to the 8.5-square-mile flood protection project, which has since been satisfactorily resolved. Our comments and concerns on the Tamiami Trail Project component are included in the following preliminary Coordination Act Report (CAR), which is being submitted under the authority of the Fish and Wildlife Coordination Act of 1958.

Description of Alternatives

This GRR/SEIS is being developed because new information acquired since the project was approved in 1992 indicates that the original design would be insufficient to pass the volume of water that would need to be conveyed under the Tamiami Trail via Mod Waters. In addition to the six basic alternatives (nine, if water quality treatment options are considered separately) previously addressed in our Planning Aid Letter (PAL), dated February 23, 2001, two completely

REC'D JUN 30 2003

Colonel James G. May
June 24, 2003
Page 2

new alternatives (seven and eight) have been developed, a modification of Alternative 5 (5C) has been added, and Alternative 6 has now been formally accepted. Also, a new bridge alternative, "Alternative 9", with a 2.7-mile span length, intermediate between that of Alternatives 6 and 7, is being floated by the Department of the Interior as a possible compromise. Since we have previously been informed by your staff that any alternatives with bridge expanses much longer than what is deemed necessary to convey Mod Water flows are considered to be outside of your authority for this project, we have opted not to discuss the tentative "9a" and "9b" alternative options any further. For a short description of these 18 alternatives and their associated options, please refer to Table 1. Our three major areas of concern with regard to the potential impacts of this project remain as follows: (1) impacts to existing recreational facilities and access points of the Francis S. Taylor Wildlife Management Area (WCA-3B), (2) impacts to fish and wildlife resources, and (3) potential loss of Everglades marsh.

Impacts to Existing Recreational Facilities and Access Points

Those concerns that were previously addressed pertaining to potential impacts to FWC recreational facilities and access points under Alternatives 1 through 5 remain (please refer to our previous PAL [attached] dated February 23, 2001 and to our Florida State Clearinghouse letter to Ms. Jasmin Raffington dated January 16, 2002), and also apply to the three new alternatives (Alternatives 6, 7, and 8) added in this document. Since the PAL, we have learned of an additional boat ramp, and also now provide supplementary information on the identification numbers of FWC boat ramps within or adjacent to the project area. We know of three boat ramps in the project area that provide access to the marsh of Francis S. Taylor Wildlife Management Area (FSTWMA). The westernmost ramp (#135) is located immediately east of the S-333 structure on the L-29 Levee and has unimproved parking capable of accommodating about ten vehicles. A popular marsh access ramp owned by the South Florida Water Management District is located on the L-29 Levee at Recreation Site No. 1, immediately south of the S-334 structure, and has unimproved parking. A third concrete boat ramp of unknown origin, previously unidentified, is located in a swale on the L-29 Levee opposite the Airboat Association of Florida. Of the three FWC maintained boat ramps that provide access to the canal system within the project area, two are located at Recreation Site No. 4. One of these (#96), immediately north of the S-333 structure, provides access to the popular L-67A canal, while the other boat ramp (#161), at the juncture of the L-67A and L-67C levees, provides access both to the L-67C canal and to the marsh in the "pocket" of WCA-3B. The remaining boat ramp (#153), located at Recreation Site No.2, is the sole access point for the eastern 11-mile stretch of the L-29 Canal.

A cursory look at the recreational fishing pressure along much of the 11-mile stretch of the L-29 Canal that is being examined under this project suggests that use may be relatively low, except near the S-334 and S-333 structures (FWC, unpublished data). However, changes that are soon anticipated to occur with implementation of the conveyance features of the Mod Waters Project, as well as certain features of the Comprehensive Everglades Restoration Plan (CERP),

Colonel James G. May
June 24, 2003
Page 3

are likely to improve hydrological connections between the L-29 Canal and the marsh interface, as well as prolong adjacent marsh hydroperiods both to the north and to the south of the L-29 Canal. Consequently, such predicted hydrological changes combined with the addition of new water management structures (bridges, culverts, weirs, etc.) are likely to lead to an increase in local sport fish populations, followed by an increase in recreational fishing demand and concomitant changes in angler distribution patterns along this eastern stretch of the Tamiami Trail. It should be noted that prior to the construction of the L-67 and L-29 levees, this section of the Tamiami Canal (precursor to the L-29 Canal) was one of the premiere fishing areas in the Everglades. Creel surveys conducted during a study in 1960 (Game and Fresh Water Fish Commission [GFC], unpublished report) revealed that the first four miles of the Tamiami Canal west of the L-30 canal received an exceptional amount of use, and that the 11-mile stretch west of the L-30 canal received considerably more fishing pressure than the 9 miles of the Tamiami Canal west of the present-day L-67 Canal. The imminent decline of this great fishery, effected through a separation of the Tamiami Canal from the marsh with the completion of the L-29 Levee, was predicted in the aforementioned GFC report.

Besides recreational access for sport fishing purposes, the airboat ramps provide access to the natural resources of the Everglades marsh contained within the Francis S. Taylor Wildlife Management Area. Recreational frogging, airboating, and seasonal hunting are the primary activities pursued here. Recreational use of these access points may be relatively high during short hunting seasons, particularly when game population levels allow a liberal harvest. For instance, there were 140 airboat permits issued for an approximately 3-week deer season in the FSTWMA in 1984, and 156 permits issued the following year. Although deer population levels in WCA-3B are anticipated to decline under the projected deeper water regime that will occur with the implementation of Mod Waters and CERP, overall recreational use of the area for frogging, general airboating, duck hunting, and fishing is expected to increase. The potential impacts associated with each group of alternatives are listed as follows.

Alternatives 2a, 2b to 2b6, 4a, and 4b to 4b6. This document describes creative water quality treatment options b1 to b3 of Alternatives 2 and 4 as encroaching into the L-29 Canal. We understand from statements made by your staff that it will be necessary to maintain the water supply conveyance capacity of the L-29 Canal for some undefined period of time, which would necessitate maintaining deeper water conditions in this section of the canal. Nevertheless, the above-mentioned water quality treatment options would encroach into the south portion of the L-29 Canal and require widening of the canal to the north. This option would essentially eliminate any existing littoral zone on the south bank of the canal and would result in the loss of boat ramp #153 and impact Recreation Site No. 2 located on the north bank of the L-29 Canal. In the event that a boat ramp is impacted, the Army Corps of Engineers (COE) would be responsible for building a replacement ramp at a new location to be selected by the FWC.

Alternatives 3a and 3b. A reduction in available parking space for recreational users on the north side of the L-29 Canal would negatively impact recreational access to the canal.

Recreation Site No. 2 would probably be negatively affected or eliminated by this northerly road alignment.

Alternatives 5a, 5b, and 5c. The effects of the new subalternative 5c are essentially the same as for Alternatives 5a and 5b, in that recreational access to all sites on the north bank of the L-29 Canal will not be affected. However, the entire south bank of the L-29 Canal would be inaccessible during the 4-year construction period. Following completion of the bridge, only culvert outfalls located within the first mile on the east end and within the last one-half mile on the west end of the project would potentially be available for angler use. This loss of access to the south bank of the L-29 Canal from the Tamiami Trail could possibly be ameliorated by the provision of some degree of fishing access from the elevated bridge span.

Alternatives 6a and 6b. Although approximately 4 miles of the southern bank of the L-29 Canal would be unavailable to bank anglers, the remaining 6 miles should still be accessible, as well as the entire northern canal bank. However, the employment of creative water quality treatment options 6b1 to 6b3 could potentially impact the L-29 Canal, as described previously under Alternatives 2 and 4. As in Alternative 5, less opportunity would be lost if fishing access were possible from the bridge span. The feasibility of providing limited fishing access from designated portions of such extensive bridge spans should be explored as a means of reducing public fishing access losses. All existing boat ramps would remain accessible under this alternative. Culvert outfalls south of the roadway would not be accessible during highway construction (18-24 months) in Alternative 6a, and would be plugged under Alternative 6b. The addition of eight box culverts at designated low points in Alternatives 6a and 6b may provide additional angler opportunities.

Alternatives 7a and 7b. Recreational access to all boat ramps and the north bank of the L-29 Canal would remain intact, while fishing access to the south bank of the canal would be blocked during the 2-year construction period. Most of the culvert outfall structures would be accessible during and after construction in Alternative 7a, but all would be filled and eliminated in Alternative 7b. Although the preliminarily selected preferred alternative is Alternative 7a, the decision as to whether additional water quality treatment will be required has not yet been officially decided. Should Alternative 7b be selected, it is not known how the channeling of all water outflows through the single 3,000-foot gap will affect the L-29 Canal fishery. Also, special attention would need to be given to the siting of construction staging areas so that access is not blocked to the three boat ramps and parking facilities associated with the popular Recreation Site No. 4 that provides access to the L-67 canals and FSTWMA, or to the boat ramp facility (#90) located 200 yards west of the S-12D structure.

Alternatives 8a and 8b. Alternative 8a should not impact existing recreation access sites, and could provide new fishing opportunities at the 24 additional box culverts, particularly

if the culvert outfalls are scalloped out to improve the passage of water into northeast Shark River Slough. Alternative 8b would require filling the existing culverts, and could result in a loss of fishing opportunities unless the 40 new box culverts are constructed in a way that creates shallow collection basins at the outfalls.

Impacts to Fish and Wildlife Resources

Of particular concern are the impacts that an alternative could have on state-listed species of wildlife or important habitat components. There are three historic wading bird rookeries containing species listed by the state as endangered or species of special concern, recent records of endangered snail kite nests in southern WCA-3B, a number of records of the threatened Everglades mink along the highway corridor, and a single documented occurrence of the endangered West Indian manatee in the L-29 Canal. In addition, other listed species such as the limpkin and roseate spoonbill (both listed as species of special concern) utilize marsh areas, and the least tern (threatened) forages in canal habitats that could be impacted under certain alternatives. The potential impacts that could occur are listed by alternative groups as follows.

Alternatives 1 and 2a. The temporary road for detouring traffic while proposed bridge #3 is under construction would encroach into the pond apple forest at the Tamiami West wading bird colony, on the south side of the Tamiami Trail, that provides nesting substrate for white ibis, tricolored herons, little blue herons, snowy egrets, and wood storks. Consequently, a portion of this forested area would be eliminated as a nesting substrate for an unknown number of years. Any heavy construction activity that would be expected to occur within 600 meters of a known rookery location, including construction of the temporary road, should be conducted outside of the wading bird nesting season, which normally extends from early February to the onset of the rainy season.

Alternative 2b. This alternative encroaches to a greater extent (average of 51 feet) into the marsh south of the existing Tamiami Trail, with incursions of 5 to 6 additional feet at bridge approaches. Consequently, this alternative would have a greater permanent impact on the Tamiami East and Tamiami West wading bird colonies due to a greater permanent loss of nesting substrate as well as a decrease in the amount of buffer capacity available. The Everglades mink has been documented to use both natural and artificial upland areas for denning purposes; therefore, this alternative could potentially impact mink denning areas that may occur in either native upland areas or at the artificially created upland areas where the airboat concession and radio tower sites are located. Option 2b1, which shifts the alignment to the north, is only a slight improvement over Alternative 2b.

The 2b creative water quality treatment options of 2b2 to 2b6 (Table 1) result in much more modest incursions into the two Tamiami wading bird colonies; however options 2b2 and 2b3 would eliminate littoral zone elements on the south shore of the L-29 Canal, eliminate reptile oviposition and basking sites on the south shore of the canal, and could result in the entrapment of terrestrial animals attempting to cross the canal.

Alternatives 3a and 3b. Both of these alternatives and the various 3b options presented would result in the loss of a significant amount of high quality wildlife habitat. The woody vegetation supporting the Frog City wading bird colony, which has been documented to contain nesting tricolored and little blue herons (both species of special concern), would be either eliminated or severely impacted by the road alignment, which would encroach further into the marsh at this point in order to avoid the Tigertail Camp. This northerly diversion of the road around the Tigertail Camp would also impact a high quality tree island (WRAP score of 0.83) that may also have a special cultural value to the Tigertail family. The relocation of a high-speed highway to the north of the L-29 Levee would result in much greater wildlife mortality during high water episodes in WCA-3B than presently occurs. There could be dens of the Everglades mink in the L-29 Levee or on adjacent tree islands that are impacted, as well.

Alternatives 4a and 4b. Both of these alternatives would produce significant incursions into the Tamiami West and Tamiami East wading bird rookeries, as well as eliminate important swamp forest habitat along the remainder of the corridor. Although options 4b1-4b6 would reduce the amount of encroachment from Alternative 4b, they are only slightly better than Alternative 2b. The Everglades mink has been documented to use some of the man-made upland sites along this alignment for denning purposes, and could potentially be impacted by construction activity.

Alternatives 5a, 5b, and 5c. These alternatives are believed to be the most beneficial to wildlife, with little known impacts. These alternatives would leave important rookery vegetation intact on both sides of the Tamiami Trail and reduce potential impacts to mink denning areas. Road-related mortality of the Everglades mink, with at least 14 documented occurrences, would essentially be eliminated. However, the leaving in place of renovated sections of the old roadbed under Alternatives 5a and 5b could possibly provide suitable habitat for Everglades mink and oviposition sites for alligators and other egg-laying reptiles, as well as provide safe havens for terrestrial wildlife during high water periods.

Alternatives 6a and 6b. Alternative 6a would produce impacts to the two Tamiami rookeries as described for alternatives 1 and 2a, above. Alternative 6b and its various options would result in impacts to these rookeries and to the L-29 Canal identical to those

described under Alternative 2b, above. Road-related mortality of the Everglades mink and other wildlife would be eliminated at the four-mile bridge, and mink survival could be further enhanced by providing elevated wildlife crossing shelves under the east and west ends of the extended bridge. Mink denning areas could also be protected by avoiding the need to encroach upon the upland sites south of the existing road. Mink habitat could actually be improved by planting the abandoned upland sites south of the Trail with shrubs and trees so as to resemble native Everglades tree island communities.

Alternatives 7a and 7b. Alternative 7a would have negligible permanent impacts on the two Tamiami rookeries, but Alternative 7b would result in impacts as described above for Alternative 2b. However, we believe that greater ecological and wildlife benefits may be derived from these alternatives by a shift of the 3,000-foot bridge to the east of the Blue Shanty Canal. This would result in water discharges onto a land surface with a slightly lower average ground elevation and would be more centrally located in present day northeastern Shark River Slough. This location may likewise facilitate the safe passage of wildlife, especially if the bridge were equipped with a wildlife shelf.

Alternatives 8a and 8b. Alternative 8a would likewise have little effect on the two Tamiami rookeries, as long as new box culverts are not constructed at the rookery locations. Alternative 8b would produce impacts similar to those described for Alternative 2b. The additional box culverts under these alternatives, if placed at strategic locations, could improve the passage of aquatic and semiaquatic fauna across the roadway, especially if animal barriers were erected to deflect animals to the culvert crossings.

Potential loss of Everglades marsh and connectivity effects

In order to ascertain the potential impacts that each alternative iteration would pose to the functionality of wetlands, a multi-agency team was assembled to apply the Wetland Rapid Assessment Procedure (WRAP) to the various wetland plant communities in the Tamiami Trail corridor. The results of this assessment found that the functional value of wetland communities immediately north of the L-29 Levee in WCA-3B were of somewhat higher quality (average score of 0.74) than similar wetlands situated immediately south of the Tamiami Trail in the Everglades Expansion Area of Everglades National Park (average score of 0.62).

Alternatives 1, 2a, 2b to 2b6, 4a, and 4b to 4b6. The nine water quality treatment options of 4b through 4b6, 2b, and 2b1 were predicted to result in the loss of from 34 (2b1) to 64 (4b) wetland functional units in the Everglades Expansion Area, whereas Alternative 4a (without water quality treatment) was little better, with a predicted loss of 40 wetland functional units (Table 1). By comparison, Alternative 2a, using the existing

highway alignment and four new bridges, resulted in a relatively low loss of wetland function (10 units) at a substantially lower cost than the 2b2 to 2b6 water quality treatment options. Each of these alternatives physically connect the L-29 Canal to the marsh in Everglades National Park for only 2.5% of the entire project corridor length (i.e., create a 2.5% marsh-canal interface) by means of the four new bridges; however, creative water quality treatment options b1 to b3 of Alternatives 2, 4, and 6 would encroach into the L-29 Canal.

Alternatives 3a and 3b. The seven water quality treatment options of 3b through 3b6 presented for Alternative 3 were predicted to result in the loss of from 15 to 30 wetland functional units in WCA-3B, whereas Alternative 3a (without water quality treatment) was predicted to result in the loss of 19 functional units (Table 1). Although north-south connectivity for these alternatives is stated to be 10%, the primary purposes of the eight bridges that supposedly create this connectivity are to cross the L-29 Canal, and to span the two S-355 and three weir water conveyance structures on the L-29 Levee. Connectivity between the L-29 Canal and wetlands to the south would be no greater in Alternative 3 than under Alternatives 2 or 4, since no additional breaching of the Tamiami Trail is included under this alternative.

Alternatives 5a, 5b, and 5c. This suite of alternatives performs the best in that there is actually a net gain in functional units of wetlands (from 29 units in 5b to 45 units in 5c) compared to the base condition. Connectivity under Alternatives 5a (98%) and 5c (nearly 100%) are excellent, but if in situ water quality treatment is required (5b), connectivity would decrease markedly to 75% due to the need to leave sections of the old highway bed in place for dry retention. From a purely ecological perspective, without regard to cost or authority, Alternative 5 appears to exhibit the best overall performance.

Alternatives 6a and 6b. Alternative 6a would result in the loss of only 6.6 wetland functional units (< 10 acres) whereas Alternative 6b would result in significantly greater losses (22.8 functional units) due to the broad footprint necessary for water quality treatment. Alternative 6a is also estimated to result in about a 36% opening of the entire 10.7-mile length of the Tamiami Trail corridor, providing for a significant improvement in aquatic connectivity. Alternative 6b would provide a reduced level of connectivity (27%) due to the necessity to leave portions of the old Tamiami Trail for water quality treatment.

Alternatives 7a and 7b. Alternative 7a would result in a minimal loss of only 3.4 functional units (5 acres) of marsh. In contrast, the acreage demand for standard water quality treatment along 10 miles of roadway in Alternative 7b would result in wetland losses approaching 50 functional units (72 acres). Both of these alternatives would result in a 5% increase in the connectivity of the L-29 Canal to Everglades marshes in the south

near the western end of the project area. The ground elevation of the Everglades marsh at the western end of the project area appears to be slightly higher than at other locations to the east. If this is actually the case, the aquatic connectivity between the L-29 Canal and the marshes south of the Tamiami Trail would be severed sooner during low water conditions than would occur if such an opening were situated at a point east of the Blue Shanty Canal. Aquatic connectivity may even be reduced beyond current levels during periods of low water if Alternative 7b were selected, since the existing culverts would be filled in.

Alternatives 8a and 8b. Alternative 8a would likewise produce a minimal loss of only 3.5 wetland functional units, resembling Alternative 7a. However, wetland losses under Alternative 8b would be considerably greater (46.6 functional units). These alternatives rely on additional box culverts to convey Mod Waters flows, and would increase connectivity between the L-29 Canal and the marsh south of the roadway by a mere 0.4%. These alternatives are not compatible with the CERP concept of removing the Tamiami Trail as an impediment to flow by elevating portions of the roadway.

Features for reducing road-related wildlife mortality

In an effort to obtain some data that could be used for evaluating the need for highway features that could be employed to reduce road-related wildlife mortality, and that could be used as an aid in determining the placement of such features along the project corridor, biologists from the FWC, the U.S. Fish and Wildlife Service, and the COE conducted a preliminary survey of wildlife mortality along five miles of the Tamiami Trail corridor. Remains representing 411 individual animals were found during a walking survey of 3 miles of the Tamiami Trail on December 19-20, 2000 (Tables 2, 3, and 4) and of 2 miles on April 18, 2001 (Tables 5 and 6). During these single visit surveys, an average of 82 wildlife deaths were recorded per mile. If this same level of mortality is extrapolated for the entire 10.7 mile road corridor, the number of road-kill casualties observable on a given day would equal 880 individuals. However, since 60% of the survey length was surveyed during the coldest part of the year when reptile activity is at its lowest point, and since many carcasses are quickly scavenged from the road before they can be counted, we believe that the actual mortality would likely be several times greater than this. For example, during December, an average of 2 dead snakes and 1 alligator were documented per mile of highway; these numbers increased dramatically, following a marsh dry-down in April, to an average of 22 dead snakes and 7 alligators per mile. Recent data collected by FWS staff similarly suggests that there may be an increase in road-killed snakes during the autumn (Mike Abney, pers.comm.) An Arizona study (Kline and Swann 1998) attempting to quantify wildlife road mortality found that only 24% of road-killed animals recorded during all-night surveys were discovered on surveys the following day. Likewise, a daily walking survey of a section of central Florida secondary highway found that most road-killed snakes were present for only a

day or two, with few remains detectable for as long as two weeks (Kristin Wood, pers com.). During our study, aquatic turtles were the most commonly encountered taxa group, accounting for 66% of the total recorded mortality, followed by snakes (13%), birds (10%), mammals (5.5%), alligators (4.5%), and frogs (1%). A total of 21 species were identifiable from the remains, including 4 turtles, 7 snakes, the alligator, 4 birds, and 5 mammals. Due to the tendency for turtle shell fragments to persist for long periods of time along the road, their prevalence may have actually been less than suggested in our surveys. Aquatic or semiaquatic reptiles dominated the survey with only one terrestrial snake (*Elape guttata*) detected. Of the mammals found, only the river otter and the marsh rat were semiaquatic. The other road-killed mammals, requiring an upland habitat component, included the raccoon, the opossum, and the armadillo.

The construction of animal barriers along the Tamiami Trail corridor in between the bridges or culverts on both sides of the road could aid in reducing road-related wildlife mortality. Perhaps a barrier based on the design currently being used at Payne's Prairie State Preserve south of Gainesville, Florida would serve well here also. The review of an unpublished evaluation by Dick Franz (1996) on the effectiveness of different barrier heights ranging from one to four feet suggests that a 2-foot barrier would be sufficient for deterring all turtles, all small snakes and most large-bodied aquatic snakes, all ranid frogs, most alligators, and all rabbits. The addition of a six-inch overhang would further increase the effectiveness of this barrier. It would be difficult to exclude arboreal animals such as raccoons, opossums, treefrogs, and rat snakes, and potentially large alligators, even with the 4-foot barrier design. Furthermore, the 4-foot barriers would be a difficult obstacle for bank fishermen to traverse, especially if an over-hanging lip is present. The scenic vistas of the Everglades from the highway would likewise be greatly reduced by a 4-foot barrier. For these reasons, and the high cost (\$124.24/ linear foot) associated with constructing the higher concrete barriers, we recommend that a 2-foot barrier height be considered in project design. Further cost reductions could be achieved by using alternate barrier materials such as a low field fence with aluminum flashing at the base.

Since most mammal mortality was documented in the first and last mile of the project corridor (Tables 3 and 4, Mike Abney pers. comm.), we believe that the use of wildlife underpasses and diversion fences to connect the L-30 to the L-31 Levee and the L-67A to the L-67 Extension Levee would help alleviate much of the mammalian mortality. A wildlife crossing at the L-30 Levee would be of most value since no crossing of the L-29 Canal currently exists here, and because the L-30 and L-31 levees must remain in place for flood protection. Neither would this location impede boat use of the L-29 Canal. A successful and economical design used on State Road 29 by the Florida Department of Transportation to allow safe passage for the Florida panther consists of a 50-foot concrete slab bridge placed in the highway alignment, providing a 24-foot-wide passageway with a clearance height of 8 feet. The diversion fences for channeling animals to the crossings should be of a small mesh design and extend for one-half mile on each side of the underpass. The only other section of road surveyed that exhibited a

trend of greater mammal mortality and where the greatest number of historic Everglades mink road-kills have been documented was the 1-mile section centered at the Blue Shanty Canal (Table 5). Consequently, if the western end of the bridge expanse were relocated to the vicinity of the Blue Shanty Canal, the installation of a bridge shelf there could create a safe passage corridor for large mammals (including the endangered Florida panther), medium-sized mammals and other wildlife that utilize this tree-lined agricultural canal that traverses the Tamiami Trail. A shelf width of 10 to 15 feet placed at an elevation slightly above the mean high water line would accommodate the larger animals as well as the small.

Furthermore, an improved highway design will most likely lead to faster driving speeds by motorists, which may necessitate strict enforcement of posted speed limits and stiff fines to insure that wildlife mortality does not increase.

Concerns and Recommendations

Given the stated authority limitations of the COE and the financial limitations of Everglades National Park to implement alternatives such as Alternative 5 or 6 for the Tamiami Trail portion of the Mod Waters project, Alternative 7a, or a derivative thereof, would appear to be the most reasonable interim alternative to implement prior to the approval of a more permanent solution under CERP. Although implementation of Alternative 7a will not entirely remedy all of the predrainage flow characteristics that existed prior to construction of the Tamiami Trail, it is anticipated to be capable of handling a shift in the bulk of Shark River flow volumes that will be channeled from the west side of the L-67 Levee to the east and into northeastern Shark River Slough.

Lacking in-house hydrological expertise, we must rely on the COE's modeling results, which indicate that a design high water level of 9.3 feet is sufficient for protecting the integrity of the Tamiami Trail road base, as the basis for our support of Alternative 7a. We note that the approved CERP conceptual plan, Alternative D-13R, as designed, is not expected to return the Everglades entirely to its historical flow regimes. The CERP plan may, in fact, need to be improved upon in order to reduce unnaturally high water levels and inundation periods that have been predicted under Alternative D-13R for WCA-3B. However, should any re-evaluation by the COE suggest that the design high water level of 9.3 feet would not be adequate to efficiently move flood water out of WCA-3B, then we would favor the adoption of a higher criterion to lessen the likelihood of deleterious flooding impacts upon the wildlife and vegetative communities of WCA-3B.

In summary, we offer the following recommendations concerning the alternatives under consideration, including possible improvements to Alternative 7a, the preliminary preferred alternative.

1. We support the idea of selecting an alternative that would be as compatible as possible with the upcoming CERP Decentralization Project, and recommend that a real estate agreement between the COE and the Florida Department of Transportation for the Tamiami Trail be pursued in lieu of raising the profile of the roadway. We understand that such an agreement is expected to occur when the COE completes its design and specification plans for the project.
2. We understand that water quality treatment will probably not be required at this time since the impervious surface of the highway is not expected to significantly increase. Due to the potential for significant losses of high quality wetlands, impacts to important wildlife habitats, impacts to bank fishing, and possible incompatibility with CERP that would occur by including water quality treatment, we support the implementation of a water quality monitoring plan to ascertain whether treatment would be desirable in the future.
3. We are concerned about the potential reduction in public recreational access to the FSTWMA and fishing sites along the Tamiami Trail that could occur under Alternatives 3a, 3b, and the water quality treatment options b1 to b3 of Alternatives 2, 4, and 6, since such access is anticipated to decline as a result of restoration activities associated with both the Conveyance and Seepage component of Mod Waters and with the Decentralization of WCA-3A Project of CERP. We are pleased to see at this time that, apart from a temporary lack of access to the south bank of the L-29 Canal during construction, Alternative 7a is expected to have minimal impacts on recreational use. However, special attention will need to be given to the siting of construction staging areas so that access is not blocked to the three boat ramps and parking facilities associated with the popular Recreation Site No. 4, the boat ramp and parking facility at Recreation Site No. 1, or to the boat ramp facility located west of the S-12D structure.
4. Of the viable alternatives being considered for this project, Alternative 7a would appear to have the least amount of impact on fish and wildlife resources. However, we believe that greater ecological and wildlife benefits may be derived from this alternative by a shift of the bridge from the proposed site one mile east of the L-67 Levee to a location east of the Blue Shanty Canal. If feasible, the placement of the western end of the bridge span, equipped with a wildlife crossing shelf beneath it, at a location immediately east of the Everglades Safari Airboat concession could aid in the reduction of wildlife mortality, particularly of the threatened Everglades mink.

5. Since wading bird and snail kite nesting patterns, as well as Everglades mink territories may vary with the prevailing hydrological conditions, surveys should be conducted on an annual basis by qualified biologists to determine whether any nesting efforts of state and federally protected bird species, or mink dens, would potentially be affected, prior to the commencement of construction activities. There is, in particular, a need for the COE to support a detailed study of the status and current distribution of the threatened Everglades mink along the Tamiami Trail corridor prior to the completion of the CERP Decompartmentalization Phase I project plan.
6. Alternatives 2b, 3a, 3b, 4a, 4b, 6b, 7b, and 8b produce an unacceptable amount of wetland functional loss, result in permanent impacts to wading bird rookeries, and have the potential to impact the threatened Everglades mink population; therefore, we recommend that they be removed from further consideration as ecologically viable alternatives.
7. Results from our preliminary wildlife mortality surveys and historical information suggest that there is a need for a more detailed wildlife mortality study on this portion of the Tamiami Trail prior to the completion of the Decompartmentalization Phase I project design plans. We are pleased that the COE is now supporting such a wildlife mortality study through the U.S. Fish and Wildlife Service, and hope that some nighttime surveys will be incorporated to document the potential effects of nocturnal or early morning scavengers on road-kill results.
8. Any reduction in recreational access or use of the Francis S. Taylor Wildlife Management Area that occurs in connection with this project would need to be compensated for on terms amenable to the FWC. We urge that the COE devise a program whereby the development of the recreational potential, adequate to meet anticipated public-use requirements, is more fully incorporated into project plans.

Sincerely,



Brian S. Barnett, Interim Director
Office of Environmental Services

BSB/DTT
ENV 2-16/4
a:\ModWat_TamTrail_FinCAR.doc
Enclosures

Colonel James G. May
June 24, 2003
Page 14

cc: Mr. Jay Slack, FWS, Vero Beach
Ms. Maureen Finnerty, ENP, Homestead
Ms. Tambour Ellis, COE, Jacksonville
Dr. Jon Moulding, COE, Jacksonville
Mr. Mark Robson, FWC, South Region

Literature Cited

Florida Game and Fresh Water Fish Commission. 1960. Recommended Program for Conservation Area 3. Vero Beach, Florida.

Kline, N.C. and D.E. Swann. 1998. Quantifying Wildlife Road Mortality in Saguaro National Park *in* Proceedings of the International Conference on Wildlife Ecology and Transportation FL-ER-69-98, Florida Department of Transportation, Tallahassee, Florida. 263 pp.

Table 1. Description of Alternatives being considered for the Tamiami Trail Project and their effects on wetland extent and function as determined by the Wetland Rapid Assessment Procedure.

Alternative	Description	Acres Lost	Functional Units Lost- / Gained+
1	Existing alignment and profile with 4 new bridges without water quality treatment	-1.6	-2.9
2a	Existing alignment with raised profile and 4 new bridges without water quality treatment	-11.8	-10.1
2b	Existing alignment with raised profile, 4 new bridges, with standard dry detention water quality treatment	-86.0	-37.5
2b Options	"Creative" water quality treatment options		
2b 1	Shift alignment to north and compress swale with wall elements/south side	-44.6	-33.6
2b 2	Shift alignment to north and compress swale with wall elements/north side	-8.0	-8.4
2b 3	Shift typical section north encroaching approximately 50 ft. into L-29 Canal	-8.0	-8.4
2b 4	Grass strips	-8.0	-8.4
2b 5	Exfiltration trenches with curb and gutter	-8.0	-8.4
2b 6	Exfiltration trenches with shoulder gutter	-7.9	-8.3
3a	New north alignment in WCA-3B with raised profile and 8 new bridges without water quality treatment	-14.3	-18.8
3b	New north alignment in WCA-3B with raised profile, 8 new bridges, and standard dry detention water quality treatment	-28.9	-30.2
3b Options	"Creative" water quality treatment options		
3b 1	Modified 2b 1 Option	-22.8	-25.4
3b 2	Modified 2b 2 Option	-10.6	-16.0
3b 3	Modified 2b 3 Option	-13.5	-18.2
3b 4	Grass strips	-9.6	-15.2
3b 5	Same as 2b 5	-10.3	-15.8
3b 6	Same as 2b 6	-10.4	-15.9

Alternative	Description	Acres Lost	Functional Units Lost (-) / Gained
4a	New south alignment with raised profile and 4 new bridges without water quality treatment	-68.4	-40.4
4b	New south alignment with raised profile, 4 new bridges, and standard dry detention water quality treatment	-103.9	-64.4
4b Options	"Creative" water quality treatment options		
4b 1	Modified 2b 1 Option	-62.6	-36.5
4b 3	Modified 2b 3 Option	-62.5	-36.5
4b 4	Grass strips	-61.3	-35.6
4b 5	Same as 2b 5	-62.6	-36.5
4b 6	Same as 2b 6	-62.5	-36.5
5a	Elevated roadway within existing right-of-way without water quality treatment	57.3	39.3
5b	Elevated roadway within existing right-of-way with water quality treatment	43.0	29.5
5c	Elevated roadway within existing right-of-way, without water quality treatment, with degradation of the existing highway embankment	65.9	45.3
6a	Existing alignment with raised profile, 4-mile bridge and 8 new box culverts without water quality treatment	-9.6	-6.6
6b	Same as alternative 6a with standard dry detention water quality treatment	-33.3	-22.8
6b Options	"Creative" water quality treatment options		
6b 1	Same as Option 2b 1 applied to remaining roadway	-30.4	-20.9
6b 2-6b 5	Same as Option 2b 2 - 2b 5 applied to remaining roadway	-4.8	-3.3

Alternative	Description	Acres Lost	Functional Units Lost- / Gained+
7a	Existing alignment with raised profile and 3000-foot bridge without water quality treatment	-5.0	-3.4
7b	Existing alignment with raised profile and 3000-foot bridge with standard dry detention water quality treatment	-72.4	-49.5
7b Options	"Creative" water quality treatment options		
7b 1	Same as Option 2b 1 applied to remaining roadway	-10.4	-7.2
7b 2	Same as Option 2b 2 applied to remaining roadway	-5.0	-3.4
7b 3	Same as Option 2b3 applied to remaining roadway	-10.4	-7.2
8a	Existing alignment with raised profile and 24 additional culverts without water quality treatment	-5.1	-3.5
8b	Existing alignment with raised profile and 40 additional culverts with standard dry detention water quality treatment	-68.0	-46.6
8b Options	"Creative" water quality treatment options		
8b 1 & 8b3	Same as Options 2b1 & 2b 3 applied to remaining roadway	-15.9	-7.5
8b2	Same as Option 2b2 applied to remaining roadway	-5.1	-3.5
"9a"	Existing alignment with raised profile, 2.7-mile bridge and 8 new box culverts without water quality treatment	-2.8	-1.9
"9b"	Existing alignment with raised profile, 2.7-mile bridge and 8 new box culverts with standard dry detention water quality treatment	-39.1	-33.4

Table 2. Wildlife remains identified along Tamiami Trail, one-half mile on each side of Agricultural Canal at Coopertown, located four miles west of S-334 (December 19, 2000).

NORTH SIDE OF TAMIAMI TRAIL			
Class	East ½ mile	West ½ mile	Total
Turtles	16	12	28
Snakes	1	2	3
Frogs	1	1	2
Alligators	0	0	0
Birds	0	0	0
Mammals	0	1	1
Unidentified	1	4	5
SOUTH SIDE OF TAMIAMI TRAIL			
	East ½ mile	West ½ mile	Total
Turtles	4	6	10
Snakes	0	3	3
Frogs	0	0	0
Alligators	0	1	1
Birds	4	1	5
Mammals	0	0	0
Unidentified	2	1	3

TOTAL: 61

Table 3. Wildlife remains identified along one mile of Tamiami Trail beginning at the Flight 592 Memorial adjacent to the L-67 Canals and ending ½ mile east of Osceola Camp (December 20, 2000).

NORTH SIDE OF TAMIAMI TRAIL			
Class	East ½ mile	West ½ mile	Total
Turtles	11	7	18
Snakes	0	0	0
Frogs	0	0	0
Alligators	0	0	0
Birds	3	0	3
Mammals	0	1	1
Unidentified	0	0	0

Table 3. Continued

SOUTH SIDE OF TAMIAMI TRAIL			
Class	East ½ mile	West ½ mile	Total
Turtles	5	4	9
Snakes	0	0	0
Frogs	0	0	0
Alligators	1	1	2
Birds	1	0	1
Mammals	2	4	6
Unidentified	2	2	4

TOTAL: 44

Table 4. Wildlife remains identified on December 20, 2000 along one mile of Tamiami Trail beginning at the L-30 Canal extending one mile west and ending at a bank of culverts (Begin: UTM 550299 N; 2849310 E End: 548615 N; 2849297 E).

NORTH SIDE OF TAMIAMI TRAIL			
Class	East ½ mile	West ½ mile	Total
Turtles	38	20	58
Snakes	0	0	0
Frogs	0	0	0
Alligators	0	0	0
Birds	3	0	3
Mammals	3	0	3
Unidentified	0	1	1

SOUTH SIDE OF TAMIAMI TRAIL			
	East ½ mile	West ½ mile	Total
Turtles	18	4	22
Snakes	0	0	0
Frogs	0	0	0
Alligators	1	1	2
Birds	1	2	3
Mammals	2	1	3
Snakes	1	1	2

TOTAL: 97

Table 5. Wildlife remains identified by FWC on April 18, 2001, along one mile of Tamiami Trail (between culverts #44 to #46 at the Blue Shanty Canal [culvert #45]).

NORTH SIDE OF TAMIAMI TRAIL			
Class	East ½ mile	West ½ mile	Total
Turtles	18	3	21
Snakes	1	0	1
Frogs	0	0	0
Alligators	2	2	4
Birds	0	0	0
Mammals	0	1	1
Unidentified	1	1	2
SOUTH SIDE OF TAMIAMI TRAIL			
Turtles	19	12	31
Snakes	4	2	6
Frogs	0	0	0
Alligators	2	1	3
Birds	3	3	6
Mammals	1	5	6
Unidentified	1	0	1

TOTAL: 82

Table 6. Wildlife remains identified by FWC on April 18, 2001, along one mile of Tamiami Trail (between culverts #56 to #54 at the Tamiami West woodstork colony [culvert #55]).

NORTH SIDE OF TAMIAMI TRAIL			
Class	East ½ mile	West ½ mile	Total
Turtles	16	20	36
Snakes	5	3	8
Frogs	2	1	3
Alligators	1	2	3
Birds	4	6	10
Mammals	0	0	0
Unidentified	1	1	2
SOUTH SIDE OF TAMIAMI TRAIL			
Turtles	9	15	24
Snakes	23	7	30
Frogs	0	0	0
Alligators	2	2	4
Birds	4	3	7
Mammals	0	0	0
Unidentified	0	0	0

TOTAL: 127

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION



BARBARA C. BARSH
Jacksonville

QUINTON L. HEDGEPEETH, DDS
Miami

H.A. "HERKY" HUFFMAN
Deltona

DAVID K. MEEHAN
St. Petersburg

JULIE K. MORRIS
Sarasota

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

February 26, 2001

Colonel James G. May
District Engineer
U.S. Army Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

Re: General Reevaluation Report/
Supplemental Environmental Impact
Statement, Tamiami Trail
Modifications Project, Modified
Water Deliveries to Everglades
National Park, Miami-Dade County

Dear Colonel May:

The Office of Environmental Services of the Florida Fish and Wildlife Conservation Commission (FWC) has reviewed the draft Supplement to the 1992 General Design Memorandum and Final Environmental Impact Statement (GRR/SEIS) for the Tamiami Trail Project of Modified Water Deliveries to Everglades National Park ("Mod Waters"), dated December 22, 2000. This planning aid letter is submitted under the authority of the Fish and Wildlife Coordination Act of 1973.

Description of Alternatives

The reason that a GRR/SEIS is being developed is that new information acquired since the project was approved in 1992 indicates that the original design would be insufficient to pass the volume of water that would need to be conveyed under the Tamiami Trail via Mod Waters. Nine basic alternatives, four of which contain from one to six different water quality treatment options, are being considered. After the GRR/SEIS was distributed, the Department of Interior submitted an additional alternative, referred to here as alternative six. In addition, we have been told that another alternative utilizing box culverts has been evaluated by your staff in house, but has not yet been distributed for wider review. For a short description of these alternatives, please refer to Table 1. We have three major areas of concern with regard to the potential impacts of this project: (1) impacts to existing recreational facilities and access points, (2) impacts to fish and wildlife resources, and (3) potential loss of Everglades marsh.

Impacts to Existing Recreational Facilities and Access Points

Consideration of impacts to recreation facilities developed by the Florida Game and Fresh Water Fish Commission under the authority of the Land and Water Conservation Fund Act (P.L. 88-578) and the Federal Water Project Recreation Act (P.L. 89-72) should be carefully examined. Within the project area, there exist at least six developed marsh or canal access points, of which at least four contain an FWC-maintained boat ramp permitted by the South Florida Water Management District, and all sites possess a limited amount of primitive parking space. Three of these boat ramp facilities provide access to the Francis S. Taylor Wildlife Management Area (Water Conservation Area [WCA]-3B), one (#153) is located approximately 3 miles west of the S-334 structure and provides access to the northern bank of the L-29 canal, while the other two, located at opposite ends of the project area, provide airboat access to the marsh. The boat ramp immediately north of the S-333 structure provides access to the popular L-67A canal, while another ramp at the juncture of the L-67A and L-67C levees provides access to the L-67C canal and to "the pocket" of WCA-3B. The last facility, located immediately west of the S-12D structure, provides access to the L-29 canal and adjacent marshes of WCA-3A, both portions of the Everglades Wildlife Management Area. Of the four established recreation sites, three are still present. Recreation site No. 1 is located on the L-29 levee immediately east of the S-334 structure. Recreation site No. 2 is located about 3 miles west of Site No. 1 and includes the only FWC boat ramp for access to this 11-mile stretch of the L-29 canal. Recreation site No. 4, located adjacent to the S-333 structure, harbors three boat ramps and is the most important access point on the Tamiami Trail for boaters.

It is probable that the enhanced connectivity created by the Seepage and Conveyance portion of the Mod Waters through employment of the two S-355 structures and the three weirs across the L-29 levee, combined with the accompanying greater water depths, will lead to an improved fishery along this eleven-mile stretch of the L-29 canal and at associated structures. Such an enhanced fishery would result a greater amount of use by the fishing public, and may warrant improved recreational access to the L-29 canal and its associated conveyance structures, particularly given the proximity of this area to greater Miami. Consequently, those aspects of the various alternatives that further enhance connectivity between the L-29 canal and the adjacent marsh habitats would have a positive effect on the L-29 canal fishery as well as improve compatibility with the Decentralization Phase 1 Project of the Comprehensive Everglades Restoration Plan (CERP). Of course, all of the potential benefits that could be realized through increased connectivity between the L-29 canal and adjacent marshes are contingent on the maintenance of some deeper water habitat in the L-29 canal. The potential impacts associated with each group of alternatives are listed as follows.

1. Alternatives 1, 2a, 2b to 2b6, 4a, and 4b to 4b6. Each of these alternatives physically connect the L-29 canal to the marsh in Everglades National Park for only 2.5% of the entire project corridor length (i.e., create a 2.5% marsh-canal interface) by means of the four new bridges; however, creative water quality treatment options b1 to b3 of alternatives 2, 4, and 6 would encroach into the L-29 canal. We understand from

statements made by your staff that it will be necessary to maintain the water supply conveyance capacity of the L-29 canal for some undefined period of time, which would necessitate maintaining deeper water conditions in this section of the canal. Nevertheless, the above-mentioned water quality treatment options would encroach into the south portion of the L-29 canal, with a concomitant widening of the canal to the north. This option would essentially eliminate any existing littoral zone on the south bank of the canal and would result in the loss of the boat ramp located on the north bank of the L-29 canal.

2. Alternatives 3a and 3b. Each of these alternatives would provide a 10% marsh-canal interface along the project corridor through the addition of eight new bridges; however, a reduction in available parking space on the north side of the L-29 canal for recreational users in alternatives 3a and 3b would negatively impact recreational access. Recreation site No. 2 would also probably be negatively affected by this northerly road alignment.
3. Alternatives 5a and 5b. The ultimate increase in connectivity would be realized with alternative 5A, which would provide a 98% opening of the corridor, with alternative 5b providing a very beneficial 75% opening. Although access to the north bank of the L-29 canal would be reduced for bank anglers, fishing opportunities may still exist if fishing access is available to anglers from the elevated bridge span.
4. Alternatives 6a and 6b. This alternative is estimated to result in about a 35% opening of the entire length of the Tamiami Trail corridor. Although approximately 4 miles of the northern bank of the L-29 canal would be unavailable to bank anglers, the remaining 6 miles should still be accessible. As in alternative 5, less opportunity would be lost if fishing access is possible from the bridge span.

Impacts to Fish and Wildlife Resources

Of particular concern are the potential impacts that an alternative could have on state-listed species of wildlife or important habitat components. There are three historic wading bird rookeries containing species listed by the state as endangered or species of special concern, recent records of endangered snail kite nests in southern WCA-3B, a number of records of the threatened Everglades mink along the highway corridor, and the occasional occurrence of the endangered West Indian manatee in the L-29 canal. In addition, other listed species such as the limpkin and roseate spoonbill (both listed as species of special concern) utilize marsh areas, and the least tern (threatened) forages in canal habitats that could be impacted under certain alternatives. The potential impacts that could occur are listed by alternative groups as follows.

- 1 Alternatives 1 and 2a. The temporary road for detouring traffic while proposed bridge #3 is under construction would encroach into the pond apple forest at the Tamiami West colony, on the south side of the Tamiami Trail, that provides nesting substrate for white

ibis, tricolored herons, little blue herons, snowy egrets, and wood storks. Consequently, this forested area would be eliminated as a nesting substrate for an unknown number of years. Any heavy construction activity, including construction of the temporary road, should be conducted outside of the wading bird nesting season, which normally extends from early February to the onset of the rainy season.

2. Alternative 2b. This alternative encroaches to a greater extent (average of 51 feet) into the marsh south of the existing Tamiami Trail with incursions of 5 to 6 additional feet at bridge approaches. Consequently, this alternative would have a greater permanent impact on the Tamiami East and Tamiami West wading bird colonies due to a greater permanent loss of nesting substrate as well as a decrease in the amount of buffer capacity available. The Everglades mink has been documented to use both natural and artificial upland areas for denning purposes; therefore, this alternative could potentially impact mink denning areas that may occur in either native upland areas or at the artificially created upland areas where the airboat concession sites are located. Option 2b1, which shifts the alignment to the north, is only a slight improvement over alternative 2b.

The 2b creative water quality treatment options of 2b2 to 2b6 (Table 1) result in much more modest incursions into the two Tamiami wading bird colonies; however options 2b2 and 2b3 would eliminate littoral zone elements on the south shore of the L-29 canal, eliminate reptile oviposition and basking sites on the south shore of the canal, and could result in the entrapment of terrestrial animals attempting to cross the canal.

3. Alternatives 3a and 3b. Both of these alternatives and the various 3b options presented would result in the loss of a significant amount of high quality wildlife. The Frog City wading bird colony, which has been documented to contain nesting tricolored herons and great egrets, would be either eliminated or severely impacted by the road alignment, which encroaches further into the marsh at this point in order to avoid the Tigertail Camp. There could potentially be dens of the Everglades mink in the L-29 levee, as well.
4. Alternatives 4a and 4b. Both of these alternatives would produce significant incursions into the Tamiami West and Tamiami East wading bird rookeries, as well as eliminate important swamp forest habitat along the remainder of the corridor. Although options 4b1-4b6 would reduce the amount of encroachment from alternative 4b, they are only slightly better than alternative 2b. The Everglades mink has been documented to use some of the man-made upland sites along this alignment for denning purposes, and could potentially be impacted by construction activity.
5. Alternatives 5a and 5b. These alternatives are believed to be the most beneficial to wildlife, with no known impacts. These alternatives would leave important rookery vegetation intact on both sides of the Tamiami Trail and minimize potential impacts to mink denning areas. Road-related mortality of the Everglades mink, with at least 14

documented occurrences, would essentially be eliminated. Other mammals, reptiles, and amphibians would similarly benefit.

6. Alternatives 6a and 6b. Alternative 6a would produce impacts to the two Tamiami rookeries as described for alternatives 1 and 2a, above. Alternative 6b and its various options would result in impacts to these rookeries and to the L-29 canal identical to those described under alternative 2b, above. Road-related mortality of the Everglades mink and other wildlife would be eliminated at the four-mile bridge, and mink survival could be further enhanced by providing elevated wildlife crossing shelves under the east and west ends of the extended bridge. Mink denning areas could also be protected by avoiding the need to encroach upon the upland sites south of the existing road. Mink habitat could actually be improved by the planting of these upland sites to resemble native Everglades tree island communities.

Potential Loss of Everglades Marsh

In order to ascertain the potential impacts that each alternative iteration would pose to the functionality of wetlands, a multi-agency team was assembled and the Wetland Rapid Assessment Procedure (WRAP) applied to the various wetland plant communities in the Tamiami Trail corridor. The results of this assessment revealed that the functional value of wetland communities immediately north of the L-29 levee in WCA-3B were of somewhat higher quality (average score of 0.74) than similar wetlands situated immediately south of the Tamiami Trail in the Everglades Expansion Area of Everglades National Park (average score of 0.62). The seven water quality treatment options of 3b through 3b6 presented for alternative 3 were predicted to result in the loss of from 16 to 30 wetland functional units in WCA-3B, whereas alternative 3a (without water quality treatment) was predicted to result in the loss of 19 functional units (Table 1). Likewise, the nine water quality treatment options of 4b through 4b6, 2b, and 2b1 were predicted to result in the loss of from 34 to 65 wetland functional units in Everglades National Park, whereas alternative 4a (without water quality treatment) was predicted to result in the loss of 40 wetland functional units (Table 1). We believe that the amount of wetland function that would be lost under any of the above alternatives is unacceptable given the loss of native habitat that has already occurred in the Everglades. However, we would wholeheartedly support alternative 5 and its variations which actually results in gains of from 30 to 45 wetland functional units. The new four-mile bridge alternative (referred to in this document as alternative six) that has only recently been proposed to the Army Corps of Engineers by the U.S. Fish and Wildlife Service and Everglades National Park, with our support, would result in a minimal loss of wetland function. Alternatives 6b2 through 6b6 are predicted to result in the loss of only 3.3 wetland functional units. Alternatives 2b2 through 2b6, although not as desirable as alternative 5 or alternatives 6b2 through 6b6, would have relatively low impacts on wetlands, with only about 8 functional units lost (Table 1).

Colonel James G. May
February 26, 2001
Page 6

Summary and Recommendations

We are concerned about the potential loss of public recreational fishing and boating opportunities that could occur with this project, since such opportunities are anticipated to decline as a result of restoration activities associated with both the Conveyance and Seepage component of Mod Waters and the Decpartmentalization Project of CERP. Other upcoming components of CERP such as the Water Preserve Areas Feasibility Study are, as designed at this point, anticipated to offer little in terms of compensating for the recreational fishing opportunities that will be lost with the filling of internal canals in the Everglades and Francis S. Taylor Wildlife Management Areas. Consequently, in light of these anticipated losses, whenever an opportunity exists to maintain important recreational facilities and recreational opportunities that do not significantly impinge on the restoration of the greater Everglades ecosystem, we believe that the recreational value of such features to the local public should receive strong consideration in the decision-making process. In short, a program for the development of the recreational potential, adequate to meet anticipated public-use requirements, should be incorporated into project plans.

In terms of potential impacts to fish and wildlife, alternatives 5a and 5b appear to be the most desirable, since they would result in an increase in wetland function, avoid permanent impacts to wading bird rookeries, provide maximum connectivity across the Tamiami Trail, minimize wildlife road-related mortality, and could continue to provide recreational fishing and boating opportunities, provided that bank fishermen could access the L-29 canal from the bridge and boating access to the L-29 canal remains via public boat ramps. On the other hand, alternatives 2b, 3a, 3b, 4a, and 4b produce an unacceptable amount of wetland functional loss, result in permanent impacts to wading bird rookeries, and have the potential to impact the threatened Everglades mink population; therefore, we recommend that they be removed from further consideration as ecologically viable alternatives.

Sincerely,


Bradley J. Hartman, Director
Office of Environmental Services

BJH/DTT
ENV 2-16/4
TamTrail_FWCAR.let
Enclosure

cc: Mr. Stephen Forsythe, FWS, Vero Beach
Ms. Maureen Finnerty, ENP, Homestead
Ms. Doris Marlin, COE, Jacksonville
Dr. Hanley "Bo" Smith, COE, Jacksonville

Table 1. Description of Alternatives being considered for the Tamiami Trail Project and their effects on wetland extent and function as determined by the Wetland Rapid Assessment Procedure.

Alternative	Description	Acres Lost	Functional Units Lost- / Gained+
1	Existing alignment and profile with 4 new bridges without water quality treatment	-1.6	-2.9
2a	Existing alignment with raised profile and 4 new bridges without water quality treatment	-1.6	-11.1
2b	Existing alignment with raised profile, 4 new bridges, with standard dry detention water quality treatment	-50.3	-37.5
2b Options	"Creative" water quality treatment options		
2b 1	Shift alignment to north and compress swale with wall elements/south side	-44.6	-33.6
2b 2	Shift alignment to north and compress swale with wall elements/north side	-8.0	-8.4
2b 3	Shift typical section north encroaching approximately 50ft. into L-29 Canal	-8.0	-8.4
2b 4	Grass strips	-8.0	8.4
2b 5	Exfiltration trenches with curb and gutter	-8.0	8.4
2b 6	Exfiltration trenches with shoulder gutter	-7.9	-8.3
3a	New north alignment in WCA-3B with raised profile and 8 new bridges without water quality treatment	-14.3	-18.8
3b	New north alignment in WCA-3B with raised profile, 8 new bridges, and standard dry detention water quality treatment	-28.9	-30.2
3b Options	"Creative" water quality treatment options		
3b 1	Modified 2b 1 Option	-22.8	-25.4
3b 2	Modified 2b 2 Option	-10.6	-16.0
3b 3	Modified 2b 3 Option	-13.5	-18.2
3b 4	Grass strips	-9.6	-15.2
3b 5	Same as 2b 5	-10.3	-15.8
3b 6	Same as 2b 6	-10.4	-15.9

Table 1 continued

Alternative	Description	Acres Lost	Functional Units Lost (-) / Gained
4a	New south alignment with raised profile and 4 new bridges without water quality treatment	-68.4	-40.4
4b	New south alignment with raised profile, 4 new bridges, and standard dry detention water quality treatment	-103.9	-64.6
4b Options	"Creative" water quality treatment options		
4b 1	Modified 2b 1 Option	-62.6	-36.5
4b 3	Modified 2b 3 Option	-62.5	-36.5
4b 4	Grass strips	-61.3	-35.6
4b 5	Same as 2b 5	-62.6	-36.5
4b 6	Same as 2b 6	-62.5	-36.5
5a	New alignment with an elevated bridge structure without water quality treatment	57.3	39.3
5b	New alignment with an elevated bridge span with water quality treatment	43.0	29.5
5c	New alignment with an elevated bridge span without water quality treatment and with L-29 levee removed	65.9	45.3
5d	New alignment with an elevated bridge span with water quality treatment and with L-29 levee removed	49.4	33.9
"6a"	New proposed FWS/ENP/FWC alternative on existing alignment with a 4-mile bridge between Cooper Town and the Blue Shanty Canal, and additional box culverts	N/A	-6.60
"6b"	Same as alternative 6a with standard dry detention water quality treatment	N/A	-22.8
6b Options	"Creative" water quality treatment options		
"6b 1"	Same as Option 2b 1 applied to remaining roadway	N/A	-20.9
"6b 2-6b 6"	Same as Option 2b 2 - 2b 6 applied to remaining roadway	N/A	-3.3

LEHTINEN VARGAS & RIEDI

ATTORNEYS AT LAW
A PROFESSIONAL ASSOCIATION

May 9, 2008

Colonel Paul Grosskruger
District Commander
Jacksonville District
Army Corps of Engineers
701 San Marco Blvd.
Jacksonville, Florida 32207

Attention: Bradley A Foster

Via Fax, Regular Mail and e-mail (TTMComments@usace.army.mil)

Re: Miccosukee Tribe's Comments on the Modified Water Deliveries to Everglades National Park Tamiami Trail Modification Limited Reevaluation Report and Environmental Assessment dated April 2008

Dear Colonel Grosskruger,

I. INTRODUCTION

The Miccosukee Tribe of Indians of Florida ("Tribe") hereby provides comments on the U.S. Army Corps of Engineers' ("Corps") Modified Water Deliveries to Everglades National Park Tamiami Trail Modification Limited Reevaluation Report ("LRR") and Environmental Assessment ("EA") dated April 2008. The Tribe also incorporates by reference its comments concerning Tamiami Trail made at the April 22, 2008 public meeting and all comments made during the 2003 GRR/EIS process, and the 2005 Revised GRR/EIS process.

The Tribe strenuously objects to the Tentatively Selected Plan ("TSP") in the LRR/EA (Alternative 3.2.2a), which is the one mile east bridge with road raising to be built in Everglades National Park ("ENP" or "Park"). The Tribe further objects to the legally inadequate process that produced it. The Tribe contends that the Corps failed to conduct the Environmental Impact Statement ("EIS") required by the National Environmental Policy Act ("NEPA") on this major federal action; failed to conduct formal Section 7 consultation with the Fish and Wildlife Service before selecting the TSP; failed to follow the Federal Advisory Committee Act ("FACA") for the LRR advisory group; failed to conduct the Section 4(f) review required under the Department of

Transportation Act (“DOT”) of 1966, as codified at 49 U.S.C. 303; and failed to meet its federal Trust responsibility to the Miccosukee Tribe.

The Tribe further contends that Alternative 3.2.2a, which is estimated to cost \$225.4 million dollars, is not a viable option. The Corps has no authority to build the TSP under the Modified Water Deliveries Project (“MWD”). The Water Resources Development Act of 2000 (“WRDA 2000”) required completion of the MWD Project prior to funding components of the Comprehensive Everglades Restoration Plan (“CERP”) Decentralization Project, including the bridging of Tamiami Trail. WRDA 2000 specifically mandates that: “No appropriation shall be made to construct the Water Conservation Area 3 Decentralization and Sheetflow Enhancement Project (including . . . Raise and Bridge East Portion of Tamiami Trail . . .) until the completion of the project to improve water deliveries to Everglades National Park authorized by section 104 of the Everglades National Park Protection Act of 1989 (16 U.S.C. 410 r-8).” The Corps apparently thinks that despite this WRDA prohibition, it can bridge eastern Tamiami Trail as long as the L-29 levee remains in place. The WRDA 2000 prohibition against bridging the Trail makes no such distinction. Such quibbling is merely an attempt to hoodwink Congress into wasting taxpayer money to build a bridge with the levee still in place.

Despite the Congressional mandate in WRDA 2000, the Corps refuses to recognize that it is incumbent on it to select an alternative that is within the funding constraints and statutory authority. The TSP in the LRR/EA, which proposes constructing a one mile bridge in the Park at a cost of at least \$225.4 million dollars, is a dead end excursion that will never be funded. Building a bridge in the Park is totally unnecessary under the MWD Project. Under the provisions of the Everglades National Park Protection and Expansion Act of 1989 (Public Law 101-229), the Secretary of the Army is only authorized to take those steps necessary to restore natural hydrologic conditions to the extent practicable. A review of the matrix at page 4-21 of the LRR/EA shows that the culvert/swale/road raising Alternative 3.2.1 approaches the flow and volume of the TSP at a cost savings of \$80 million of dollars. Yet, the Corps’ LRR advisory group arbitrarily used a “velocity” performance measure to improperly eliminate this lower cost Alternative 3.2.1 from analysis in the array of final alternatives.

The TSP does nothing to improve conveyance of water through the other 9.7 miles of Tamiami Trail, where the area downstream of the culverts is blocked with sediment and heavy vegetation that built up on the discharge side. Interestingly, while Park staff have stubbornly refused to allow the sediment/vegetation blockage to be removed downstream of the culverts, they have agreed to allow a one mile bridge to be built on National Park land. Building a one mile bridge in the Park is not only unnecessary, since prudent alternatives exist, but wastes taxpayer money and violates the prohibition against bridging Tamiami Trail until the MWD is completed. The Tribe continues to contend that cleaning the blockages downstream of the discharge areas of the culverts would be far more economical and would maximize the effectiveness of the existing culverts. Maximizing the efficiency of the existing culverts, and constructing swales downstream, would also distribute and increase the flows across the entire 10.7 miles of Tamiami Trail. The Tribe contends that it would be more prudent, and environmentally beneficial, to 1) clear the area downstream of the culverts; 2) construct additional culverts and swales as necessary; 3) raise the road as necessary without widening it; and 4) wait for CERP Decentralization to embark

on an expensive and challenging bridge project if proven necessary. Instead, the LRR/EA rejects prudence and economy and relies on a skewed analysis to select a predetermined plan to build a bridge in the Park, which was selected outside of the public process.

The Corps fails to acknowledge that there is an environmental cost to the Everglades for each year of delay of the MWD Project. The LRR/EA fails to calculate the cost of delay, in terms of economic and environmental costs to the Everglades as a result of the failure to complete the MWD Project. The MWD Project was supposed to be completed in 1997. The deadline has long passed. A good part of this delay can be attributed to the endless Tamiami Trail process, which has been going on since at least 2003. If the Corps cannot select and build a Tamiami Trail component in five years, what hope is there that the vital MWD Project will ever be completed. It is clear to everybody but the Corps that DOI's continued attempts to implement the entire multi-billion dollar CERP through the \$81 million dollar Pre-CERP MWD Project has caused excessive delay and enormous cost overruns. This is of great concern to the Tribe, because the expeditious implementation of the long delayed MWD Project is vital to the Everglades that supports their culture and way of life. In the 2003 and 2005 Tamiami Trail GRR/EIS process, the Tribe provided "The Miccosukee Tribe's Ten Tamiami Trail Tenets," which are still applicable, although the deadline for project completion has long passed. **Attachment A.** The Tribe's goal was then, and is now, to help the Corps select a plan that is economical and within its statutory authority under PL 101-229, so that MWD will be implemented expeditiously.

Completion of the MWD Project is a prerequisite to CERP Decentralization. Any delay in the MWD Project, or its Tamiami Trail component, will delay CERP. Unfortunately, both for the Tribe and the Everglades, the deadline for the completion of the MWD Project has long ago passed. Under Colonel Salt, the Corps told Congress in 1992 that the project would cost \$81 million dollars and be completed by 1997. Under Colonel Rice, a Project Cooperation Agreement ("PCA") was signed to construct a MWD Project that had escalated to \$114 million dollars. Under Colonel Miller, the MWD Project was to be completed by December 31, 2001. Colonel May set a new completion date of December 31, 2003, which was not met. When Colonel Carpenter took over, he pledged to complete the project by December 31, 2006. Under Colonel Grosskruger, the new deadline was 2010. According to the LRR, the projected project cost with the TSP has now escalated to at least \$523.1 million dollars and the deadline has moved to 2011. It is clear to the Tribe, but apparently not to the Corps, that a 2011 deadline for building a bridge in a National Park is overly ambitious, and that this agency has embarked on another dead end excursion that will further delay both the MWD Project and Everglades Restoration.

II. GENERAL COMMENTS ON THE TAMIAMI TRAIL LRR/EA

A. NEPA REQUIRES AN EIS FOR THIS MAJOR FEDERAL ACTION

1. The Corps is Required to Conduct an EIS or SEIS Under NEPA

The National Environmental Policy Act (“NEPA”) requires the Corps to conduct an EIS on the TSP (Alternative 3.2.2a), which is an eastern one mile bridge with road modifications, that is to be constructed in Everglades National Park (“ENP” or “Park”). The Corps attempts to get around this NEPA requirement by relying on the 2005 Tamiami Trail RGR/SEIS, which does not even analyze this alternative. The LRR/EA states at page 4-11, “the eastern one-mile bridge would be the same location as the eastern bridge of the 2005 plan.” Although the Corps insists the bridge will be in the same location, a review of both documents raises questions about this claim. For instance, the 2005 RGR/SEIS states that Alternative 14 will be on the “existing alignment.” (See Section 6.6 2005 RGR/SEIS). In contrast, the LRR/EA states that, “[m]ost of the land on which the bridge would be located is federally owned land that is part of ENP . . .” (LRR/EA at 5-7.) Even if the location of the eastern bridge segment is the same, it is clear that Alternative 3.2.2a was never analyzed in the 2005 RGR/SEIS. Nor did the 2005 RGR/SEIS analyze the significant issues involved in building a one mile bridge on national park land. Building a bridge in a national park is a challenging process that requires numerous interagency agreements and Congressional approval. (LRR/EA at 6-7). Congress made this land a national park for preservation purposes and may not look kindly on the language of the LRR/EA that: “the proposed project would convert parklands to highway right-of-way.” The Corps is required to conduct an EIS to analyze the direct effects of the proposed project on ENP, including “the conversion of parklands to transportation conveyances in the form of bridges and bridge approaches,” as discussed at 5-38 of the LRR/EA. For instance, while it is the Tribe’s understanding that the Park may seek a land swap for transferring its land to the State, there is no discussion of this in the LRR/EA.

The statement in Section 4.7 that, “[t]he bridge of Alternative 3.2.2a is identical to the eastern bridge of the Selected Plan in the 2005 RGR/SEIS,” is misleading. There are significant differences between Alternative 3.2.2a in the LRR/EA and Alternative 14 in the 2005 RGR/SEIS. The Selected Plan in the RGR/SEIS (Alternative 14) was a two mile western bridge/one mile eastern bridge/road raising alternative. The TSP in the LRR/EA (Alternative 3.2.2a) is only a one mile eastern bridge alternative to be constructed in ENP with road mitigation. Alternative 3.2.2a was never analyzed in the 2005 RGR/SEIS. In addition, the L-29 canal levels in the alternatives were different (9.7 for Alt. 14 v 8.5 for Alt. 3.2.2a.) It is like comparing apples and oranges to rely on Alternative 14 in the 2005 RGR/SEIS to assess Alternative 3.2.2a in the LRR. It is improper for the Corps to rely on a segment of a totally different alternative in the 2005 RGR/SEIS, which never analyzed building only a one mile eastern bridge, to attempt to bypass NEPA requirements. An EA, and Finding of No Significant Impact (“FONSI”), will not suffice here. NEPA requires that an EIS, or Supplemental EIS (“SEIS”) be conducted on the TSP, which is a different plan that was not analyzed in the 2005 RGR/SEIS.

2. The Corps' NEPA Process Was Pre-Decisional

Contrary to the Corps' contention that it is conducting a public process, its selection of the one mile eastern bridge as the TSP was pre-decisional and pre-determined. The one mile eastern bridge was selected by, and recommended by, an LRR advisory group that met outside the public process. The one mile eastern bridge alternative was selected well before the LRR/EA was issued. Indeed, the Corps and others in the group held a meeting with the Department of Environmental Protection ("DEP") to discuss water quality certification for construction of the one mile eastern bridge on January 25, 2008, three months before the LRR/EA was issued. **Attachment B.** At this meeting, the only alternative discussed in detail was the construction of the eastern one mile bridge. At the meeting, a Corps representative even stated, "There will be a groundbreaking in October." The road modifications, which are part of the TSP, were discussed as Phase II of the project at that meeting.

3. The LRR/EA Fails to Analyze, and Improperly Rejects, Reasonable Alternatives

Contrary to NEPA, the LRR/EA fails to conduct an analysis of all reasonable alternatives. For instance, the reasonable culvert/swale/road raising (Alternative 3.2.1) was improperly rejected from consideration by the advisory group even though the matrix shows it approaches the flows and volumes of the TSP (Alternative 3.2.2a) at a lower cost. **Attachment C.** Alternative 3.2.1 should have been analyzed in the final array of alternatives but was not. A review of the LRR (i.e. 4-29), shows that the advisory team used an arbitrary and capricious "velocity" performance measure to improperly reject the lower cost Alternative 3.2.1 from consideration. It is interesting to note that this arbitrary "velocity" performance measure was not used to screen alternatives in the 2005 GRR/SEIS process. The Tribe contends that Alternative 3.2.1 is a reasonable alternative that must be analyzed along with other reasonable culvert and swale alternatives in an EIS or SEIS. Indeed, Alternative 3.2.1 is one of the only reasonable alternatives, since the Corps has no authority to build a bridge under the MWD Project.

4. The LRR/EA Fails to Assess the Cost of Delay As a Performance Measure

Delay of the implementation of the Tamiami Trail component of the MWD Project will have an adverse impact on Miccosukee Tribal Everglades and other parts of the Everglades. However, the LRR/EA does not address this cost of delay. The cost of delay should have been listed as a performance measure to analyze the alternatives in the LRR/EA. The Corps' Final GRR/SEIS on the 8.5 Square Mile Area component of the MWD Project included delay as a performance measure in Table 7. It found that "[t]he loss of tree islands has an impact on critical habitats and cultural resources" in WCA 3A and that delayed implementation of the MWD project will cause an estimated loss of 8.4 islands and 246 acres per year at an estimated cost of \$50,000 to \$500,000 per acre. **Attachment D** (Final GRR/SEIS on the 8.5 Square Mile Area, Section 5.2.7, page 64 and Table 7). Thus, for each year of delay of MWD, the cost to restore tree islands lost by delay is \$23-\$123 million dollars a year, if they can ever even be restored. Delay of the MWD project also causes damage to Lake Okeechobee, the Caloosahatchee and St. Lucie estuaries and Everglades National Park. The Corps is required to assess these impacts and costs under NEPA. This cost of delay must be analyzed in an EIS.

5. The LRR/EA Improperly Segments the MWD Project

The 1992 General Design Memorandum (“GDM”) and EIS for the MWD Project detailed the condition of the environment and resources within a much larger study area than is currently being analyzed in the LRR/EA. Tribal lands in WCA 3A, which is a 915 square mile area, were included in the impacted area in the 1992 GDM but are excluded from the analysis in the LRR/EA. NEPA requires that connected projects should be evaluated in a single Environmental Impact Statement (EIS). (40 C.F.R. § 1502.4). The Council on Environmental Quality (“CEQ”) regulations governing NEPA state that, “*proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.*” When the Corps prepared its GDM for the MWD Project in 1992, it evaluated all aspects of this interrelated project in a single EIS. This improper segmentation has caused the LRR/EA to inadequately assess impacts on Tribal lands and resources.

6. The LRR/EA Improperly Narrows the Purpose, Scope and Study Area

The narrow purpose and scope of the LRR/EA allows the impacts of delay, especially those to Tribal lands in WCA-3A, to remain unassessed and skews the analysis of the alternatives. The LRR/EA contains the language from Section 104(3)(d) of PL. 101-229 that says that the project modifications are justified by the environmental benefits to be derived by the Everglades ecosystem in general and by the Park in particular. Thus, the purpose, scope, and study area of the LRR/EA should include the WCAs, Northeast Shark River Slough and the Shark River Slough Basin of Everglades National Park (ENP). Section 5.20 of the LRR/EA improperly limits the scope and study area to Everglades National Park and Northeast Shark River Slough. This is improper in light of the facts that the 1992 GDM for the MWD Project stated that: when fully operational the MWD project will benefit the ecosystem function and habitat value of approximately 100,000 acres of wetlands in NESRS, 600,000 acres of wetlands in WCA-3A and 200,000 acres of wetlands within the Shark River Slough basin of ENP. Thus, the LRR/EA scope and study area should have included all the areas that comprise 900,000 acres of Everglades wetlands. Instead, analysis of the benefits is narrowly focused on the Park. The narrow purpose and scope in the LRR/EA resulted in an incomplete analysis that omits issues of vital importance, such as the impact of the project and project delays on Tribal Everglades and the endangered and threatened species that inhabit these areas.

7. The Future Without Project Condition Is Improperly Defined

The LRR/EA improperly defines the future without project condition and states that it is synonymous with the No Action alternative under NEPA in Section 4.2.5. The document states in Section 5.4 that: “The No Action alternative would maintain the existing capacity for conveying water from the L-29 canal, under Tamiami Trail, to ENP without causing deterioration of the road way.” There is no Congressionally authorized Tamiami Trail project. The Corps’ failure to define the true without project condition as no MWD Project, as required by NEPA, has resulted in a skewed analysis of alternatives. The Corps must conduct an EIS that properly assesses the impact that the delay of the MWD project caused by the bridge alternative will have on hundreds of

thousands of acres of Tribal Everglades and the wildlife in WCA 3A, as well as on other areas of the Everglades.

8. The Cumulative Impacts Analysis is Woefully Inadequate

NEPA and its implementing regulations require that the cumulative impacts of past, present, and future actions be analyzed in an EIS. Section 5.20 of the LRR/EA contains a woefully inadequate section on cumulative impacts that does not amount to an analysis at all. This section merely reiterates NEPA requirements for a cumulative impacts analysis, and discusses the history of the Everglades. It leaves vast areas of the Everglades, such as Water Conservation Area 3A, out of the discussion of “target resources,” and focuses only on Everglades National Park. It lists actions, such as the Interim Operational Plan (“IOP”), in Table 5.5 but makes no attempt to analyze IOP’s past, present and future impacts. The geographic scope is improperly limited to 63,915 acres below Tamiami Trail, ignoring vast Everglades wetlands north of the Trail. While the Park and Northeast Shark River Slough are listed in Section 5.20.3 under “Determining the Environmental Consequences,” Tribal lands in WCA 3A are improperly excluded, along with the endangered Snail Kite’s critical habitat there. The Tribe contends that the “geographic scope” should encompass the areas of the Everglades in the 1992 MWD GDM. The Corps must conduct an EIS that analyzes the combined impacts that the delay of the MWD Project, coupled with the impacts that the last ten years of operational plans for the Sparrow (such as ISOP and IOP), have had on the Tribal lands and endangered species in WCA 3A and other areas of the Everglades. The endangered Snail Kite population has declined 50% during ISOP and IOP. The Corps must analyze the cumulative impacts that additional years of IOP resulting from the delay that will be caused by the TSP will have on the Everglades, endangered species, and Tribal lands.

9. WRDA 2000 Constraints and Congressional Cost Constraints Are Not Divulged

NEPA requires full disclosure. The LRR/EA ignores the WRDA 2000 constraint language that prohibits bridging Tamiami Trail until the MWD Project is complete. **Attachment D.** Moreover, it contains no mention of Congress’ guidance that \$150 million dollars should be adequate to complete the MWD Project. Contrary to this, Section 4 of the LRR/EA discusses how the Corps gave the LRR advisory group a \$300 and \$400 million cost cap, and that DOI gave NO cost cap. (4-32.) WRDA 2000 clearly prohibits the bridge alternative, and neither the Corps nor DOI have the funding to build it. Congress has clearly stated that it believes the MWD Project can be completed for \$150 million dollars. Despite these constraints, the Corps selected a TSP that costs \$225.4 million dollars, without divulging that there is approximately another \$95 million dollars in MWD components to fund, which would bring the total remaining costs to at least \$320.4 million dollars. This is well above the \$150 million dollar cost estimate given by Congress. The Tribe contends that the *reasonable* culvert/swale road raising alternative, and other culvert alternatives, must be analyzed in the an EIS or SEIS. The bridge alternative is *unreasonable* and *unimplementable* under MWD and contrary to the explicit mandate of WRDA 2000, which requires that MWD be completed prior to raising and bridging Tamiami Trail.

10. Alternatives Must be Assessed With and Without Alleged Cost Savings

The cost for Alternative 3.2.2a when the Corps initially briefed the Task Force was \$319 million dollars, which is the cost listed in the matrix in the LRR/EA. (See Table 4-3 at 4-21.) The Corps, however, apparently relied on purported cost savings options, which are uncertain, to attempt to lower the high cost of the bridge to \$225.4 million dollars. Appendix C. The analysis admits at C-9 that not all cost savings are applicable to all alternatives. It is also true that not all cost savings listed by the Corps are certain. The Corps must conduct an analysis of all alternatives, including showing which savings apply to each, both with and without these uncertain costs savings measures, in an EIS.

11. The LRR/EA Improperly Modifies the MWD Project Purpose

The LRR/EA states that “the project purpose is to flow water north to south.” This is not the authorized purpose of the MWD Project. The purpose of the MWD Project is to improve water deliveries into the Park and, “to the extent practicable,” take steps to restore the natural hydrological conditions. Apparently ignoring the words “to the extent practicable,” the LRR advisory group again used modeling chicanery to support a bridge alternative. The modeling discussion in the LRR/EA is so confusing that it is difficult to determine in what manner, or if, the group relied on the greater than CERP flows of NSM 4.6.2 that was used in the 2005 GRR/EIS to assess impacts and high water design. While it appears the advisory group relied on a series of new modeling exercises to assess impacts and environmental benefits, the process is incomprehensible. Moreover, it can not be reviewed for independent verification. Although the Tribe requested a copy of the modeling spread sheet used by the group, the Corps informed the Tribe it could not produce the sheet prior to the comment deadline. All modeling used to assess alternatives should have been included in the LRR/EA and should be included in an EIS. The Tribe further contends that the one mile bridge that was selected is not necessary to improve water deliveries “*to the extent practicable,*” and suspects that the “modeling” was used to support a predetermined conclusion for Tamiami Trail.

12. The LRR/EA Does Not Detail What Will Be Done to Modify the Road

Members of the Miccosukee Tribe live along Tamiami Trail, and its safety is of the utmost importance to them. The LRR/EA contains no details as to what will be done to ensure the safety of Tamiami Trail. While raising the road is defined as part of the TSP, the LRR/EA defines it in other sections as road mitigation and/or modifications. Details on how the Corps envisions this will be done, or if it will be done at all, are scant. It is unclear whether the Corps plans to implement the road modifications, or merely give the money to Florida Department of Transportation (“FDOT”) in return for a perpetual flowage easement. It is also unclear why, if the Corps does plan to conduct road modifications, it deems it necessary to obtain a perpetual flowage easement for 10.7 miles of Tamiami Trail, as is stated in Section 6.1.9. If the Corps intends to implement the road modifications, the LRR/EA should contain a time line for doing so but does not. In addition, Appendix C shows that the Corps reduced the estimated cost for road modifications from \$69.9 million to \$33.1 million dollars. (See C-12 and C-13.) There is no detailed justification for this cost cutting measure in the LRR/EA. Nor is there a detailed engineering analysis of the road modifications and cost. The Corps is aware that the Tribe objected

to the Corps' initial proposal for a two phase project: Phase I - a one mile eastern bridge to be built and constructed by the Corps, and Phase 2 - road modifications to be conducted and paid for by a party yet to be determined. While the LRR/EA contains \$33.1 million dollars for road modifications, it is unclear whether the Corps intends to construct them and if this amount will be sufficient. The Corps should conduct an EIS with a detailed analysis of the road modifications.

13. The LRR/EA Contains a Skewed Environmental Benefits Analysis

Appendix E of the LRR/EA contains a skewed environmental benefits analysis that uses an incomprehensible analysis to compare alternatives to the "unreasonable" *skyway* alternative, to which the LRR advisory group attaches 100% of the benefits. It was improper for the *skyway* to represent the maximum achievable benefit for this project. (See E-15.) It was also improper for the LRR/EA to identify this "unreasonable" *skyway* alternative as the environmentally preferred alternative in Section 4.8. Under NEPA, the Corps is only required to analyze *reasonable alternatives*. The *skyway* Alternative 17 is not reasonable under MWD Project statutory authority and funding constraints, and should not be used as a benchmark. It is improper to assess the environmental benefits of alternatives compared to the *skyway* to which the advisory group arbitrarily assigned 100% of the benefits. Instead, the environmental benefits of all reasonable alternatives should be assessed against the No Action Alternative, which should be No MWD Project. The skewed analysis used by the LRR advisory group resulted in the screening out of all non-bridge alternatives. The Tribe contends that the lower cost culvert/swale/road raising alternative is the environmentally preferred alternative, because it would allow the expeditious completion of a project that will benefit 900,000 acres of the Everglades.

14. The LRR/EA Does Not Contain An Adequate Analysis of Water Quality

The LRR/EA does not contain an adequate analysis of water quality impacts of the TSP. This is especially important, because the Corps now plans to build the bridge in Everglades National Park, which is an Outstanding Florida Water ("OFW"). Everglades National Park is also subject to the terms of the Settlement Agreement in the federal Everglades lawsuit, Case No. 88-1886-CIV-Moreno. Neither Section 3.4 or 5.5 of the LRR/EA contains an analysis of whether an expensive Stormwater Treatment Area ("STA") may be necessary to meet water quality requirements. The LRR/EA merely states that "the State of Florida requires the treatment of stormwater runoff to be included as a component of the highway and bridge construction projects." See page 3-7. It does not define the level of treatment, how it will be done, or how much it will cost. There is no support for the Corps' contention in Section 5.5 that the bridge could provide an incremental benefit to water quality by treating a one-mile section of highway runoff. Nor does the LRR/EA mention the fact, which was discussed in the prior 2005 Draft GRR/FEIS, that the S-9 pump could discharge water to Everglades National Park under the MWD Project. There is no discussion of the impact such discharges could have on water quality. The Corps must conduct a water quality analysis of the TSP being constructed in an OFW in an EIS.

B. A SECTION 4(f) REVIEW IS REQUIRED FOR A BRIDGE IN THE PARK

Section 4(f) of the Department of Transportation Act (“DOT”) of 1966, which protects public lands and historic sites, was codified without substantive change as 49 U.S.C. 303 in 1983. Congress declared that it is a national policy to preserve public park lands and prohibits the Department of Transportation (“DOT”) from approving any program that uses publicly owned lands unless: 1) there is no feasible and prudent alternative, and 2) such use includes all possible planning to minimize harm. While the LRR/EA states at Section 4.3.3 that “This project is not a transportation project,” the reality is that it involves building a bridge to transport people. This is recognized at page 5-38 of the LRR/EA where it discusses “the conversion of parklands to transportation conveyances,” and that “the proposed project would convert parklands to highway right-of-way.” Moreover, the LRR/EA states that “most of the land on which the bridge would be located is federally owned land that is part of ENP . . .” LRR/EA at 5-7. It further states that transfer of these Park lands to the State to construct the bridge will involve U.S. DOT.

It is clear that the TSP will use Section 4(f) lands, and a Section 4(f) review is required. Rather than conduct the required review, the Corps improperly relied on a short letter, which is not based on the TSP, to incorrectly claim in Appendix F of the LRR/EA that a Section 4(f) review is not required. The Tribe contends that a Section 4(f) review is required here, because the federal government plans to build a bridge on national park lands. The Tribe suspects that the Corps does not want to conduct a Section 4(f) review, because it knows that such a review would show that there are feasible and prudent alternatives to constructing a bridge on these federal park lands.

C. THE CORPS FAILED TO COMPLY WITH THE ESA

The LRR/EA fails to comply with the Endangered Species Act (“ESA”) in that, among other things, the Corps failed to conduct Section 7 consultation with the Fish and Wildlife Service (“FWS”) prior to issuing its LRR/EA. The statement in Section 5.25.7 that “The FWS informally concurred with the USACE ‘not likely to adversely effect’ determinations for all listed species except the Florida panther (USACE, 2003 GRR/SEIS)” does not fulfill the duty to consult under Section 7 of the ESA. The Corps has a duty to conduct Section 7 consultation with the FWS on the impacts that the TSP, and any delays it causes, will have on the entire area analyzed in the 1992 GDM/EIS. The March 6, 2008 Planning Aid Letter (“PAL”) from the FWS does not substitute for the required Section 7 consultation and a Biological Opinion.

The Corps is required to analyze any potential adverse impacts to the endangered species on Tribal Everglades in WCA 3A, including the Snail Kite and the Wood Stork, that have been caused, and will continue to be caused, by the delay of the MWD Project resulting from the TSP, as part of its analysis. This should include the impacts of delay on hundreds of thousands of acres of critical habitat in WCA 3A. The delay caused by building this unnecessary, and problem prone, bridge in ENP is certain to cause IOP to be in place for many more years, and those impacts on endangered species must be assessed. Neither the LRR/EA, nor the FWS PAL, mention the alarming 50% decline in the endangered Snail Kite population that has occurred under ISOP and IOP, nor analyze whether more delay will jeopardize this endangered species. Finally, the Corps must conduct Section 7 consultation on how the TSP will impact Sparrow populations C, D and E in eastern ENP, and the Snail Kites nesting in ENP.

D. THE CORPS FAILED TO COMPLY WITH FACCA

The so-called LRR Team discussed at Section 4 of the LRR/EA is a federal advisory group that screened alternatives, and recommended the TSP to the Corps, without complying with the Federal Advisory Committee Act (“FACA”). The advisory group included non-federal entities, who developed performance measures and screened alternatives at secret meetings. This same advisory group also held a private Tamiami Trail Modifications Benefits Workshop. Section 4.3.1 of the LRR/EA describes how this advisory group screened out all but four of twenty seven alternatives, and retained only four bridge alternatives for final analysis. The advisory group also selected the eastern one mile bridge, which was the TSP that was recommended to the Corps. (Pages 4 to 8.) While the Corps attempts to paint this advisory group as a fact finding team, it is clear that the group made policy recommendations to a federal agency. The Corps improperly delegated their statutory authority to this advisory group, and failed to follow the requirements of FACA.

E. THE CORPS DID NOT MEET ITS TRUST RESPONSIBILITY TO THE TRIBE

The Corps has a Trust responsibility to the Tribe. Contrary to this Trust responsibility, the Corps failed to analyze the culvert/swale alternative in its final array of alternatives in the LRR/EA. The Corps also allowed an LRR advisory group to select the TSP behind closed doors and then consulted with the Tribe about it afterwards. Even though the Tribe asked to be included in the LRR process, the advisory group held secret meetings, which the Tribe and the public could not attend. The Tribe only found out about these meetings indirectly or when documents were inadvertently released, even though they had a direct impact on its natural resources. This is contrary to the Corps’ Trust responsibility to the Tribe. The Corps has a duty to conduct meaningful pre-decisional consultation. The Corps also has a solemn trust responsibility to choose a plan that will protect Tribal natural resources and Trust resources and should have rejected any alternative that will cause further destruction of Tribal lands.

III. ADDITIONAL SPECIFIC COMMENTS ON THE LRR/EA

1. Study Authority: The Corps correctly states that the study authority comes from Pl 101-229 which *authorized the Secretary of the Army to undertake certain action to improve water deliveries to ENP and shall, to the extent practicable, to restore natural hydrologic conditions . . .* . Unfortunately, the Corps continues to conduct skewed analyses that result in the selection of unnecessary and expensive alternatives for Tamiami Trail that go beyond MWD Project authority.

2. Manager’s Language: The LRR/EA at page iv says alternatives were compared against the targets set by the Manager’s language, and cost constraints. This section also gives reasons why the advisory group eliminated culvert only, and road raising only, alternatives from consideration. It does not explain, however, why alternative 3.2.1 (culvert/swale/road raising) was eliminated from analysis. A review of this alternative shows that it increased average and peak flow delivery to the Park at a lower cost than the TSP. This section also makes no mention that Congress clearly stated that it felt the MWD Project could be completed for \$150 million dollars. Rather than heed Congressional guidance, the Corps gave its advisory group a \$300 million dollar cost cap, which it raised to \$400 million, and selected a TSP that exceeds the \$150 million dollar cost target.

3. Cultural Resources: Section 5.10 of the LRR/EA says that consultation with Native American Tribes is ongoing. The Tribe contends that the Corps must conduct an assessment of cultural resources in the project area in an EIS. This analysis should include impacts on Tribal cultural resources that could be impacted by this project and include the Miccosukee resources, including the tree islands in WCA-3A and other parts of the Everglades.

4. Tribal Lands: Section 3.12 contains a woefully inadequate analysis of Tribal lands that could be impacted by the proposed project. The scope of Tribal lands that can be impacted includes a vast area of the Everglades (WCA 3A) that is not discussed here. The Tribe has provided the Corps with a list of Tribal land interests many times in the past. For some reason, the Corps has ignored these land interests and narrowed the scope of “Tribal lands” to the Tiger Tail and Osceola Camps. Even with this narrow scope, the Corps fails to adequately analyze the impacts. The statement that, “The living facilities of the Tiger Tail Camp were recently elevated above the flow levels anticipated for MWD” is not based on any analysis of the volumes and flow levels of the TSP. Moreover, this section provides no analysis whatsoever of the impact on the Osceola Camp. Under NEPA, the impacts on both these camps must be analyzed, along with the direct and indirect and cumulative impacts to Tribal Reservation and lease lands in WCA 3A, and the Miccosukee Reserved Area. These Tribal lands will all be either adversely or beneficially impacted by the selection of a Tamiami Trail alternative. The Tribe will not accept adverse impacts to Tribal lands. Nor will the Tribe accept any adverse impacts to the Osceola and Tiger Tail camps or any interference with their traditional practices.

5. Hurricane Evacuation: The LRR/EA states without any analysis that hurricane evacuation will not be impeded. The Tribe has continuously told the Corps that Tamiami Trail is the only hurricane evacuation route for Tribal members who live along it. As the Miccosukee Tribal members and others in the Service Area use Tamiami Trail to travel across the Everglades, it is vital that the Corps conduct an analysis of the impact that one lane travel would have on hurricane evacuation capability in an EIS. Access must be maintained to protect the health and safety of both Tribal members and the public.

6. Compatibility With CERP: As stated previously, the Tribe supports the federal government’s desire for compatibility with CERP, but that desire must not delay the implementation of the MWD Project. The Tribe does not believe that the TSP offers that compatibility, and reiterates that building a bridge in Everglades National Park has a great potential for political and bureaucratic delay. On the other hand, the culvert/swale/road raising alternative would allow the MWD Project to be expeditiously completed so that CERP decompartmentalization could proceed. It appears that the advisory group once again used a skewed modeling and environmental benefits analysis to attempt to fool Congress into wasting vast sums of money on building an unnecessary bridge in a national park.

7. Socioeconomic Factors: In reference to the socioeconomic factors outlined in Section 3.13, the Corps has discarded the performance measure (“PM”) used in the previous Tamiami Trail EIS to avoid and minimize impacts to the Tiger Tail and Osceola Camps as a constraint in evaluating the alternatives. In the past, the Corps had developed a performance measure to assess the impacts to the camps, including access, privacy and encroachment, both during and after the construction phase. The advisory team did not use this PM in the LRR/EA. The Tribe reiterates that it will not

accept any adverse impacts to either the Tiger Tail or Osceola Camps and that any interference with the traditional use of these camps is non-negotiable.

8. Hydraulics and Hydrology: Again, the Corps appears to have changed its requirement from Section 5 of the 2003 GRR/FEIS, that the final alternative selected need only pass MWD flows, in favor of a new model that passes much greater volumes and flows. The section on hydraulics and hydrology contains language concerning the L-29 canal only.

9. Costs and Section 902: The LRR/EA at C-6 incorrectly states that the MWD Project is not subject to Section 902 limits. This misrepresentation has caused the Corps and DOI to have a blank check mentality that has caused the MWD cost to sky rocket! The MWD Project was initially estimated to cost \$81 million dollars. In 1994 when the PCA was signed, the cost had escalated to \$114 million. The LRR/EA now estimates the cost at \$523.1 million dollars. It is astounding that the Corps would consider spending \$225.4 million dollars for a minor component of the MWD, which was supposed to cost \$81 million dollars in its entirety. Only through the application of Section 902 will this blank check mentality of the federal agencies be stopped.

10. WRDA Constraint Language: The LRR/EA cleverly paraphrases the WRDA constraint language to omit the prohibition against bridging Tamiami Trail under Mod Waters. (Page 1-8.) Perhaps the Corps did so, because it knows the selection of the eastern bridge alternative defies Congress's mandate. Section 601(b)(2) of WRDA 2000 prevents the authorization of Tamiami Trail bridging until the MWD Project is completed. Despite this Congressional mandate, the Corps refuses to recognize that it is incumbent on them to select an alternative that is within the funding constraints and its statutory authority. It appears that the Corps thinks bridging Tamiami Trail is not contrary to WRDA 2000, as long as the L-29 levee is not removed. This "quibbling" is dangerous and will not bode well if Congress discovers it is funding a bridge that WRDA 2000 prohibits. Congress will be even more incensed to learn that precious tax dollars are being wasted on a white elephant bridge that will do little for flow with the levee still in place.

11. Flooding and Flowage Easements: Section 5.14.2 states that real estate will be required from private landowners impacted by project operation and that operation of the project would not be implemented until the necessary real estate interests have been acquired. Section 6.2.6 states that the Corps intends to obtain a perpetual flowage easement from FDOT for 10.7 miles of Tamiami Trail. The LRR/EA does not contain any analysis of whether, and when, the road will be modified and whether Florida DOT has agreed to not seek any additional compensation for the 10.7 mile flowage easement. The Corps is required to conduct an EIS that fully analyzes flooding impacts and assesses the full costs for any flowage easements.

12. Real Estate Costs Are Not Adequately Assessed: The LRR/EA does not adequately assess all real estate costs that will result from the TSP. For instance, the costs for the modifications to the Osceola Camp discussed at F-20 are not assessed in the LRR/EA. It is also unclear from the LRR/EA whether there will be additional real estate costs associated with obtaining a perpetual flowage easement for 10.7 miles of Tamiami Trail from FDOT or whether costs (or a land swap) will be involved in transferring fee title from Everglades National Park lands to the State. Any such costs related to these matters must be analyzed in an EIS.

13. No Realistic Project Schedule: The LRR/EA contains no realistic project schedule for the bridge building and road modifications associated with the TSP. The LRR/EA merely makes the broad generalization that if bridge construction starts in 2008, it would take three years, and be completed at the end of 2011. There is no construction time estimate for the road modifications. The Tribe contends that the amount of time necessary to complete the project should have been a factor in screening alternatives. It is clear from the admission in the LRR/EA that Congressional approval will be required to transfer federal national park lands to the State of Florida and that a 2008 construction date is overly optimistic. The LRR/EA states that the cost is based on a contract award date of October 2008 and a three year construction duration. It also admits at 4-51 that “The timing of construction influences the costs of construction -the longer the time to construction - the greater the cost due to the effects of risk factors and escalation.” The Corps must conduct an EIS that assesses the alternatives in relation to the costs associated with the best and worst case scenarios for construction start and completion dates.

14. Transportation: In reference to Section 6.1.8, the LRR/EA contains no analysis of the impact that one lane travel during paving would have on hurricane evacuation capability. The Tribe reiterates that the Corps must take all precautions that both transportation and the safety of the Tribe and the public not be compromised during, or after, construction.

15. Impact on Tribal Lands: The LRR/EA contains no analysis of the impact that the TSP will have on Tribal lands. The Corps must conduct an EIS that shows the impact that all alternatives, including the cost of delay, will have on the Tribal Everglades in WCA 3A. Moreover, the use of greater than CERP flows must also be analyzed for impacts to the MRA, and other Tribal properties, and to the Tiger Tail and Osceola Camps.

16. Impact on Businesses: Section 5.14 of the LRR/EA does not assess the impact that the TSP would have on Tribal businesses, such as the Miccosukee Resort and Gaming Facility, and the Tribe’s Miccosukee Indian Village, Airboats, Restaurant, and Gas Station along Tamiami Trail.

17. Osceola and Tiger Tail Camps: Section 5.17 of the LRR/EA contains no modeling to show the impact that the TSP will have on the Osceola Camp and Tiger Tail camps. The LRR/EA merely states at Section 5.17 that: “With an increase in the stage elevation of water levels in the L-29 canal, there may be some minor inundation in low lying areas. In the case of the Tiger Tail Camp, the impact of flooding has been addressed by raising the building and access. This is not yet the case for the Osceola Camp, which would be raised by the USACE pending the outcome of negotiations between the Osceola Family and ENP regarding how to implement the mitigation measures.” The LRR/EA contains no modeling of the impacts that the greater flows and volumes of the TSP will have on the Tiger Tail Camp. Thus, there is no basis for the Corps’ statement of no impact. In relation to the Osceola Camp, the LRR/EA contains no modeling of the impacts, details of the work, or cost estimate for performing it. The Corps must conduct an analysis of impacts on the Tiger Tail and Osceola camps in an EIS. As stated earlier, the Tribe will not accept adverse impacts on the Osceola camp, or any interference with their traditional practices.

18. Environmental Justice: Section 5.19.1 claims, without the requisite analysis, that no long term impacts would be created for the residents of the Tiger Tail and Osceola Camps. The Corps is

required to conduct such an analysis under NEPA. The Tribe is especially concerned that the advisory team did not use the previous Performance Measure that analyzed potential adverse impacts of alternatives on the Tiger Tail and Osceola Camps. The Tribe contends that the Corps must ensure that the project is not likely to affect the environmental health or safety, and traditional way of life, of either the Tiger Tail or Osceola Camps. The Tribe also contends that the disparate impacts to Tribal Everglades and its culture and way of life due to the failure to implement the MWD Project, should also be analyzed in an EIS. The TSP will further delay the MWD Project, and will adversely and disproportionately impact the Miccosukee Tribe. Those impacts must be assessed in an EIS.

19. Public Involvement: Section 9.1 claims that the Corps complied with USACE and NEPA policies and sought public input. In reality, the process conducted by the Corps was a secretive back door process that was pre-decisional and excluded the public. An LRR advisory group, which did not comply with FACA and met in private, selected the alternatives and the TSP. The public was brought in after the decisions were made to feign “public involvement,” contrary to both FACA and NEPA.

20. Modeling Chicanery: In the 2005 GRR/EIS, the advisory group relied on a Natural System Model (NSM), which used greater than CERP acre feet of water, to predict water levels in WCA 3B and the L-29 canal to determine the potential impacts to Tamiami Trail. The discussion of modeling in the LRR/EA is so confusing, it is difficult to determine exactly which models were used and whether the results from the 2005 RGRR/SEIS were relied on here. The LRR/EA also does not contain the modeling spread sheet used by the advisory group, so that the public can review it. Moreover, it appears that different models were used to assess different performance measures. This section is so incomprehensible that a Tribal representative called the Corps to attempt to decipher the modeling used. The Tribe was told the advisory group did not use the 2x2 model, which has been used in past EIS processes. It should not be necessary for the Tribe to attempt to make sense out of a NEPA document. A NEPA document is supposed to be understandable. While the Tribe continues to be uncertain as to the exact models used, it appears that the advisory group modeled arbitrary performance measures to rubber stamp an unnecessary and expensive bridge alternative. For instance, the use of an arbitrary “velocity” performance measure resulted in reasonable alternatives, such as Alternative 3.2.1 (culvert/swale/road raising), being rejected from final consideration. It is interesting to note that Appendix H in the 2005 RGRR/SEIS contained an independent engineering analysis that showed the current culvert system has the hydraulic capacity to pass MWD flows and provides a hydraulic connection to the sloughs. There is no such independent engineering analysis in the LRR/EA. NEPA is required to be comprehensible to the public and to be a full disclosure document. The Corps should conduct an EIS that adequately explains the modeling used and contains the actual model results for independent verification and analysis.

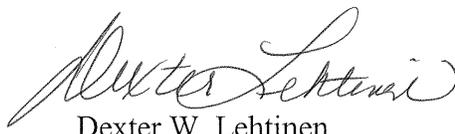
21. Safety: The Tribe insists that Tribal and public health and safety must be strictly maintained both during, and after, construction of the Tamiami Trail modifications. The Corps should conduct an EIS that analyzes the road modifications in sufficient detail, so that the Tribe can ascertain whether public safety will be maintained.

22. Highway Easement Deed and Congressional Approval: Section 6.2.5 discusses the use of a Highway Easement Deed (“HED”) as a legal mechanism for DOI to convey the Park lands needed for the one mile bridge to FDOT through the Federal Highway Administration. The LRR/EA says this is merely a “temporary solution” for transferring the lands to the state, and it is the overall intention of DOI to seek specific legislation from Congress to convey the lands to the state in fee. It is unclear from the LRR/EA whether the Corps intends to use the HED to begin construction prior to DOI obtaining Congressional approval to essentially give away national park lands to the State. This section is indicative of the challenging, and uncertain, process that building a bridge in a National Park will entail. The Tribe contends that Congressional approval is needed prior to construction, and that a Section 4(f) review would result in such approval not being given. There are reasonable and prudent alternatives to building a bridge in the Park that would not require transferring fee title to national park land.

III. CONCLUSION

The Tribe contends that the TSP selected in the LRR/EA is complicated, unnecessary, and too expensive to build. It also requires an EIS, or SEIS, under NEPA. The MWD Project was intended to be an interim restoration project designed to protect and preserve 900,000 acres of Everglades wetlands, including hundreds of thousands of acres of Tribal Everglades in WCA 3A. The project was to be completed by 1997. In 2008, the MWD Project is nowhere near completion, and the Tribe's Everglades homeland continues to die. Since at least 2003, the Corps has been conducting an endless series of NEPA documents on the Tamiami Trail component of the MWD Project. While the Tribe was hopeful that perhaps this time the Corps would select a "reasonable" alternative that could be implemented, a review of the faulty LRR/EA shows that it has embarked upon another "dead end excursion." Rather than analyze the reasonable culvert/swale/ road raising alternative, the Corps embraced construction of an unimplementable alternative recommended by an LRR advisory team. The result will be further delay of the MWD Project and CERP Decompartmentalization, and perhaps the death of Everglades Restoration itself.

Sincerely,



Dexter W. Lehtinen

cc Chairman Billy Cypress

THE MICCOSUKEE TRIBE'S TEN TAMAMI TRAIL TENETS

1. The Tribe is opposed to all plans that will elevate Tamiami Trail before the Modified Water Deliveries Project is completed and implemented, including the protection for the 8.5 Square Mile Area mandated by PL101-229. (The Tribe opposes a *skyway*.) The Tribe believes that the Corps should take maximum advantage of existing infrastructure in place, and should only add new infrastructure that is absolutely essential to protect public health and safety and to meet the requirements of the Modified Water Deliveries Project, as directed by PL101-229.

2. The Corps' selected alternative must ensure that the Modified Water Deliveries Project is completed and operational on, or before, December 31, 2003. (Note: 2003 date has passed.)

3. Any alternatives that have no funding and would delay the Modified Water Deliveries Project beyond December 31, 2003, should be deemed "unreasonable" and removed from further consideration as the Tamiami Trail component of the Modified Water Deliveries Project Draft RGR/SEIS. (Note: 2003 date has passed.)

4. Any plan recommended by the Corps for Tamiami Trail must be consistent with the requirements of PL101-229, the Water Resources and Development Act of 2000 (WRDA 2000), the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA) and the Corps' trust responsibility to the Tribe.

5. The Tribe will oppose any plan to modify Tamiami Trail that has an adverse impact on the Tiger Tail and Osceola Camps. Any interference with the traditional use of these camps is non-negotiable.

6. The Tribe will oppose all plans to elevate Tamiami Trail until I-75 is also elevated.

7. The Tribe will oppose all plans to elevate Tamiami Trail until all the levees are pushed into the canals (e.g. the L-29 and Miami canal); and will oppose any plan that elevates Tamiami Trail that does not remove the levee that separates WCA-3A and WCA-3B from the L-29 canal, with any such decompartmentalization plans being contingent upon the provisions in Tenet 8.

8. Control of the water at Tamiami Trail must not be given up under any future CERP decompartmentalization plans until it is absolutely certain that the flow north and south of the Trail are compatible. This cannot be done until the component of the flow lost to Miami-Dade and Broward Counties has been reinstated via the Comprehensive Everglades Restoration Plan (CERP), which is based on technologies that are so suspect that each requires a pilot study prior to proceeding. (i.e. in ground reservoirs, wastewater reuse and L-31 North seepage control.)

9. The Corps must operate the water management system to ensure that the access and egress of the Miccosukee Tribe is not jeopardized until such time as Tamiami Trail is modified to the extent necessary to protect it from degradation due to higher water levels during those events which would threaten the stability of the road.

10. While attempting to make the Tamiami Trail component of the Modified Water Deliveries Project compatible with CERP is a noble goal, it must not delay this already seriously delayed project, which only authorizes those flows directed in PL101-229, or compromise the health and safety of the public or the Tribe. Source: Miccosukee Tribe Comments dated October 11, 2005 on the 2005 Tamiami Trail RGR/SEIS, which were first submitted in 2003 GRR/SEIS process.

Attachment A

Modified Water Deliveries
Tamiami Trail Water Quality Certification
Pre-Application Meeting
DRAFT Agenda

Date: 25 January 2008

Time: 10:00 am - 3:00 pm

Location: Room 609 FDEP Offices, 2600 Blair Stone Road, Tallahassee FL 32399

Call-In Number: 877 633 2949 Participant Code: 1350061

Meeting Objectives:

- Update on Modified Water Deliveries Tamiami Trail Modifications project
- Update of agreements regarding above
- Determine what is required from the different agencies to allow a construction start in Oct 2008

Expected Outcome: All agencies understand the requirements and timeframes for the project to succeed

10:00 – 10:15	Introductions (Greg Knecht/Marie Burns) Purpose of Meeting
10:15 – 10:30	Overview of Project (Brice McKoy, USACE) Overview of Modified Water Deliveries to ENP Overall Construction Timeline for TTM
10:30 – 11:15	<u>Update on TTM (bridge/road) Project</u> (Gwen Nelson, USACE) Discussions with FDOT (including traffic flow plan) Current footprint and major features Construction access/ temporary impacts/permanent Impacts/staging Area Operator/Operations/Maintenance Information/Status Water Flow/Drainage (pre-, during, and post construction) Benefits Description
11:15 – 11:30	Overview of Real Estate Issues (Cem Goral, USACE) Timeline of agreements and schedule of meetings
11:30 – 12:30	Lunch
12:30 – 1:45	Discussion on Items Necessary for Successful/Timely Construction Start (All Agencies) Endangered Species/USFWS/FWC – time frames FDOT concurrence on design Other FDEP needs Department of State Requirements Other agency needs/requirements
1:45 – 2:00	Review of Timelines and Requirements for TTM
2:00 – 2:45	Discussion on Pilot Slough project (USACE) Agreements/Discussions Timeline – Geometry - Locations Affect on Tamiami Trail Modifications
2:45 – 3:00	Wrap-up and Action Items

B- (1)

Attachment B

The meeting on January 25, 2008 is being called to answer the following question

"What items or reasonable assurances does the Corps need to present to the regulatory agencies in order to move forward with construction of this project?" ✕

Please be prepared to contribute to the answer of that question by bringing with you the names of the contact people (within the agencies) and timeframes by which that information needs to be presented.

There are several key dates to keep in mind:

- The day construction is anticipated to begin – ALL assurances/permit conditions for construction MUST be met BEFORE construction can begin.
- Fifteen days prior to bid opening for the construction contract –FINAL permit needed by Corps
- Fifteen days prior to the advertisement of the construction contract – The latest the Notice of Intent can be issued. In order to issue the Corps a permit (pending no 3rd party challenges), the Florida Department of Environmental Protection would need to go to Notice of Intent within 30 days of the date by which the Corps needs the permit (which is 15 days before bid opening).

As a point of reference, the following is a general description of the needs of the Florida Department of Environmental Protection: Assurances for the FDEP can be met in one of two ways:

1. Have documentation on file that gives FDEP such assurances, or
2. Include conditions to get FDEP those assurances.

The following statutory authority (from CERPRA, 373.1502 Florida Statutes) outlines the four major categories for which assurances are sought. [These are not all inclusive requirements, as FDEP has rules by which they need to operate.]

1. The project component will achieve the design objectives set forth in the detailed design documents submitted as part of the application.
2. State water quality standards, including water quality criteria and moderating provisions, will be met. Under no circumstances shall the project component cause or contribute to violation of state water quality standards.
3. Discharges from the project component will not pose a serious danger to public health, safety, or welfare.
4. Any impacts to wetlands or threatened or endangered species resulting from implementation of the project component will be avoided, minimized, and mitigated, as appropriate.

The timeframe in which documentation from the Corps and items from other agencies are received is imperative to establish, so FDEP can include the appropriate conditions in the permit (assuming that, as outlined above, there is a gap between issuance and initiation of construction). Here are the items FDEP would require the Corps to submit (from other agencies) as part of the application process:

- **FDOT concurrence on the bridge design and reconstruction or repaving of the road.**
- Documentation from USFWS/FFWCC that **impacts to Threatened & Endangered Species** have been assessed and any remedial measures identified (please include all documentation- BA, BO, and any other concurrence with project).

Documentation that requires coordination with other agencies includes:

- **Real estate information-** FDEP will need right-of-way documentation, ownership documentation, land agreements, etc. that authorize the construction of the project.
- **Operations and Maintenance-** If operation and maintenance are not clear at this time, the Corps should be applying for construction only. A statement of the ongoing process to determine the operator or operating agency should be provided in the absence of an executed agreement.

B - (2)

Other items that FDEP would require are:

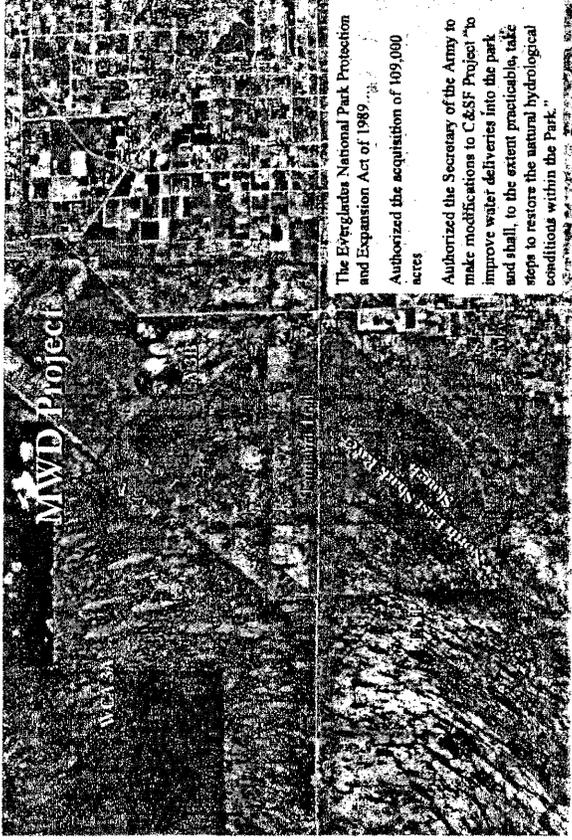
- **BMP info**
- **Dewatering** - Please keep in mind that dewatering is a term that may have different meanings depending on who is using it. For example, if pumping of groundwater from an excavated site is needed for installation of pads or footing for the bridge, a separate NPDES permit is required.
- **Summary of project benefits**- assurances that the benefits of the project (please try to quantify) clearly outweigh the associated impacts.
- **Contamination**- Are there any contaminants on site? Will sediments be removed off-site? If so, what monitoring will occur to determine that the sediment is not contaminated?
- **Plans**- project plans should include the bridge, road improvements, stormwater treatment associated the proposed bridge and road improvements. The application should also include construction schedules for each phase of the construction.
- **Detailed project description**- description should include removal of road and any other attributes.

B-(3)

B) (4)

**Modified Water Deliveries
to Everglades National Park**

Tamiami Trail Limited Reevaluation Report



The Everglades National Park Protection and Expansion Act of 1989 authorized the acquisition of 109,000 acres.

Authorized the Secretary of the Army to make modifications to C&SF Project "to improve water deliveries into the park and shall, to the extent practicable, take steps to restore the natural hydrological conditions within the Park."

02 - (5)

Tamiami Trail Re-Analysis

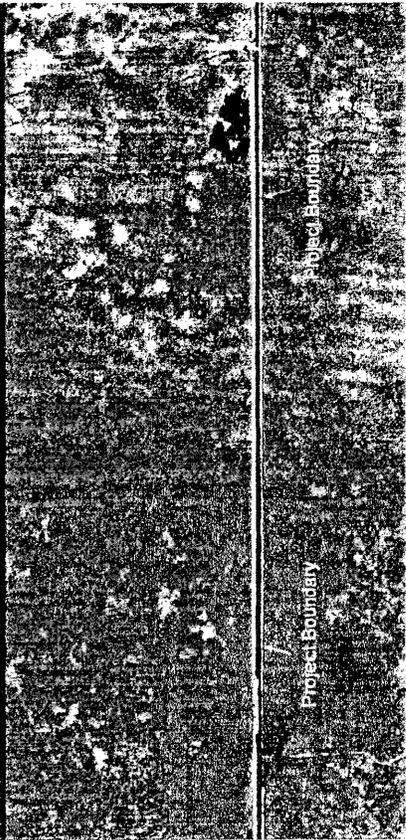
- A re-analysis of alternatives is being conducted to:
- Address the WRDA 2007 language
 - Document the cost increases for the previously approved plan
 - Provide cost saving options
 - Review alternatives for completing Tamiami Trail

Alternatives Considered

- 27 alternatives (including no-action) considered
- Organized into 5 groups:
 1. Constrain L-29 stage to 7.5 feet (No Roadway Improvement, No Stage Increase)
 2. Raise stage constraint to 8.0 feet (Minimum Roadway Improvement)
 3. Raise stage constraint to 8.5 feet (Moderate Roadway Improvement)
 4. Raise stage constraint to 9.7 feet (Major Roadway Modification)
 5. Other structural alternatives and roadway realignments
- Each category includes a suite of structural combinations
- Currently, alternative 2.2.2a, eastern bridge and 8' stage, appears the most favorable

B - (6)

Eastern Bridge Area



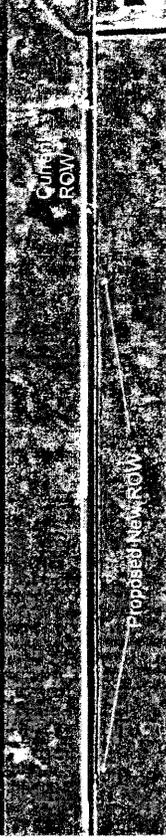
2.2.2 a Alternative

- 1 - mile Eastern Bridge
- Reviewing road modification requirements for 8 ft NGVD in L-29 Canal
- Effects to other properties
 - Osceola Camp
 - Radio Tower
 - Private Property
- Wetland Impacts (less than Alternative 14 - both bridges)

FDOT Road Design Criteria

- The criteria varies with elevation. With a 8' stage, the road footprint would not be expanded from current ROW (except for the bridge and approaches).

Proposed Footprint of Eastern Bridge



B, (2)

B-1 (8)

Real Estate

- Takings Analyses – Determination of potential impacts to private landowners from 8 foot water levels.
- Highway Easement Deed and Temporary Construction Easement from Everglades National Park
- FP&L Easements
 - Permanent Easement for Eastern Bridge
 - Temporary Construction Easement
- Relocation Agreement with FDOT
- PCA Amendment integrating a Land Management Agreement between ENP & SFWMD.

Timeline

- Target Construction Start: October 2008
- Updates to 60% P&S
- Permit Filed with FDEP
- Goal for completion of permit

TABLE 4-3: TAMAMI TRAIL PLAN FORMULATION MATRIX

Alt	LRR DESIGN STAGE (FEET)	ALTERNATIVES (note 1)	BENEFIT SUMMARY						COST INFORMATION				IMPLEMENTATION			
			BENEFIT AREA (ACRES)	PEAK FLOW (cfs)	AVERAGE ANNUAL VOLUME (acre-ft/year)	% VOLUME INCREASE	% CONNECTIVITY	RIDGE AND CULVERT PROCESSES	SLOUGH VEGETATION RESTORATION	AVG ANNUAL CULVERT RU COST (\$/ft)	TOTAL TTM COST (\$M)	REAL ESTATE (\$/ft)	MEFA/Report Coverage	Start	Finish	
1		No roadway building (note 2)														
1.1	7.5	no action (19 culvert sets)	0	1250	177	0.0%	0.0%	1.6%	2.6%	0	N/A	0	N/A			
1.2	7.5	spread: awales (30X1 (100R)-bottom dimensions)	83185	1371	185	4.8%	0.0%	2.5%	2.4%	187	5155	17	0	EA	Feb-10	Nov-10
1.3	7.5	add culvert sets (19 - 30ft dia) with awales (100R-31)	83185	1371	188	6.4%	0.0%	3.3%	2.6%	238	14532	73	0	EA	Feb-10	Aug-11
1.4a	7.5	add 1-mile eastern bridge	83185	1410	203	15.2%	8.0%	28.0%	3.3%	3616	2775	219	0	EA	Aug-08	Aug-11
1.4b	7.5	add 1-mile western bridge	83185	1410	203	15.2%	8.0%	28.0%	3.3%	4208	2587	288	0	EA	Jul-10	Nov-12
1.5	7.5	raise western section of road to 12.75ft (crown) and add 1-mile western bridge	83185	1410	203	15.2%	8.0%	28.0%	3.3%	4200	>2537+	>288+	0	EA	Aug-10	Feb-13
2		Roadway Improvements - Crown 11.05ft (4)														
2.1	8.0	raise road (low points only)	83185	1434	239	35.6%	0.0%	1.8%	11.0%	2584	144	11	1.1	EA	Feb-10	Feb-12
2.2.1	8.0	raise low points, add culvert sets with awales	83185	1506	251	42.2%	0.0%	1.8%	23.3%	3715	1978	101	1.1	EA	Feb-10	Feb-13
2.2.2a	8.0	raise road, add 1-mile eastern bridge	83185	1577	274	54.8%	8.0%	26.0%	46.7%	6569	1488	288	1.1	EA	Dec-08	Dec-12
2.2.2b	8.0	raise road, add 1-mile western bridge	83185	1577	274	54.8%	8.0%	26.0%	46.7%	9154	1388	354	1.1	EA	Dec-09	Dec-13
2.2.3	8.0	raise low points, add 2-mile + 1-mile bridges	83185	1577	283	65.7%	28.0%	85.0%	63.1%	15881	1111	539	1.1	EA	Dec-09	Jun-14
3		Roadway Improvements - Crown 11.15ft (note 4)														
3.1	8.5	raise road	83185	1577	303	71.7%	0.0%	1.8%	76.6%	8621	168	168	1.1	EA	Feb-10	Feb-12
3.2.1	8.5	raise road, add culvert sets with awales	83185	1577	318	78.1%	0.0%	1.8%	82.6%	8412	1000	239	1.1	EA	Feb-10	Feb-13
3.2.2a	8.5	raise road, add 1-mile eastern bridge	83185	1848	340	82.4%	8.0%	28.0%	84.3%	13109	865	319	1.1	EA	Dec-09	Dec-12
3.2.2b	8.5	raise road, add 1-mile western bridge	83185	1848	340	82.4%	8.0%	26.0%	84.3%	13705	1007	381	1.1	EA	Aug-10	Dec-13
3.2.3	8.5	raise road, add 2-mile + 1-mile bridges	83185	1889	355	101.1%	28.0%	85.0%	84.3%	18972	865	561	1.1	EA	Dec-09	Jun-14
4		Roadway Improvements - Crown 12.75ft (note 4)														
4.1	8.70	raise road	83185	2024	408	131.7%	0.0%	1.8%	64.4%	17443	280	280	1.1	EA	Apr-10	Oct-12
4.2.1	8.70	raise road, add culvert sets with awales	83185	2104	417	135.1%	0.0%	1.6%	64.4%	18874	664	346	1.1	EA	Apr-10	Oct-13
4.2.2a	8.70	raise road, add 1-mile eastern bridge (RGRR)	83185	2181	430	143.8%	8.0%	26.0%	64.4%	22565	685	428	1.1	EA	Apr-10	Oct-13
4.2.2b	8.70	raise road, add 1-mile western bridge (RGRR)	83185	2181	430	143.8%	8.0%	26.0%	64.4%	23184	709	455	1.1	EA	Apr-10	May-14
4.2.3	8.70	raise road, add 2-mile + 1-mile bridges (RGRR)	83185	2331	438	145.9%	28.0%	65.0%	64.4%	28361	708	537	1.1	Complete	Jun-09	Jun-14
4.2.4	8.70	10.7-mile bridge (RGRR)	83185	4036	472	187.1%	100.0%	100.0%	100.0%	53010	1648	1648	1.1	EA	Feb-12	Feb-26
5		Structural alternatives and/or road realignment (note 4)														
5.1	8.70	northern alignment of Alt 14	83185	2331	438	145.9%	28.0%	65.0%	64.4%	28361	669	1326	1.1	EIS/RR	Apr-12	Apr-20
5.2	8.70	northern alignment with 1-mile bridge	83185	2181	430	143.8%	8.0%	26.0%	64.4%	23228	1183	1187	1.1	EIS/RR	Apr-12	Apr-18
5.3	8.70	relocation of L-27 lanes - Crown 13.00ft	17378	4036 (west) 4652 (east)	472	187.1%	0.0%	13.0%	37.1%	4871	4463	751	1.1	EIS/RR	Apr-12	Oct-16
5.4	8.70	relocation of L-27 lanes - Crown 13.00ft	17378	4036 (west) 4652 (east)	472	187.1%	0.0%	13.0%	37.1%	4871	4157	628	1.1	EIS/RR	Aug-12	Feb-16
5.5	5.5	pump stations along L-29												EIS/RR	Aug-13	Aug-21

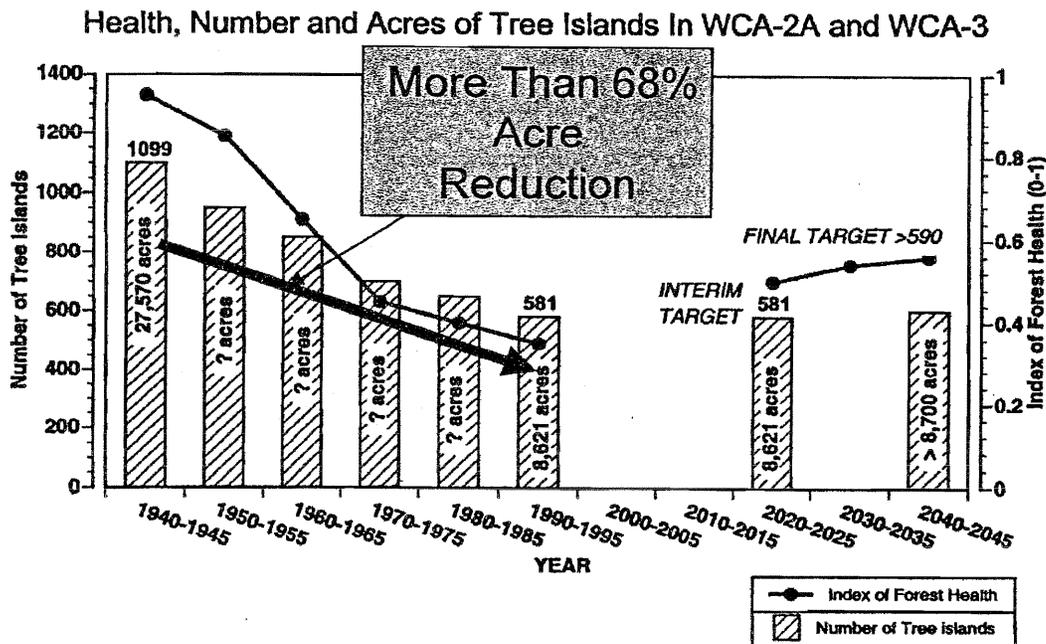
Notes:
 2 Existing road has 19 culvert sets resulting in an average culvert set spacing of ~3000 feet.
 3 Reduce the average culvert set spacing to approximately 1500 feet.
 4 All road improvements require 3.05 feet between road crown and L-29 design elevation.

Attachment C

Table 7 (continued)
Alternative Analysis Fact Sheets
 This table presents the results of the
 alternatives analysis as outlined in Section 5.2

<p>Objective 7: Analyze impacts and costs associated with time delays in implementation of alternatives.</p>
<p>Performance Measure:</p> <p>PM7a: <u>Environmental and Cultural Resources</u></p>
<p>Source of Data:</p> <ul style="list-style-type: none"> ➤ Various research ➤ Restoration project data
<p>Procedure:</p> <ul style="list-style-type: none"> ➤ <u>The loss of tree islands has an impact on the critical habitats and cultural resources.</u> SFVMD staff presented rates of degradation of tree islands in WCA-3 to the Federal Working Group Panel Discussion on September 1, 1999. The total number of tree islands as well as the spatial extent of the tree islands within WCA-3 has been determined from photographs dated 1940 and 1995.
<p>Results:</p> <ul style="list-style-type: none"> ➤ <u>This data shows a total decrease in the number and acreage for the 55-year period as 45% and 61%, respectively. Assuming a linear relationship for the changes in tree islands, this is estimated as loss of 8.4 islands and 246 acres per year. Delayed implementation of MWD will prolong the restoration and recovery process for the tree islands in WCA-3.</u> Estimated values for full restoration of tree islands may ranged from \$50,000 to \$500,000 per acre. <p align="center"><i>Cost of delay \$12.3 - 123 million dollars a year</i></p>

Tree Island Destruction 1940 to 1995



US Army Corps of Engineers—8.5 SMA GRR/EIS July 2000—
cost of delay in implementing Mod Waters project:

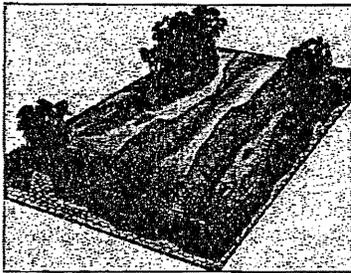
- “loss of tree islands has an impact on the critical habitats and cultural resources”
- “it is estimated as loss of 8.4 islands and 246 acres per year”
- “estimated values for full restoration of tree islands my range from \$50,000 to \$500,000 per acre”

D- (1-1)

GAO REPORT

DEVELOP A UNIFIED APPROACH TO RESTORATION

* Tree islands are key indicators of the health of the Everglades ecosystem because of their sensitivity to both flooding and drought conditions.



* The Corps estimates that damage to tree islands resulting from current high water levels could be as much as 246 acres per year and the cost to restore the islands ranges from \$12.3 million to \$123 million per year.

The Department has not developed a clear unified position on its preferred restoration approaches. The Fish and Wildlife Service (FWS) and NPS have had different positions regarding fundamental planning and design issues. Specifically, they differ on methods for water control and the preferred options to ensure that water depths achieve restoration objectives. Such differing positions have contributed to the need for multiple Project feature re-designs. For example:

- **Water Control Methods:** To best achieve restoration, NPS believes water should move freely into the Park. However, FWS is concerned that if water flows are not adequately controlled, poor water quality could compromise species habitat and Park restoration. Conflicts surrounding this issue have contributed to the need for multiple re-designs of Project features that determine how water will flow into the Park. As of June 2005, a final design of these features had yet to be determined.
- **Water Depths:** FWS and NPS have been unable to agree on the optimal water depths for Project operations. NPS has decided that higher water depths than were originally designed are now necessary to achieve its restoration objectives. However, FWS believes that the higher water depths proposed by NPS may cause damage to the tree islands. NPS insists the tree islands can survive with higher water depths. This argument has persisted for many years without resolution.

The Department does not have an adequate method to ensure the timely resolution of such disputes. Specifically, the Department lacks a formal process for elevating and resolving planning and design related disputes between the agencies to arrive at a unified Departmental position. In fact, when a Departmental official was asked if there were any unresolved issues for the Project, the official was unaware of any ongoing contentious issues. Further, the Corps' Project Manager noted disconnect within the Department regarding restoration approaches and believes NPS' approach to restoration is a moving target. Because the Department has not formulated a unified approach to restoration, it has contributed to the Corps' need to re-design project features.

U.S. Department of the Interior Office of Inspector General Report No. C-IN-MOA-0006-2005

Modified Water Deliveries to ENP Audit Report

D- (1-3)



City of Sanibel

800 Dunlop Road
Sanibel, Florida 33957-4096

AREA CODE - 239

CITY COUNCIL	472-4135
ADMINISTRATIVE	472-3700
BUILDING	472-4555
EMERGENCY MANAGEMENT	472-3111
FINANCE	472-9615
LEGAL	472-4359
PARKS & RECREATION	472-9075
PLANNING	472-4136
POLICE	472-3111
PUBLIC WORKS	472-6397
UTILITIES	472-1008

May 9, 2008

Via Email to: TTMComments@usace.army.mil

Bradley A. Foster
U.S. Army Corps of Engineers
Jacksonville District
701 San Marco Boulevard
Jacksonville, FL 32207-8175

Dear Mr. Foster:

The City of Sanibel respectfully submits the following comments on the Tamiami Trail Modifications for Modified Water Deliveries to Everglades National Park LRR/EA ("MWD EA"), prepared in coordination with the City's Special Counsel, Beveridge & Diamond, P.C.

The MWD project represents a watershed moment in the efforts to improve water deliveries to Everglades National Park ("ENP") and restore its natural hydrologic conditions as Congress directed in the Everglades National Park Protection and Expansion Act ("ENPPEA"). The City fully supports the goals of the ENPPEA and is pleased that the Corps has taken the first step toward redressing decades of human-induced impacts to the Everglades and surrounding environment. As the Corps has explained, the construction and repeated renovation of the Tamiami Trail over the past 80 years have increasingly interrupted the natural timing, volume and distribution of flow into Shark River Slough and ENP, as well as historic ecological connectivity in the Everglades. *See generally*, MWD EA at § 3. Thus, the City endorses the

Corps' decision to take immediate action under the tentatively selected plan to increase annual flow volume, improve marsh connectivity, and rehabilitate slough vegetation habitat by building a one-mile bridge on the Tamiami Trail adjacent to S-334 and raising the L-29 Canal headwater stage constraint to 8.5 feet NGVD.

Although the MWD project will provide notable improvements over the *status quo*, the City urges the Corps to undertake these modifications with the understanding that this should only represent the first phase of a much needed larger project. Additional projects similar to the current MWD are necessary in the near future to achieve the goals of the ENPPEA. In particular, greater conveyance capacity and flow-through are still needed to achieve – or make significant progress towards – Congress' original 4,000 cfs flow target and to restore the historic "River of Grass" through Everglades National Park. *See* MWD EA at 1-6 to 1-14. Thus, while the City supports the MWD project, it further supports creating a second longer passageway (or series of larger passageways to replace the inadequate existing culverts) along the Tamiami Trail.

The Corps indicates that future construction of CERP projects and other infrastructure, such as storage reservoirs, seepage buffers and WCA-3 Decompartmentalization, might provide higher volume releases to Shark River Slough and ENP and that the MWD project is forward compatible with these projects. MWD EA at 1-14. While such additional flow, if it results, will further expedite ENP restoration, it is incumbent on the Corps to commit to future actions akin to the MWD project as soon as funding is available to

achieve this restoration. Indeed, the MWD EA acknowledges the need for this additional work, and the City encourages the Corps to make this a planning priority going forward. MWD EA at 6-11, 6-13 to 6-14.

Thank you for your consideration of these comments. If you have any questions, you may contact our City Attorney, Ken Cuyler, at (239) 472-4359.

Sincerely,



Kevin Ruane, Vice Mayor
City of Sanibel, Florida

Cc: Col. Paul L. Grosskruger, USACE,
Jacksonville District Commander
Sanibel City Council
Kenneth B. Cuyler, City Attorney
Richard S. Davis, Esq.
Fred R. Wagner, Esq.
Judith A. Zimomra, City Manager
Dr. Rob Loflin, Natural Resources Director
Carol Wehle, Executive Director, SFWMD
Dr. Peter Doering, SFWMD
Dennis Duke, Restoration Program Division Chief, USACE
Pete Milam, Project Manager, USACE
Erik Lindblad, Executive Director, SCCF
Patrick Martin, Deputy Refuge Manager, U.S. Fish & Wildlife

AUDUBON OF FLORIDA

EVERGLADES FOUNDATION

NATURAL RESOURCES DEFENSE
COUNCIL

CALOOSAHATCHEE RIVER
CITIZENS ASSOCIATION/
RIVERWATCH

EVERGLADES TRUST

SANIBEL CAPTIVA CONSERVATION
FOUNDATION

CLEAN WATER FUND

NATIONAL PARKS
CONSERVATION ASSOCIATION

TROPICAL AUDUBON SOCIETY

WORLD WILDLIFE FUND

May 9, 2008

Bradley A. Foster
U.S. Army Corps of Engineers
Jacksonville District
701 San Marco Boulevard
Jacksonville, FL 32207-8175
TTCComments@usace.army.mil

Dear Mr. Foster:

On behalf of the undersigned organizations, we write to provide comments on the Draft Tamiami Trail Modification Limited Reevaluation Report and Environmental Assessment (“LRR”). Many of us have been working for years to ensure the Modified Water Deliveries to Everglades National Park (“Mod Waters”) project provides meaningful environmental benefits to the Park and its precious wildlife.

The tentatively selected plan begins the process of bridging, and is a necessary first step on the road to providing essential environmental benefits to Everglades National Park and the restoration of historic, natural unimpeded water flow through the Everglades, particularly the reestablishment of sheetflow into the Northeast Shark River Slough and into Florida Bay. However, this initial modest step must be followed by bridging capable of reestablishing the previously authorized critical natural flow. Clearly the tentatively selected plan alone will not remove Tamiami Trail as a barrier to flow.

While the Modified Water Deliveries project is a necessary first step on the road to full restoration, the only way we can ever hope to restore the Park is to allow maximum connectivity between Water Conservation Area 3 (“WCA 3”) and Everglades National Park through many miles of elevated roadway. Indeed, the Corps of Engineers has acknowledged that a 10.7 mile bridge spanning Shark River Slough is the environmentally preferred alternative.

While we acknowledge that the plan before us is a modest first step, we are disappointed that the project does not achieve those benefits as originally envisioned by Congress when it passed the Everglades National Park Protection and Expansion Act of 1989.

While we know that the Mod Waters project was not going to achieve full restoration of Northeast Shark River Slough and Everglades National Park, the current proposed project falls short of our expectations.

We acknowledge that raising the canal stage in L-29 to 8.5 feet from 8.0 feet will allow longer durations of 1350 cubic feet per second (“cfs”), thereby requiring additional asphalt along ten miles of Tamiami Trail, without widening the roadway. The analyses presented show significant environmental benefits for a reasonable cost, because there is no increase in roadway footprint and does not result in wetland destruction in Everglades National Park. However, the LRR is neither specific about the details of implementation, nor is it clear as to whether its implementation is contingent upon other actions by other agencies. We would like the final Record of Decision to make clear the Corps has no intention of delaying this component or transferring responsibility to other agencies. In our view, placing asphalt on the roadway is neither a long-term solution nor a viable alternative to additional bridging. Therefore, it is essential that the Corps immediately plan for the construction of more bridging along the Tamiami Trail, as specified in the Statement of Managers in the Conference Report of the Water Resources Development Act of 2007.

Unfortunately, the LRR provides scant information on what will ultimately provide the full restoration that the Park desperately needs, and Congress expects. Section 6.8 of the LRR, “Restoration Beyond the Modified Water Deliveries Project”, barely touches on the essential subject of what to do next.

All involved agencies, including the U.S. Army Corps of Engineers (Corps), the Department of the Interior, the Florida Department of Environmental Protection, and the South Florida Water Management District, have publicly recognized that further steps toward restoration must be taken. This should be fully captured and explained in the LRR. We urge you to incorporate the following language into Section 6.8:

The U.S. Army Corps of Engineers and the Department of the Interior recognize that this project must not be the only project for modifying Tamiami Trail, and much additional work is needed to adequately restore flows into Northeast Shark River Slough, and ultimately reestablish connectivity through the great Everglades ecosystem and into Florida Bay. Congress understood that the Modified Water Deliveries project alone would not restore the Everglades, and approved further restoration for Everglades National Park in the Comprehensive Everglades Restoration Plan of 2000.

The tentatively selected plan constitutes a step in achieving the goals and direction given in the Statement of Managers for the Conference Report of the Water Resources Delivery Act of 2007. It achieves the immediate goal to increase flows to Everglades National Park by 1,400 cubic feet per second. The Federal government is committed to reaching those goals set out in the Conference Report to achieve flows to the Park that “have a minimum target of 4,000 cubic feet per second so as to address the restoration envisioned in the 1989 Act... [and] initiate an evaluation of

the Tamiami Trail project component of the Comprehensive Everglades Restoration Plan authorized by section 601 (b)(2)(C)(viii) of the Water Resources Development Act of 2000, or other appropriate authorities, as soon as practicable.” The Federal government commits to working with the state of Florida to begin these next steps to achieve the higher flows immediately upon the release of a Record of Decision for the Preferred Alternative.

We urge you to *not* delay planning for future Tamiami Trail modifications until data from studying the effects of either the preferred alternative or a pilot project for swales (if one is approved) are collected and analyzed. It is inappropriate to delay future progress in order to research these matters further. The federal agencies have already justified and explained the fact that the environmentally preferred alternative is a 10.7 mile bridge. Therefore, while the 1 mile bridge can lead to limited restoration, there is general consensus that the preferred alternative will not provide significant benefits alone.

In previous comments submitted by several environmental groups to the Corps, concerns about the construction of culvert spreader swales in Everglades National Park were addressed. This LRR presented no analyses on that issue, yet by their mention, it seems to imply that the swales remain part of Mod Waters. We would like specific clarification as to whether the swales are a feature of Mod Waters, under the authority of the Secretary of the Army and part of the C & SF Project when completed. Regardless of whether the authority lies with the Corps or the National Park Service, we believe that, under Federal law and policy, the construction of swales, or a pilot project to test the swales concept, may require an EIS.

There is another reason to move forward immediately with significant Tamiami Trail bridging: to ensure the continued survival of several of the Everglades’ most imperiled species. As you know, the current water management regime, the Interim Operational Plan (IOP), was intended to be temporary, to provide a few years of relief for the highly-imperiled Cape Sable Seaside Sparrow. The IOP does not provide a long-term solution for the Sparrow, and provides little to no benefit for the Snail Kite and Wood Stork. Rather, for almost a decade, the responsible agencies have stressed to the public and to the federal courts that these species will only be saved, as well as the Park restored, if water flows from WCA 3A into WCA 3B and into Northeast Shark River Slough are significantly restored. Part of the government’s plan for saving these species, and complying with the Endangered Species Act, was the removal of, in significant measure, constraints to flows under Tamiami Trail. As we continue to find our way forward with restoring the Everglades, we must ensure the survival of its most vulnerable inhabitants in the meantime.

Because subsequent steps to the tentatively selected plan are essential, we urge the Corps to give high priority to those projects under the Comprehensive Everglades Restoration Plan (“CERP”) that would build upon restoring sheetflow through the central and southern Everglades, including *Water Conservation Area 3 Decompartamentalization and Sheetflow Enhancement* and *Everglades National Park Seepage Management* to take the

next steps to increase flows through the Everglades and reconnect the lower portions of WCA3A and 3B to Everglades National Park and Florida Bay.

Both these projects were authorized as initial projects in WRDA 2000 and must be expedited and wholly integrated in order to achieve more benefits for the Everglades. In particular, without removing constraints on water levels in WCA 3B, it is physically impossible to achieve 4000 cfs into Everglades National Park even if Tamiami Trail is further modified beyond this TSP. These two CERP projects, along with additional storage and treatment, are critical to restoration of Everglades National Park, and the greater Everglades ecosystem.

We repeat our previous suggestions that another entity beyond the Corps, such as the Department of Transportation or Federal Highway Administration, may be better suited to design and build a more elevated roadway along Tamiami Trail. We urge the Corps to consider other possibilities *now* for immediate future restoration planning. At this time of limited resources, innovation is essential. The Corps should work with these and other agencies to develop the most efficient means of achieving the goals of Everglades restoration.

Thank you for your consideration.

Sincerely,

(Signatures waived in order to expedite delivery.)

David Anderson
Executive Director
Audubon of Florida

E. Thom Rumberger
Chairman
Everglades Trust

Marti Daltry, President
**Caloosahatchee River Citizens
Association/Riverwatch**

Sara E. Fain
Everglades Restoration Program Manager
National Parks Conservation Association

Kathleen Aterno
Managing and Florida Director
Clean Water Fund

Bradford H. Sewell
Senior Attorney
Natural Resources Defense Council

Kirk Fordham
Chief Executive Officer
Everglades Foundation

Rae Ann Wessel
Natural Resource Policy Director
Sanibel Captiva Conservation Foundation

Bradley A. Foster
May 9, 2008
Page 5 of 5

Laura Reynolds
Executive Director
Tropical Audubon Society

Debra Harrison
Director, South Florida Program
World Wildlife Fund

cc: Coby Dolan, Office of Congresswoman Debbie Wasserman-Schultz
Eve Lieberman, Office of Congressman Alcee Hastings
Susie Perez Quinn, Office of Senator Bill Nelson
Lauren Robitaille, Office of Congressman Mario Diaz-Balart
Brydon Ross, Office of Senator Mel Martinez
Colonel Paul Grosskruger, U.S. Army Corps of Engineers
Dan Kimball, Superintendent, Everglades National Park
Rock Salt, Department of Interior
Eric Buermann, Chair, Governing Board, SFWMD
Stephanie Kopelousos, Florida Department of Transportation
Mike Sole, Secretary, Department of Environmental Protection
Carol Wehle, Executive Director, South Florida Water Management District



FIU FLORIDA
INTERNATIONAL
UNIVERSITY

Hope, Knowledge, and Opportunity

May 9, 2008

Attn: Bradley A. Foster
U.S. Army Corps of Engineers
701 San Marco Blvd.
Jacksonville, FL 32207-8175



FLORIDA COASTAL EVERGLADES
LONG TERM ECOLOGICAL RESEARCH

Dear Mr. Foster:

We are writing to comment on the Tamiami Trail Modifications Draft Limited Reevaluation Report (LRR) and Environmental Assessment (EA). These comments reflect those of the Florida Coastal Everglades Long-Term Ecological Research program (FCE-LTER), a National Science Foundation-funded program based at Florida International University (FIU) that supports long-term ecological research in the Everglades. Our program is represented by 107 scientists from 27 institutions, including universities, federal, state and local agencies and NGOs. The viewpoints presented here are generated strictly from the science that we conduct and from our experiences in the Everglades and do not represent the institutions that employ us or support our work. These comments are directed towards the information provided in the LRR and EA presentations and discussion at the public forum held at FIU on April 21, 2008.

We start with the observation that water depths during both the dry and wet seasons in Everglades National Park (ENP) are far below what we would consider to occur in a healthy ecosystem. For example, dry season water levels are frequently below the soil surface across large swaths of Shark River Slough (SRS) – an area that should experience multi-year inundation periods. These frequent drying events have resulted in a loss of peat and a degradation of the landscape. Similarly, water levels in the eastern marl prairies in ENP adjacent to SRS have also experienced severe drought conditions over the last several decades. The hydrologic conditions in these prairies are inextricably linked to those in the Slough. These prairies once supported abundant wildlife, including extensive alligator nests, but are now depauperate. During the wet season, water levels in these regions are also considered well below those occurring during natural conditions. Moreover, the operations of the border canals and water management features along the Park's northern boundaries creates variable sheetflow patterns, which, in turn, cause further degradation in this system once characterized by large expanses of uninterrupted wilderness. Any plan to restore SRS within Everglades National Park that does not lead to improvements in all of these factors, including dry and wet season water depths, sheetflow directions, and flow volumes must be considered inadequate.

We feel that the revised plan does not address the goal of improving hydrologic conditions in SRS, and does virtually nothing to support the re-hydration of the marl prairies. We also feel the scientific rigor of the evaluations of the environmental benefits of potential alternatives has been compromised, which effectively weakens their support. The proposal to build a 1 mile bridge along the eastern edge of Tamiami Trail that allows an 8.5 ft maximum stage in the L29 canal will have limited effectiveness in restoring natural conditions in Everglades National Park, due to the short length of the bridge, its location and the flow allowance. We discuss problems associated with each of these factors below and provide alternative solutions that would meet the long-term goals of modified water deliveries (MWD).

Distance:

The proposal to further reduce to the extent of the bridge was considerably disappointing. Aside from understandable cost inflation during the years of delay, it appears that alternatives supporting longer and/or multiple bridges were also devalued for short-term political and economic reasons that appeared to outweigh their obvious long-term environmental benefits. A 1-mile bridge along a 10.7-mile flow blockade is not an effective plan for restoring sheet-flow to Everglades National Park.

Solution: Build into the LRR a plan and schedule for long-term implementation of multiple and extended bridges recommended in prior plans. Further delays will only increase the costs of necessary construction but more importantly, will allow further deterioration of the ecosystem that will cause restoration to become increasingly difficult.

Location:

We found one of the more confusing aspects of the proposal was the selection of the eastern corner of northeast SRS for the proposed 1 mile bridge. The LRR provided little or no scientific support for resultant improvement of (1) hydrological conditions in northeast SRS or (2) ecological consequences that would result from constructing a bridge to the east rather than west. Indeed, Table 5-1 suggests that the eastern and western bridges (with 8.5 ft stage) would have nearly identical effects on biological communities, ecological connectivity to Water Conservation Area 3 (WCA-3), ridge and slough processes and most of the endangered species that occupy these areas! Clearly this cannot have resulted from a scientific evaluation of either the current ecological setting in these two areas of SRS or of models that would predict ecological outcomes under certain hydrologic scenarios. Little hydrological modeling seemed to be incorporated into the evaluation. Based on existing understanding of flow-paths in this region, even with modifications in the L-67 extension, it is reasonable to expect that water delivered to the northeastern corner of SRS would simply flow back out to the L-31N, requiring additional pumping from control structures on the L-29 and L-31N. If successful re-hydration is dependent on this active re-circulation of water, was the cost of its implementation evaluated against the additional costs of roadbed modification associated with a western location where water flow would follow a more natural flow-path? There seems little about this eastern bridge location that would create more “natural” conditions in the marsh. Instead, the previously proposed western location would certainly not only re-hydrate areas of northeast SRS but have greater potential for hydrological and ecological restoration significantly downstream of construction. The 2005 Recommended Plan called for a 2-mile western bridge and a 1-mile eastern bridge seemingly because greater deliveries were needed into SRS at the western location. It seems logical that the reduced bridge-building would result in a 1-mile western bridge and elimination of the eastern bridge.

Solution: Reconsider option of western bridge. Otherwise, the hydrological and ecological grounds for the eastern alternative need to be more clearly defined. If the eastern bridge remains the preferred alternative, build a program of hydrological and ecological monitoring in impacted areas to address its effectiveness and facilitate adaptive management. This monitoring should take place both downstream of construction but also in areas where water and flows may be depleted during implementation (i.e., downstream of existing flow ways – S-12 structures).

Stage:

When compared to water levels that have occurred over the last several decades, an 8.5 ft limit will increase the maximum water levels by a ~ 1 ft. We consider that maximum water levels in the current system are more than 2 ft below natural conditions. Thus a 1 ft increase cannot be considered restoration. Also, a 1 ft increase is likely to result in only minor improvement across only small portions of the eastern marl prairies, most of which lie at ground surface elevations ~1.5 ft higher than those found in the Slough. Moreover, the LRR does not address how dry season water depths will be affected. As mentioned above, the dry season water levels across large portions of SRS are often below the soil surface. Restoration of this system cannot occur with adjustments to only the maximum wet season water depths. Dry season conditions must also be considered. The LRR evaluation promoted a 8.5 ft stage over 8 ft height in L-29 but it was disappointing to find only a superficial evaluation of the previously proposed 9.7 ft stage height. By comparing 8.0 and 8.5 ft stages against a “do nothing” alternative, the selection process is biased toward a weakly effective result. Instead, the impact of a full suite of stage heights should be evaluated and compared. Again, the ecological effectiveness of the two compromised alternatives (8 vs. 8.5 ft) seem to have been ‘copied and pasted’ from one column to another rather than resulting from a systematic understanding of the consequences of these two different hydrologic settings. Although the natural Everglades water movement was characterized by long durations of sheet flow there is increasing evidence that catastrophic events helped shape this ecosystem (e.g. fires, hurricanes, etc.). Allowing a greater variation in maximum stage (and larger bridge openings properly located) would allow more heterogeneity in flow volumes. A major problem across the Everglades is that large portions of the compartmentalized system are subjected to regulation schedules which are not linked to rainfall causing entire areas to be either too wet or too dry. Designs should allow for heterogeneous flows (including occasional very high water scouring events) which reflect trends in rainfall amounts and which will in turn support ridge and slough development.

Solution: Allow the maximum stage values (and thus hydraulic head) driving water into SRS respond to rainfall naturally to allow heterogeneous flow patterns and ridge and slough habitat to develop.

In conclusion, we hope that the LRR carefully considers the environmental consequences of alternative plans relative to the overall goals of Everglades restoration. We are especially concerned that effective restorative plans are being perpetually delayed causing further deterioration of the system and escalation in implementation costs. We hope the LRR includes a time-line that shows a schedule of completion for not only this small first step but also specifies when the overall long-term objectives will be met.

Thank you for soliciting public input to the plan.

Sincerely,



Evelyn E. Gaiser, Ph.D., René Price, Ph.D., Mike Ross, Ph.D., Len Scinto, Ph.D.
On Behalf of the Florida Coastal Everglades LTER
Florida International University, Miami, FL 33199

April 30, 2008

Bradley A. Foster
U.S. Army Corps of Engineers,
Jacksonville District
701 San Marco Boulevard
Jacksonville, FL 32207-8175

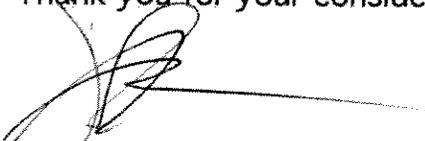
Dear Mr. Foster,

Please accept the enclosed public comments concerning the Limited Reevaluation Report and Environmental Assessment (LRR/EA).

The Tamiami Trail is the ONLY road that cyclists can use to get across southern Florida. It is very important that your road design consider cyclists. Additionally, please consider the proposed River of Grass Greenway (brochure enclosed) and how it can be coordinated with your bridge/road design.

I would like to discuss the River of Grass Greenway with you.

Thank you for your consideration,



Maureen Bonness
Naples Pathways Coalition,
River of Grass Greenway
maureenb@evergladesROGG.org
7390 Rookery Ln
Naples, FL 34120
239-825-4811

SAVE THE RIVER OF GRASS GREENWAY April 26, 2008

My signature below indicates my support of the "River of Grass Greenway" (ROGG; www.evergladesroogg.org) project. It is with great hope that the Army Corps of Engineers support the ROGG project and eliminate alternative designs of the LRR/EA foundation project that would prevent, impede or delay construction of the "River of Grass Greenway". Hwy 41 is the only road open to bicycles across southern Florida, thus cyclists should be considered in bridge designs (e.g., shoulders should be free of obstructions such as rumble strips, raised reflectors, and drainage grates).

Printed Name	Signature	Address
Alan Ryker		300 5TH ST South, Naples 34102
Perry's Zerk		4335 Beechwood Lake Pl. Naples 34112
Larry Mutter		1786 Ribbon Fan Lane, Naples 34119
JOHN CHAPMAN		8431 IMMOKOUSE RD. FT. PIERCE FL
FERNANDO ALVAREZ		1100 W 45th PL MIAMI FL 33012
John Cobary		1100 W. 45th Pl. HIALEAH FL. 33012
Jon Francis		P.O. Box 152 Everglades City 34134
Sheila Perry		2565 ASPEN CREEK LN. NAPLES 34119
	Ashley Pymmler	374 Edgemere way N. 34107
BARBARA BROWN		629 10TH ST N NAPLES 34102
JACQUELINE CRUCE		1024 NE 5th STREET HAVANA FL 33005
Dore Brumthorpe		2772 Island Road Naples FL 34119
	Richard Breithaupt	2772 Island Road, Naples, FL 34119

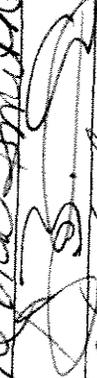
SAVE THE RIVER OF GRASS GREENWAY April 26, 2008

My signature below indicates my support of the "River of Grass Greenway" (ROGG; www.evergladesrogg.org) project. It is with great hope that the Army Corps of Engineers support the ROGG project and eliminate alternative designs of the LRR/EA foundation project that would prevent, impede or delay construction of the "River of Grass Greenway". Hwy 41 is the only road open to bicycles across southern Florida, thus cyclists should be considered in bridge designs (e.g., shoulders should be free of obstructions such as rumble strips, raised reflectors, and drainage grates).

Printed Name	Signature	Address
Gloria Osgood	<i>Gloria Osgood</i>	52105 Tamiami Trail E 39111
Diane Thompson	<i>Diane Thompson</i>	900 C' Ambiance #202 34108
Stephen Kidd	<i>Stephen Kidd</i>	5149 Mabry Dr. Naples, FL 34112
Sharon SPECTOR	<i>Sharon Spector</i>	3348 Timberwood Circle, NAP 34105
ED HARRISON	<i>Ed Harrison</i>	3225 Timocannon Ln 34105
Patricia A. Huff	<i>Patricia A. Huff</i>	P.O. Box 617, E. City, FL 34139
Mary A. Attiese	<i>Mary A. Attiese</i>	990 Colico Ct. Estero FL 33928
LAMARA LAYNE	<i>Lamara Layne</i>	4443 KATHY AVE NAPLES FL 34104
PATRICIA CRABLE	<i>Patricia Crable</i>	Same as above
HARRIET CONNOR	<i>Harriet Connor</i>	4243 Kathy Ln, Naples, FL 34104
Harriet Craig	<i>Harriet Craig</i>	4420 7th Ave SW, Naples, FL 34119
Sue Thibault	<i>Sue Thibault</i>	3628 Cottage Club Naples 34105
Niki Kelly	<i>Niki Kelly</i>	18044 Laurel Valley F Naples 38912

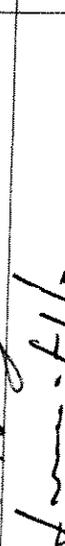
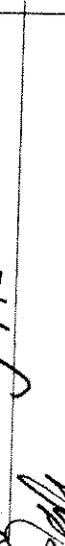
SAVE THE RIVER OF GRASS GREENWAY April 26, 2008

My signature below indicates my support of the "River of Grass Greenway" (ROGG; www.evergladesrogg.org) project. It is with great hope that the Army Corps of Engineers support the ROGG project and eliminate alternative designs of the LRR/EA foundation project that would prevent, impede or delay construction of the "River of Grass Greenway". Hwy 41 is the only road open to bicycles across southern Florida, thus cyclists should be considered in bridge designs (e.g., shoulders should be free of obstructions such as rumble strips, raised reflectors, and drainage grates).

Printed Name	Signature	Address
John CRAIG		4920 7th Ave SW Naples, FL 34118
Kelly Pansil		5355 Catala road Dr., Naples FL 34119
Maurice Fikellmann		33 Tanner Xing Wethersfield CT 06109
Carolyn Magoon		33 Tanner Xing Wethersfield CT 06109
M. Castaldi		6804 Sterling Cross Pl. Naples 34109
J. Castolote		6804 Sterling Cross Pl. Naples 34109
DINA Smith		1153 Palmetto Rd. Naples 34110
Tom Smith		1153 Palmetto Ridge - Naples 34110
Charles Leo		P.O. Box 388 Chokoloskee 34138
GARY MAHER		1100 MISTY PINE MARINA
SARINA BLAKFORD		251 Cypress Way W Naples 34110
RICHARD HANDEMAN		20109 SARACENO DR, ESTERO 33928
Ginnie Baldeman		20109 SARACENO DR. ESTERO 33928

SAVE THE RIVER OF GRASS GREENWAY April 26, 2008

My signature below indicates my support of the "River of Grass Greenway" (ROGG; www.evergladesrogg.org) project. It is with great hope that the Army Corps of Engineers support the ROGG project and eliminate alternative designs of the LRR/EA foundation project that would prevent, impede or delay construction of the "River of Grass Greenway". Hwy 41 is the only road open to bicycles across southern Florida, thus cyclists should be considered in bridge designs (e.g., shoulders should be free of obstructions such as rumble strips, raised reflectors, and drainage grates).

Printed Name	Signature	Address
SAMI KIRKLAND		2090 SUNSET CIR SANIBEL FL 33957
ANDREW DRAVIE		244 MARIE ST ENAMOLOLOHI
ROBERT CONZLER		6871 NW 176 Lane Miami FL 33108
WILL FRISO BLANCO		1725 SW P3 CT MIAMI FL 33156
RICK MYERBURG		5038 TIMSON CHASE WAY SAN ANTONIO, TX
DAVE KEELING		32 Langdale Rd Sale England.
HILARY KEELING		
SILVIA ALVAREZ		
ADAM KEELING		6940 Sempayne Ter Humble TX 77064
CARMEN AVAREZ		257 1st St, Hoboken, NJ 07030
FERNANDO ALVAREZ		5318 W 9 Ave. Hialeah FL 33012
FERNANDO AGUDELO		6940 SEAGRAPE TERRACE MIAMI LAKE FL 33009
ERIK S. BONZALEZ		15941 NW 4th St Pembroke Pines FL 33021
		7750 N.W. 17th Pl. Miami FL 33147

SAVE THE RIVER OF GRASS GREENWAY April 26, 2008

My signature below indicates my support of the "River of Grass Greenway" (ROGG; www.evergladesrogg.org) project. It is with great hope that the Army Corps of Engineers support the ROGG project and eliminate alternative designs of the LRR/EA foundation project that would prevent, impede or delay construction of the "River of Grass Greenway". Hwy 41 is the only road open to bicycles across southern Florida, thus cyclists should be considered in bridge designs (e.g., shoulders should be free of obstructions such as rumble strips, raised reflectors, and drainage grates).

Printed Name	Signature	Address
JOHN McCULLOUGH		285 STELLA MARIS DR S NAPLES FL 34114
JOHN RAYNER		280 S. CALLIER RVD #1404 MARCO ISLAND FL 34145
J A McKee Sr		214 STELLA MARIS DR. SO. Naples, Fla 34114
EDNA MOKHER		274 Stella Maria Dr So Naples FL 34114
JOHN L. CZENCZ		1153 SW 112TH AVE. NAPLES FL 34176
Steve Jensen		7930 JACOBSON DRIVE FORT MYERS BEACH, FL 33931
Max Wyr		117 Cocohatchee St. Naples, FL 34110
Ronald J. Echols		911 11E 54 A. Naples, FL 34102
Annette Thompson		PO Box 990597, Naples, FL 34116
DAVID WALSH		PO Box 990597 NAPLES FL 34116
Mary Ann Leo DeLorenzo		DRA Chokoloskee, Fla
Reynolds L. Cavins		P.O. Box 348 Everglades City FL 34139
Katey Dillman		1530 CHERMANT DR. UNIT 6-308 NAPLES FL 34105

SAVE THE RIVER OF GRASS GREENWAY April 26, 2008

My signature below indicates my support of the "River of Grass Greenway" (ROGG; www.evergladesrogg.org) project. It is with great hope that the Army Corps of Engineers support the ROGG project and eliminate alternative designs of the LRR/EA foundation project that would prevent, impede or delay construction of the "River of Grass Greenway". Hwy 41 is the only road open to bicycles across southern Florida, thus cyclists should be considered in bridge designs (e.g., shoulders should be free of obstructions such as rumble strips, raised reflectors, and drainage grates).

Printed Name	Signature	Address
William Westenberg	W. Westenberg	285 Charleston Ct, Naples, FL 34116
Joel Sawyers	Joel Sawyers	6880 Sandalwood Lane 34109
Mark Chambray	Mark Chambray	6610 Huntington Lakes Cir 34119
Jean Couvle	Jean Couvle	141321 SW 150 Way
Kase Samson	Kase Samson	840 W 53 St Miraluh FL 33012
Muhammad Sultan	Muhammad Sultan	420 US Hwy 50 Naples FL 34116-5230
Paul Altire	Paul Altire	9900 Palms Ct. ESTERO FL 33928
Gaillerano Reyes	Gaillerano Reyes	5336 W 94th FL 33012
Denise Scanniello	Denise Scanniello	2501 SE 10 St. Pompano Beach FL 33062
ROBERT CRYJOR	Robert Cryjor	SANTA MARCA CA 93455
FERNANDO RODRIGUEZ	Fernando Rodriguez	1177 SKYLARK DR. WESTON FL 33327
JEANNE MCKYOT	Jeanne M. Cryjor	4671 Parkview Dr, Aventura, FL 33154
RAAKEL BRAYN	Raakel Braun	1000 Manatee Rd. A304 Naples 34114

SAVE THE RIVER OF GRASS GREENWAY April 26, 2008

My signature below indicates my support of the "River of Grass Greenway" (ROGG; www.evergladesrogg.org) project. It is with great hope that the Army Corps of Engineers support the ROGG project and eliminate alternative designs of the LRR/EA foundation project that would prevent, impede or delay construction of the "River of Grass Greenway". Hwy 41 is the only road open to bicycles across southern Florida, thus cyclists should be considered in bridge designs (e.g., shoulders should be free of obstructions such as rumble strips, raised reflectors, and drainage grates).

Printed Name	Signature	Address
Bob McKelvey	<i>Bob McKelvey</i>	4746 Via Carmen, Naples, FL 34105
Audrey Paghico	<i>Audrey Paghico</i>	4746 Via Carmen, Naples, FL 34105
Doris Smith	<i>Doris Smith</i>	9980 TREASURE CAY BONTA SPGS 34135
Leslie Paris	<i>Leslie Paris</i>	764 102nd AVE. N NAPLES 34108
Mei Jacobs	<i>Mei Jacobs</i>	1637B Spoonbill Lane Naples 34109
Raffi Hatfield	<i>Raffi Hatfield</i>	2835 Orange Grove Trl Naples 34120
Steve Edmonston	<i>Steve Edmonston</i>	5844 Napa Woods Way, Naples 34106
GRISLA ABERTSCHWIL	<i>Grisla Abertschwil</i>	1717 Gulf Shore Blvd N Naples 34102
Gina Reynolds	<i>Gina Reynolds</i>	1525 Woodmont Ln Estero, FL 33928
Jack Taverna	<i>Jack Taverna</i>	2210 SW 1st Pl Cape Coral 33991
HORACE RACKLEY	<i>Horace C. Rackley</i>	P.O. BOX 263, EVERGLADES CITY 34139
Josspit Gontcon	<i>Josspit Gontcon</i>	717 Pelican Bnd Naples 34108
Martha Cole	<i>Martha Cole</i>	8203 Wilshire Lakes Blvd, Naples 34109

04 SAFER_Persson.txt

From: rpbr1117 [rpbr1117@bellsouth.net]

Sent: Monday, April 14, 2008 1:52 PM

To: TTMComments SAJ

Subject: Tamiami Trail Project

As Vice President of S.A.F.E.R., Inc I would like to repeat our views on the Tamiami Trail Project. We have for years presented the idea of just Maintaining the culverts or rebuilding them to allow water to flow freely under the Tamiami Trail. By removing the cattail reeds to the South of the Trail, you will allow water to flow without backing up against the road. Sky or other bridges are not necessary, and are too great of an expense. There still does not seem to be an answer to the question " How much is enough water for the Park?"

Rick Persson
Vice President
S.A.F.E.R., Inc



South Florida/Everglades Office

2700 SW 3rd Ave, Ste. 2F, Miami, FL 33129
TEL: [305] 860-9888 FAX: [305] 860-9862

May 9, 2008

Bradley A. Foster
U.S. Army Corps of Engineers
Jacksonville District
701 San Marco Boulevard
Jacksonville, FL 32207-8175
TTCComments@usace.army.mil

Dear Mr. Foster:

The Sierra Club, the country's oldest and largest grassroots environmental organization with more than 750,000 members nationwide and 30,000 in Florida, thanks you for the opportunity to comment on the Limited Reevaluation Report on Tamiami Trail.

The Sierra Club has been advocating for Everglades restoration for almost half a century. In 1968, we helped stop the largest airport in the world from being built off of the Tamiami Trail, and scuttle plans to turn the 1928 road into four-lane lane highway.

Since the 1989 Everglades Expansion Act, Sierra Club has sought the restoration of natural fresh water flow across Shark River Slough. Unimpeded fresh water flow is critical to maintaining the ridge and slough landscape. The water transports sediments and nourishment to plants and wildlife throughout Everglades National Park. This flow also prevents loss of organic peat and is critical to the health of wildlife in Florida Bay by preventing hyper salinity. Restoring the natural flow may also be crucial to the Everglades short term existence. Under the specter of global warming, restored flow may be the only chance to hold back salt water's northern march up the slough and sending the Everglades back into the sea.

There are only two possible ways to restore natural flow into Shark River Slough

One is to eliminate the road.

The other is to elevate it.

We have repeatedly supported elevation of an 11-mile stretch of Tamiami Trail widely referred to as the "Everglades Skyway". In numerous press statements, reports and documents, the Corps of Engineers has identified the Skyway as the environmentally-preferred alternative as well as a "Best Buy." The National Park Service and the U.S. Fish and Wildlife Service have also identified the Skyway as the best environmental solution for the Modified Waters delivery project. The Science Coordination Team to the South Florida Ecosystem Restoration Task Force also wrote in 2001 that the Skyway was the best alternative. While no agency disputes the environmental supremacy of the Skyway, the Corps has consistently ruled it out for one reason – cost.

Unfortunately, for two decades, our government has looked at the Modified Waters Delivery project as a stand-alone project without planning for the full restoration of the Slough. That mindset has to change if we have any chance of saving the Everglades.

Sierra Club's preferred alternative continues to be the Skyway as it has in every Mod Waters decision. We have preferred to see the Skyway built under the Modified Waters Delivery Project for a few reasons:

- The Skyway is the only project that we believe fulfills the intent of the Everglades Expansion Act.
- There are no other federal or state plans on the table to restore Shark River Slough.
- Building the Skyway as one project would be the most efficient use of tax dollars.
- It would be completed faster than in two projects.

We had been willing on numerous occasions to consider Modified Waters the first of a two-step process, but the all plans presented had serious roadblocks:

- The plans usually required Florida DOT to place asphalt on the non-bridge roads increasing costs and lending permanence to the project,
- The plans were very costly per mile compared to the Skyway.
- The projects required elaborate plans for maintaining traffic
- The projects paved over substantial acreage in the Park
- Government never presented the second step, forcing many to wonder if the first step was the only step.

The Sierra Club's main objective is to see Shark River Slough restored. If that can be done timely and cost effectively in one project, we would lend our support. If we believed that it could be achieved timely and cost effectively in two consecutive projects, part in Mod Waters and part in another, we could support that as well.

But we must see some verifiable commitment to a second project before we can give our support to a first. We must know that the first project will not stand for a decade while a second project becomes too expensive and ultimately abandoned.

These are some of the fundamental questions that must be answered by government in the coming months:

- 1) What are the concrete steps that will follow the TSP leading to restoration of Shark River Slough?

So far we know of none. Section 6.8 of the LRR, "Restoration Beyond the Modified Water Deliveries Project", barely touches on the essential subject of what to do next.

- 2) How long will it take until more bridging can take place?

That is unclear; however, the laying of asphalt appears to be cost-effective only if there is a 10 year delay between the TSP's completion and the completion of more bridging. The remainder of the bridging should start immediately after the first project or be simultaneously constructed.

- 3) What are the cost increases expected for the next phase of bridging as a result of choosing this alternative?

Based on the Corps' inflation and risk figures provided for the Skyway, just a four year delay could add nearly a billion dollars to the next phase of bridging. Time is money.

Cost:

We are very disappointed in the way that the Corps calculates its costs. The plan that we felt had the most merit in the LRR and one we supported was the Blue Shanty plan developed by Everglades National Park. The plan restored natural flow to a corner of WCA 3 and Shark River Slough. Although it entailed only a one mile bridge, it provided the greatest environmental benefit per dollar and transitioned easily into the Skyway. The plan should have been comparable to the TSP in cost as it involved the same length of bridge and required only temporary fill on the Blue Shanty Canal. Instead the Corps estimated the cost far above prevailing bridge and fill transport costs and ruled it out.

Similarly the Skyway was thrown out of contention based on it being estimated at \$1.6 billion. This figure was presented to the press and to the South Florida Ecosystem Task Force in documents without a breakdown. The actual cost of the Skyway though was \$600 million with \$1 billion in inflation and risk costs based on the project starting in 2012 and ending in 2020. There is no reason it would

take four years to start the project and most contractors say the 11-mile Skyway could be built in four years or less, not eight. In fact in the 2005 SEIS, the Corps said it could be done in 3.

The TSP is roughly \$250 million, almost half of the actual Skyway cost, yet it only provides 1/10 of the bridging. It also involves placing asphalt on 10 miles of roadway. Placing asphalt on the roadway is neither a long-term solution nor a viable alternative to additional bridging. By building the TSP, the Corps is also increasing the cost of building the rest of the Skyway by delaying the time the Skyway could be built.

Compressed schedule may have compromised process

We believe that in order to achieve an October 2008 ground breaking date the GRR may not have followed the standard procedures normally required by the EIS process. The scoping process seemed squeezed-in, almost presented as an afterthought, after decisions were already made. The Corps only met with environmental groups days before a presentation to the Task Force and one day before the LRR was released. Opportunities for input were limited. State negotiations to change the plan significantly from an 8.0 canal stage to an 8.5 (and thus requiring 10 miles of asphalt) in the last three weeks before the LRR release seemed contrary to the public process we had expected.

Culvert Spreader Swales

LRR presented no analyses on that issue, yet by their mention, it seems to imply that the culvert spreader swales remain part of Mod Waters. We believe that this action or any pilot project requires an EIS. We do not feel that constructing more than 60 football fields of swales in a national park will make culverts any more viable as a solution for restoring flow Shark River Slough. The only solution is to remove the road as a barrier.

Endangered Species

Part of the government's plan for saving the Cape Sable Seaside Sparrow, the Snail Kite and the Wood Stork, and complying with the Endangered Species Act, was the removal of, in significant measure, constraints to flows under Tamiami Trail. That provides more reason why significant bridging must commence immediately

Congressional Intent

Congress indicated in WRDA 2007 that it wanted to see 4,000 cfs in Mod Waters. The only plan that comes close to achieving that goal is the Blue Shanty Plan or the Skyway.

CERP

The next phase of bridging could be part of the CERP if it were moved up on the schedule to immediately follow the TSP. Right now it is not.

Global Warming:

Both Everglades National Park and the Miami-Dade Global Warming Advisory Task force have issued dire warnings for the Everglades. Its predictions are predicated on salt water flowing north up and unrestored Shark River Slough.

The Miami-Dade predictions are at:

http://www.miamidade.gov/derm/library/08_04_22Statement_on_Sea_Level.pdf

Their recommendations, which include the Everglades, are at:

http://www.miamidade.gov/derm/climate_change.asp

The TSP should have considered what the predicted timelines are for sea level rise and done an analysis of how much fresh water flow might be needed and by when to counter the salt water. Sea level rise is the greatest short term threat to the Everglades and one that should guide every decision the Corps makes, especially those will affect the timeliness of delivering restored flow to through Shark River Slough to Florida Bay. The massive economic and social cost of losing the Everglades, western urban areas of South Florida and the water supply to sea level rise must be factored in when determining if the project is cost effective.

Conclusion:

Most top scientists agree that an 11-mile elevated roadway or a close approximation will have to be built to restore Shark River Slough and connect the southern Everglades to the North. Without a restored flow Florida Bay will continue to decline and Everglades National Park will remain parched, while areas to the north flood. Restoration of the Slough may, in the case of sea level rise, be an important factor in determining if the Everglades will even exist and if much of South Florida can continue to be viable as a place to live. These are heavy stakes. Government must have a plan. The public has now been presented with the TSP, a one mile bridge and 10 miles of asphalt. Now is time for the federal government and the state of Florida to craft the plan for the rest. Government officials can find funds from alternate sources such as existing tolls and mitigation funds. They should seek federal and state transportation dollars meant to build bridges. They should collaborate with local governments, business, and civic organizations who want the Skyway to secure the remaining bridging, before asking for unconditional support for the TSP.

If this is indeed a two-step process, the state of Florida and the Federal Government must craft a consecutive second step or even a simultaneous project before the TSP Record of Decision is reached. Only that action can give the public confidence that this isn't the only step for a long time to come. If the two step process can't work, we should just find a different structure to get it all done at once.

Sincerely,

Jonathan Ullman
South Florida/Everglades Senior Representative
Sierra Club
Miami, FL

PDF Attachments:

Dec. 2005 Tamiami Tail SEIS Appendix L (Public involvement-- contains Sierra Club comments Pg. 138.

Dec. 2005 Tamiami Tail SEIS Appendix F (Coordination Act Report)

Dec. 2005 Tamiami Tail SEIS Main Document

National Academy of Sciences' CROGEE Flow Executive summary 2003

Task Force's Science Coordination Team letter to Corps endorsing Skyway, 2001

06 Sierra Club Ullman.txt

From: Jonathan Ullman [jonathan.ullman@sierraclub.org]
Sent: Friday, May 09, 2008 11:38 PM
To: TTMComments SAJ
Cc: 'Jonathan Ullman'
Subject: Sierra Club LRR Comments 4.9.08

Attachments: SC LRR Comments 4.9.08.doc

May 9, 2008

Bradley A. Foster
U.S. Army Corps of Engineers
Jacksonville District
701 San Marco Boulevard
Jacksonville, FL 32207-8175

TTMComments@usace.army.mil

Dear Mr. Foster:

The Sierra Club, the country's oldest and largest grassroots environmental organization with more than 750,000 members nationwide and 30,000 in Florida, thanks you for the opportunity to comment on the Limited Reevaluation Report on Tamiami Trail.

The Sierra Club has been advocating for Everglades restoration for almost half a century. In 1968, we helped stop the largest airport in the world from being built off of the Tamiami Trail, and scuttle plans to turn the 1928 road into four-lane highway.

Since the 1989 Everglades Expansion Act, Sierra Club has sought the restoration of natural fresh water flow across Shark River Slough. Unimpeded fresh water flow is critical to maintaining the ridge and slough landscape. The water transports sediments and nourishment to plants and wildlife throughout Everglades National Park. This flow also prevents loss of organic peat and is critical to the health of wildlife in Florida Bay by preventing hyper salinity. Restoring the natural flow may also be crucial to the Everglades short term existence. Under the specter of global warming, restored flow may be the only chance to hold back salt water's northern march up the slough and sending the Everglades back into the sea.

There are only two possible ways to restore natural flow into Shark River Slough

One is to eliminate the road.

The other is to elevate it.

We have repeatedly supported elevation of an 11-mile stretch of Tamiami Trail widely referred to as the "Everglades Skyway". In numerous press statement, reports and documents, the Corps of Engineers has identified the Skyway as the environmentally-preferred alternative as well as a "Best Buy." The National Park service and the U.S. Fish and wildlife Service have also identified the Skyway as the best environmental solution for the Modified Waters delivery project. The Science Coordination Team to the South Florida Ecosystem Restoration Task Force also wrote in 2001 that the Skyway was the best alternative. While no agency disputes the environmental supremacy of the Skyway, the Corps has consistently ruled it out for one reason - cost.

Unfortunately, for two decades, our government has looked at the Modified Waters Delivery project as a stand-alone project without planning for the full restoration of the Slough. That mindset has to change if we have any chance of saving the Everglades.

Sierra Club's preferred alternative continues to be the Skyway as it has in every Mod waters decision. We have preferred to see the Skyway built under the Modified Waters Delivery Project for a few reasons:

* The Skyway is the only project that we believe fulfills the intent of the Everglades Expansion Act.

* There are no other federal or state plans on the table to restore Shark River Slough.

* Building the Skyway as one project would be the most efficient use of tax dollars.

06 Sierra Club Ullman.txt

* It would be completed faster than in two projects.

We had been willing on numerous occasions to consider Modified Waters the first of a two-step process, but the all plans presented had serious roadblocks:

* The plans usually required Florida DOT to place asphalt on the non-bridge roads increasing costs and lending permanence to the project,

* The plans were very costly per mile compared to the Skyway.

* The projects required elaborate plans for maintaining traffic

* The projects paved over substantial acreage in the Park

* Government never presented the second step, forcing many to wonder if the first step was the only step.

The Sierra Club's main objective is to see Shark River Slough restored. If that can be done timely and cost effectively in one project, we would lend our support. If we believed that it could be achieved timely and cost effectively in two consecutive projects, part in Mod Waters and part in another, we could support that as well.

But we must see some verifiable commitment to a second project before we can give our support to a first. We must know that the first project will not stand for a decade while a second project becomes too expensive and ultimately abandoned.

O6 Sierra Club Ullman.txt

These are some of the fundamental questions that must be answered by government in the coming months:

1) What are the concrete steps that will follow the TSP leading to restoration of Shark River Slough?

So far we know of none. Section 6.8 of the LRR, "Restoration Beyond the Modified Water Deliveries Project", barely touches on the essential subject of what to do next.

2) How long will it take until more bridging can take place?

That is unclear; however, the laying of asphalt appears to be cost-effective only if there is a 10 year delay between the TSP's completion and the completion of more bridging. The remainder of the bridging should start immediately after the first project or be simultaneously constructed.

3) What are the cost increases expected for the next phase of bridging as a result of choosing this alternative?

Based on the Corps' inflation and risk figures provided for the Skyway, just a four year delay could add nearly a billion dollars to the next phase of bridging. Time is money.

Cost:

We are very disappointed in the way that the Corps calculates its costs. The plan that we felt had the most merit in the LRR and one we supported was the Blue Shanty plan developed by Everglades National Park. The plan restored natural flow to a corner of WCA 3 and Shark River Slough. Although it entailed only a one mile bridge, it provided the greatest environmental benefit per dollar and

06 Sierra Club Ullman.txt

transitioned easily into the Skyway. The plan should have been comparable to the TSP in cost as it involved the same length of bridge and required only temporary fill on the Blue Shanty Canal. Instead the Corps estimated the cost far above prevailing bridge and fill transport costs and ruled it out.

Similarly the Skyway was thrown out of contention based on it being estimated at \$1.6 billion. This figure was presented to the press and to the South Florida Ecosystem Task Force in documents without a breakdown. The actual cost of the Skyway though was \$600 million with \$1 billion in inflation and risk costs based on the project starting in 2012 and ending in 2020. There is no reason it would take four years to start the project and most contractors say the 11-mile Skyway could be built in four years or less, not eight. In fact in the 2005 SEIS, the Corps said it could be done in 3.

The TSP is roughly \$250 million, almost half of the actual Skyway cost, yet it only provides 1/10 of the bridging. It also involves placing asphalt on 10 miles of roadway. Placing asphalt on the roadway is neither a long-term solution nor a viable alternative to additional bridging. By building the TSP, the Corps is also increasing the cost of building the rest of the Skyway by delaying the time the Skyway could be built.

Compressed schedule may have compromised process

We believe that in order to achieve an October 2008 ground breaking date the GRR may not have follow the standard procedures normally required by the EIS process. The scoping process seemed squeezed-in, almost presented as an afterthought, after decisions were already made. The Corps only met with environmental groups days before a presentation to the Task Force and one day before the LRR was released. Opportunities for input were limited. State negotiations to change the plan significantly from an 8.0 canal stage to an 8.5 (and thus requiring 10 miles of asphalt) in the last three weeks before the LRR release seemed contrary to the public process we had expected.

Culvert Spreader Swales

LRR presented no analyses on that issue, yet by their mention, it seems to imply that the culvert spreader swales remain part of Mod Waters. We believe that this action or any pilot project requires an EIS. We do not feel that constructing more than 60 football fields of swales in a national park will make culverts any more viable as a solution for restoring flow Shark River Slough. The only solution is to remove the road as a barrier.

Endangered Species

Part of the government's plan for saving the Cape Sable Seaside Sparrow, the Snail Kite and the Wood Stork, and complying with the Endangered Species Act, was the removal of, in significant measure, constraints to flows under Tamiami Trail. That provides more reason why significant bridging must commence immediately

Congressional Intent

Congress indicated in WRDA 2007 that it wanted to see 4,000 cfs in Mod Waters. The only plan that comes close to achieving that goal is the Blue Shanty Plan or the Skyway.

CERP

The next phase of bridging could be part of the CERP if it were moved up on the schedule to immediately follow the TSP. Right now it is not.

Global warming:

Both Everglades National Park and the Miami-Dade Global Warming Advisory Task force have issued dire warnings for the Everglades. Its

06 Sierra Club Ullman.txt

predictions are predicated on salt water flowing north up and unrestored Shark River Slough.

The Miami-Dade predictions are at:

http://www.miamidade.gov/derm/library/08_04_22Statement_on_Sea_Level.pdf

Their recommendations, which include the Everglades, are at:

http://www.miamidade.gov/derm/climate_change.asp

The TSP should have considered what the predicted timelines are for sea level rise and done an analysis of how much fresh water flow might be needed and by when to counter the salt water. Sea level rise is the greatest short term threat to the Everglades and one that should guide every decision the Corps makes, especially those will affect the timeliness of delivering restored flow to through Shark River Slough to Florida Bay. The massive economic and social cost of losing the Everglades, western urban areas of South Florida and the water supply to sea level rise must be factored in when determining if the project is cost effective.

Conclusion:

Most top scientists agree that an 11-mile elevated roadway or a close approximation will have to be built to restore Shark River Slough and connect the southern Everglades to the North. Without a restored flow Florida Bay will continue to decline and Everglades National Park will remain parched, while areas to the north flood. Restoration of the Slough may, in the case of sea level rise, be an important factor in determining if the Everglades will even exist and if much of South Florida can continue to be viable as a place to live. These are heavy stakes. Government must have a plan. The public has now been presented with the TSP, a one mile bridge and 10 miles of asphalt. Now is time for the federal government and the state of Florida to craft the plan for the rest. Government officials can find funds from alternate sources such as existing tolls and mitigation funds. They should seek federal and state transportation dollars meant to build bridges. They should collaborate with local governments, business, and civic organizations who want the Skyway to secure the remaining bridging, before asking for unconditional support for the TSP.

06 Sierra Club Ullman.txt

If this is indeed a two-step process, the state of Florida and the Federal Government must craft a consecutive second step or even a simultaneous project before the TSP Record of Decision is reached. Only that action can give the public confidence that this isn't the only step for a long time to come. If the two step process can't work, we should just find a different structure to get it all done at once.

Sincerely,

Jonathan Ullman

South Florida/Everglades Senior Representative

Sierra Club

Miami, FL

PDF Attachments in subsequent e-mail:

Dec. 2005 Tamiami Tail SEIS Appendix F (Coordination Act Report)

Dec. 2005 Tamiami Tail SEIS Main Document

National Academy of Sciences' CROGEE Flow Executive summary 2003

Task Force's Science Coordination Team letter to Corps endorsing
Page 8

06 Sierra Club Ullman.txt

Skyway, 2001

Following in text area of next e-mail:

Sierra Club Oct. 11, 2005 comments to Tamiami Trail SEIS

Dr. Stuart Pimm, October 5, 2005 comments to Tamiami Trail SEIS



October 11, 2005

Stuart J. Appelbaum
Chief, Planning Division
Attn: Jon Moulding
Department of the Army
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

Re: *Draft Revised General Reevaluation Report / Second Supplemental Environmental Impact Statement (RGRR/SEIS) for Tamiami Trail Modifications*

Dear Mr. Appelbaum,

The Sierra Club appreciates the opportunity to comment upon the Draft Revised General Reevaluation Report / Second Supplemental Environmental Impact Statement (“RGRR/SEIS”) for the Tamiami Trail Modification Project (“Project”). The Sierra Club is dedicated to exploring, enjoying and protecting wild places of the Earth; to practicing and promoting responsible uses of the Earth’s resources and ecosystems; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives.

One of the Sierra Club’s priority national conservation campaigns is to protect and restore the Everglades. The Sierra Club and its Florida Chapter have been involved in the Everglades restoration effort for over two decades. The Sierra Club is a member of the Everglades Coalition, and the Sierra Club’s Outings Program also leads trips (hiking, biking and canoeing) into the Everglades. The Florida Chapter’s Everglades Committee operates a website concerning the Project at www.build-the-skyway.com. The Sierra Club thus has a strong interest in the Project and in the protection and restoration of the Everglades.

Congress authorized the Project under the Modified Water Deliveries (“MWD”) component of the Everglades National Park Protection and Expansion Act of 1989, Pub. L. No. 101-229, 103 Stat. 1946. The statute aims to “increase the level of protection of the outstanding natural values of Everglades National Park and to enhance and restore the ecological values, natural hydrologic conditions ... of such area...” *id.* at § 101(b)(1). The Sierra Club strongly supports this goal.

The Sierra Club strongly urges the U.S. Army Corps of Engineers (“Corps”) to select Alternative 17 – the 10.7 mile Skyway proposal – as the best alternative to restore water flow and ecological connection through the Everglades. The analysis contained in the RGRR/SEIS strongly supports our view that the Skyway proposal is by far the most environmentally superior alternative identified in the RGRR/SEIS.

Sierra Club strongly opposes the proposal to implement Alternative 14 – the Tentatively Selected Plan (“TSP”). The TSP would not adequately restore natural hydrologic conditions to Everglades National Park. Sierra Club believes that implementation of the TSP would jeopardize the success of the \$7.8 billion Comprehensive Everglades Restoration Plan (CERP), Pub. L. No. 106-541, 601 (2000).

As detailed below, the RGRR/SEIS fails to meet the requirements of the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321 et seq., and its implementing regulations, in numerous respects. The Sierra Club is especially concerned that the RGRR/SEIS misleads the public and decisionmakers about the relative costs of the TSP and Skyway alternative. In addition, the RGRR/SEIS fails to sufficiently analyze and disclose the adverse environmental consequences of implementing the TSP, as well as ways of avoiding those impacts through the selection of environmentally superior alternatives, such as the Skyway proposal, and through appropriate and feasible mitigation measures. The RGRR/SEIS thus fails to provide an adequate environmental analysis that would support a decision by the Corps to implement the TSP in lieu of the environmentally superior Skyway alternative.

I. Overview of the National Environmental Policy Act

The National Environmental Protection Act (NEPA) “is our national charter for protection of the environment.” 40 C.F.R. 1500.1(a). As the United States Supreme Court has explained: NEPA “ensures that the agency . . . will have available, and will carefully consider, detailed information concerning significant environmental impacts; it also guarantees that the relevant information will be made available to the larger public audience.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989). NEPA has been described as “an environmental full disclosure law . . . intended to make such decisionmaking more responsive and more responsible.” *Environmental Defense Fund, Inc. v. Corps of Engineers of United States Army*, 325 F. Supp. 749, 759 (D. Ark. 1971). Full environmental disclosure is essential to give the public a meaningful opportunity to scrutinize and comment upon federal projects that may have significant environmental consequences. As federal courts have recognized: “It is without serious question that [NEPA], which requires the promulgation of environmental analyses and impact statements, was enacted for the primary benefit of the general public.” *Public Service Co. v. Andrus*, 433 F. Supp. 144, 152 (D. Colo. 1977). Unfortunately, the RGRR/SEIS fails to satisfy the requirements of NEPA, as detailed below.

II. The RGRR/SEIS Fails To Explain How the TSP Would Fulfill the Purpose and Need for the Project.

The stated purpose of the RGRR/SEIS is to “identify a means to enable the conveyance of the authorized flow of water from WCA-3B and the L-29 Canal north of the Tamiami Trail to NESS

and ENP south of the Tamiami Trail...” The Project aims to implement certain provisions of the Everglades National Park Protection and Expansion Act of 1989 (“Everglades Protection Act”), Pub. L. No. 101-229, 103 Stat. 1946. The Everglades Protection Act mandates: 1) improved delivery of water into Everglades National Park; and 2) to the extent practicable, restoration of the natural hydrologic conditions within the Everglades.

To meet the objectives of the Everglades Protection Act, the Project must do more than merely convey a specified amount of water from the north side of the Tamiami Trail to the south; the conveyance must be designed so that the flow of water resembles its natural state to the extent practicable. The SEIS fails to explain how implementation of the TSP would achieve this goal.

The Tamiami Trail roadbed currently creates a physical barrier that effectively dams a hydrologic feature called the Northeast Shark River Slough (“NESS”). The most important characteristics of NESS are its wide, shallow channel and its slow velocity. The engineering data illustrate that, with a 4-mile bridge, the ratio of the water’s velocity at the road to its velocity at the marsh is 1.8:1. (As explained below, a critical defect in the RGRR/SEIS is that engineering data were not produced for Alternative 14. Apparently, the Corps only has flow velocity data for a 3,000-foot span, a 4-mile span, and a 10.7-mile span. The ratio would be even higher for the TSP.) The increased water velocity resulting from implementation of the TSP would result in “channelization,” which would change the NESS into a different body of water than would exist under natural conditions. The TSP thus would not achieve the Project’s stated purpose.

It is vitally important to consider the Project as part of a much larger effort to restore the overall health of the Everglades. The CERP authorizes projects estimated to cost approximately \$7.8 billion, the success of which will depend upon this Project for water deliveries. The Project thus represents a key first step in a broad effort to restore the natural hydrologic conditions of Everglades National Park. Man-made canals, channels and other hydrological projects have isolated and destroyed many features of the Everglades during the past century. CERP is intended to “decompartmentalize” hydrological features of the Everglades in order to promote ecological connectivity, thereby reversing the destruction that these man-made projects have caused over the years. This decompartmentalization process relies on the MWD component to restore natural hydrologic flow underneath the Tamiami Trail, because future projects rely on this flow of water for successful decompartmentalization. However, the RGRR/SEIS does not explain whether the TSP would provide the necessary amount of hydrologic interconnectivity to satisfy these future CERP projects.

As the RGRR/SEIS admits in section 9.6: “[T]he Ten-Mile Bridge alternative may have significance with respect to the eventual ecological restoration to be achieved through the CERP project. The bridge would provide the upper range of environmental benefits and may be the solution recommended by detailed CERP studies.” In order to restore hydrologic connectivity, CERP projects will remove water conveyances north of Tamiami Trail in order to allow water to flow south towards Everglades National Park. However, if the eight-mile section of unraised roadway remains in place, it will continue to form a barrier to this southernly flow of water.

For example, CERP's WCA 3 Decompartmentalization and Sheetflow Enhancement Project will fill the L-29 canal immediately north of the Project in order to provide an increased flow of water south to Everglades National Park. But as the RGRR/SEIS admits, the two channels underneath the bridges proposed in the TSP may not provide enough area beneath them to accommodate this increased flow, which means that much of the freed-up water would not reach its intended destination. The result would be that the 8-mile unraised section would have to be rebuilt to accommodate the water freed up under the CERP project, which would be far more expensive than implementation of the Skyway alternative. The RGRR/SEIS fails to address this defect.

Section 7.6.4 of the RGRR/SEIS states that "the Tentatively Selected Plan provides an opportunity for integrating the bridges into a corridor-wide raised facility or as part of a multi-bridge system to minimize retrofit when implementing aspects of CERP." This concept of "retrofit" is inconsistent with the stated purpose of the Project. The MWD program is not intended to be a temporary or stop-gap measure. If the Corps truly sought to "minimize retrofit," then any alternative, such as the TSP, that adds a significant amount of asphalt to the roadbed would be rejected as not fulfilling the Project's purpose and need.

There are also unexplained discrepancies in the engineering data that the RGRR/SEIS relied upon. Appendix E contains the dataset that was used to create the alternative action plans. Currently, only 493,000 acre-feet per year of water can pass through the existing culvert system underneath the Tamiami Trail. The data that was relied upon to create the existing plans is the current volume of water that passes through Water Conservation Area 3B, i.e., 683,000 acre-feet per year. All of the action plans can successfully accommodate this volume of water. However, the Natural System Model (NSM Version 4.6) estimates that the natural flow across this section of NESS is 895,000 acre-feet per year. Yet nowhere in the RGRR/SEIS is the larger figure used. This conflicts with the goal of CERP, which is to restore the natural hydrological features of Everglades National Park. The RGRR/SEIS fails to explain how a structure designed to handle 683,000 acre-feet of water per year adequately accommodates a project that aims to come as close as possible to restoring a historic volume that is over 130% larger. The Skyway alternative, by comparison, allows the flexibility and safety to meet any CERP water stages and extreme rainfall events. The RGRR/SEIS fails to fully disclose this advantage.

III. The Discussion of Alternatives in the RGRR/SEIS Fails to Comply with NEPA.

A. The RGRR/SEIS Fails to Identify a Reasonable Range of Alternatives to the TSP.

The RGRR/SEIS fails to analyze a reasonable range of environmentally superior alternatives to the TSP. For example:

- There was no consideration given to alternatives that would refrain from modifying the US-41 roadbed on the non-bridged areas. An "escrow alternative" mentioned in prior drafts of the current RGRR/SEIS held promise in this regard, yet it was mysteriously withdrawn from consideration. This proposal would have authorized the construction of a limited portion of the Skyway, to the extent funding is available, and would have

It appears the Corps may be unjustifiably rejecting the Skyway alternative as economically infeasible based on inaccurate and misleading information regarding the relative costs of the TSP and Skyway alternative. For example, the RGRR/SEIS fails to address the fact that the estimated cost of implementing the TSP exceeds the Department of Interior's ("DOI") budget for the Tamiami Trail Modification under the MWD program. DOI Capital Asset Plan's funding allocation for the Tamiami Trail component of the MWD project is \$109 million, and the cost of the TSP lies at \$145,806,000.⁵ The failure of the RGRR/SEIS to disclose this gap is especially problematic in view of the fact that the Corps appears poised to reject the environmentally superior Skyway alternative on the basis of economic infeasibility. The RGRR/SEIS fails to reconcile its determination that the Skyway proposal is too expensive because it exceeds current funding, while selecting the TSP as a preferred alternative that is similarly over-budget. The RGRR/SEIS is thus highly misleading in suggesting that the Corps has the funds to implement the TSP, but not the Skyway alternative. Additionally, the RGRR/SEIS's economic analysis of the TSP is insufficient in light of admissions that the TSP might require significant future modifications (involving substantial additional expense), because of incompatibility with CERP. Finally, it appears the estimated cost of the Skyway alternative may be artificially inflated, as the cost estimate has grown substantially from the time of initial scoping meetings – without adequate explanation – as described in the letter from Dr. Prieto-Portar enclosed herewith.

The RGRR/SEIS also contains a fatal disconnect between its engineering conclusions and their corresponding economic analyses. Although the RGRR/SEIS mentions the distinct possibility that CERP may require water deliveries that can only be achieved through the construction of a 10-mile bridge (exactly what is called for in the Skyway Proposal), thus requiring an expensive retrofit of the TSP, this has not been factored into the RGRR/SEIS's economic analysis. The RGRR/SEIS is thus highly misleading with regard to the relative costs of the TSP and Skyway proposal, and it therefore fails to foster informed decision-making in violation of NEPA.

C. The RGRR/SEIS Comparison of the Environmental Impacts of the TSP and Other Project Alternatives Is Inaccurate and Misleading, and Therefore Fails to Comply with NEPA.

Section 7 of the RGRR/SEIS purports to compare the environmental impacts of the TSP with the environmental impacts of the other Project alternatives. However, portions of that analysis mistakenly analyze Alternative 10 (4-Mile Bridge, Central), rather than the TSP. The following sections are tainted by analysis of the wrong plan.

- § 7.6.6 Threatened or Endangered Species, "Alternative 10 will be capable of passing the sufficient flow volumes under Tamiami Trail. The implementation of the project therefore does not preclude compliance with the RPAs of the 1999 Biological Opinion."
- § 7.13 Transportation, "The highway would remain available for evacuation during hurricane season, and improvements made through implementation of Alternative 10 would improve safe travel of motorists during evacuation scenarios in the future."

⁵ RGRR/SEIS, p. 103 (table 23). According to the construction estimates in Appendix J, the cost is \$125,105,593. The RGRR/SEIS does not explain that discrepancy.

affected by both aspects of the TSP: first, the bridge structures, and second, the increase in the mass of the roadbed to raise the road surface. The RGRR/SEIS fails to address these impacts.

Moreover, the RGRR/SEIS fails to discuss many other aspects of the TSP that could result in significant, adverse environmental effects. For example, if the channels underneath the road are inadequate to accommodate a volume of water from an extreme rainfall event, will the water overtop the road surface, or will it spill out underneath the bridge structures in a high-velocity, high-volume flow, resulting in severe damage to the delicate slough ecosystem? The RGRR/SEIS fails to address this issue.

Further, § 7.6.2 includes a description of flows “distributed through a four-mile wide conveyance channel,” which evidently refers to a plan other than the TSP. As a result this section overstates the positive effect that the TSP would have on the hydrology of the NESS and Everglades National Park, because it is clear that the TSP contemplates two channels totaling three miles of waterway connectivity.

C. Biological Communities

The TSP fails to adequately disclose, assess, and mitigate impacts on biological communities in the affected Project area. The RGRR/SEIS provides only a bare assertion that the TSP would “enhance” biological communities, without any underlying analysis to support that conclusory statement. This is far short of the “hard look” required under NEPA.

D. The RGRR/SEIS Fails to Adequately Assess Wildlife Impacts

The RGRR/SEIS fails to adequately address the impacts of the TSP on threatened and endangered species, as well as other wildlife and fish species, as detailed below.

i. Threatened and Endangered Species

The RGRR/SEIS identifies six threatened or endangered species that may be present in the project area: the Cape Sable seaside sparrow, Eastern Indigo snake, Florida panther, snail kite, West Indian manatee, and wood stork. The RGRR/SEIS, however, contains only a cursory, superficial discussion of how the TSP would affect those species, in clear violation of NEPA.

The Sierra Club encloses herewith a letter from Dr. Stuart Pimm, the Doris Duke Chair of Conservation Ecology at the Nicholas School of Environment and Earth Sciences of Duke University. Dr. Pimm explains that the TSP – both directly and cumulatively in combination with other related projects – could have significant adverse effects on the Cape Cable seaside sparrow. The failure of the RGRR/SEIS to disclose and analyze those impacts renders the document inadequate as a matter of law.

The eastern indigo snake is a threatened species whose range encompasses the Project area. This species has been listed as threatened by the U.S. Fish and Wildlife Service (USFWS) since 1978, yet the RGRR/SEIS contains only one brief and uninformative sentence about the potential impacts that the TSP would have on this species.

The RGRR/SEIS notes that a Florida panther has strayed within ½ mile of the project site, yet the RGRR/SEIS mysteriously concludes that “construction ... would not affect the panther any more than normal traffic conditions on the highway.” This bare assertion is both illogical and uninformative. First, the RGRR/SEIS lacks essential information about the social behavior and range of the panther – information that is necessary to assess how the Project may affect the species. Second, the panther sighting suggests there may be other panthers occupying the Project area; the brief discussion in the RGRR/SEIS about how the TSP may affect the one panther that has been sighted in the area fails to inform the public about how the TSP may affect the panther population as a whole. Moreover, “normal traffic” does not include the presence of heavy machinery that will be active on the Project site for the duration of the construction work, and does not consider that food debris associated with the construction activities may attract these animals. As of July 2001, the Florida Fish and Wildlife Conservation Commission has documented 44 Florida Panther deaths resulting from vehicular collision, including three on US-41,⁷ and recommends that wildlife crossings be installed in areas where both sides of the highway are protected “to preserve their importance as panther habitat well into the future.” The RGRR/SEIS fails to address whether the TSP could result in similar fatalities, and fails to propose mitigation measures to minimize such impacts.

ii. Wildlife Other than Threatened or Endangered Species

The RGRR/SEIS also fails to assess how the TSP would affect wildlife and fish species other than those classified as “threatened” or “endangered” under the Endangered Species Act. The Florida Everglades is an incredibly diverse ecological system, and it contains a vast array of wildlife and fish species that may be adversely affected by the TSP; yet the RGRR/SEIS essentially ignores those potential impacts. For example, the RGRR/SEIS is devoid of any analysis of potential impacts to specially-designated “sensitive” species and other rare wildlife species. While the RGRR/SEIS mentions that six species of special concern may nest in the Project area, it fails to analyze potential impacts to these species, and, in particular, fails to assess how the Project could affect the American alligator and Everglades mink. The RGRR/SEIS also fails to address the possibility that the TSP could result in additional traffic-related wildlife fatalities, a serious threat as evidenced by the photograph, enclosed herewith, taken by Brian F. Call very near to where the Project would be implemented.

E. Transportation

US-41 is an important part of South Florida’s transportation infrastructure. It was the first major transportation link between the east and west coasts of Florida and is designated as a scenic highway. It provides public access to Everglades National Park, Big Cypress National Preserve, commercial facilities, and the Miccosukee Tribal lands. Although the RGRR/SEIS states that “[t]he highway would remain available for evacuation during the hurricane season, and improvements ... would improve safe travel of motorists during evacuation scenarios,” this statement must be re-evaluated in light of predictions that the baseline hurricane data was accumulated during a period of moderate to low hurricane activity. Current meteorological

⁷ See A Summary of Florida Panther Mortality Caused by Vehicular Collisions, published by the Florida Fish and Wildlife Conservation Commission:

<http://www.panther.state.fl.us/pdfs/FloridaPantherMortalityCausedbyVehicular.pdf>.

predictions indicate that the next couple of decades will see an increase in the intensity and severity of hurricane activity in the region. Further, the effects of global warming may exacerbate this trend. The RGRR/SEIS fails to address the predicted change in weather patterns.

The Tamiami Trail is one of only four exits out of Miami, the other three being I-95, I-75 and the Florida Turnpike. The need for the road as a hurricane evacuation route is compounded by increased development south of the Trail and the Florida Keys. The Tamiami Trail is the only road that services Miami-Dade alone. The other roads would have massive traffic from Broward and Palm Beach if a hurricane came from the Atlantic. In the event of a need for emergency evacuation, the Tamiami Trail is only one of two routes to the west, the other being I-75 west of Ft. Lauderdale, which also must serve Miami-Dade and Broward Counties. The Skyway alternative would aid hurricane evacuation. The RGRR/SEIS fails to sufficiently address these issues.

F. Economics and Socioeconomics

The RGRR/SEIS does not provide an adequate discussion of the effects of the TSP on economic and socioeconomic conditions in the Project area. Although the RGRR/SEIS states that no significant impacts on socioeconomic conditions are anticipated, there are several areas of concern that are not addressed by this conclusory statement. For example, members of the Miccosukee Tribe expressed concern that the TSP might result in increased flooding around the Tigertail camp, which would require its relocation. Several cities and counties have passed resolutions supporting the Skyway, for reasons pertaining to its beneficial effect on their economies as well as for its positive effect on the environment. The RGRR/SEIS fails to address those issues.

G. Hydrologic Effects of Raising the Roadway

It is evident that the component of the Project that will have the greatest impact on the hydrological features of the NESS and Everglades National Park will be the construction of the bridge structures. However, raising the roadway may result in additional environmental effects that are not addressed in the RGRR/SEIS, including increased water velocities,⁸ water blockage by the non-raised segments of the roadway, and creation of dangerous conditions during extreme weather events. None of the hydrological modeling incorporated the raised roadbed called for in the TSP, which casts doubt on the conclusion that the altered roadbed would benefit the hydrologic systems as compared to the current roadbed in the RGRR/SEIS.

The proposed construction would overlay the original roadbed, composed of decaying muck dredged from the bed of NESS, with a substantial mass of asphaltic concrete in order to raise the road surface. The RGRR/SEIS fails to address the potential impacts associated with this type of construction. Questions relating to safety limitations in a category 4 or 5 hurricane, roadbed instability, maintenance of such a thick road surface, and seepage beneath the road surface are not addressed in the current RGRR/SEIS. The failure to discuss such potentially significant impacts is a further flaw in the evaluation of the TSP.

⁸ See RGRR/SEIS Engineering Appendix Table 7

V. The RGRR/SEIS Fails to Adequately Consider the Cumulative Impacts of the TSP.

The RGRR/SEIS includes virtually no discussion of the potential cumulative impacts of the TSP and other related projects, in clear violation of NEPA. The RGRR/SEIS fails even to identify related past, present and reasonably future actions in the area, much less to perform the quantitative analysis of cumulative effects required by NEPA. *See* 40 CFR § 1508.7. *See also Florida Wildlife Federation v. U.S. Army Corps of Engineers*, No. 05-80339-CIV-MJ (Sept. 30, 2005) (court held that Corps failed to take requisite “hard look” at cumulative impacts) (opinion enclosed herewith). Some examples of past, present, and future actions that were not analyzed in the RGRR/SEIS are listed below.

A. Central and Southern Florida Project (C&SF Project)

The C&SF Project drastically altered the natural hydrology of south Florida including Shark River Slough and Taylor Slough. Canals shunted further west and provided less flows to NESS, causing adverse impacts.

B. I-75/State Road 84

Like the Tamiami Trail this highway blocks the natural sheetflow of the Everglades and causes other adverse impacts. Despite spreader canals and increased bridging, the highway still caused a deterioration of the ridge and slough landscape pattern in WCA 3A.

C. The MWD Project, Experimental Water Deliveries Program, and C-111 Project

The MWD Project consists of major structural modifications and additions to water control structures that are meant to restore more natural, timing, quantity and distributions of flows to NESS. The MWD Project is still not completed after 16 years, and this failure to complete the project has allowed continued adverse impacts to the hydrology of NESS. Recognizing the limitations of the MWD Project, the 1999 Biological Opinion prepared by the U.S. Fish & Wildlife Service (“FWS”) recommended that the MWD Project be redesigned to “increase the restoration of natural flow patterns and volumes . . .”

The FWS issued a Biological Opinion in 1999 on the above three projects and concluded that the Corps’ water management practices were likely to jeopardize the continued existence of the Cape Sable seaside sparrow. A Reasonable and Prudent Alternative (“RPA”) was mandated and the Corps responded with the Interim Operation Plan (discussed below) that moves water east along the L-29 and south down the L-31, but does not deliver sheetflow to NESS. The RPA represents the minimum needed actions necessary to avoid jeopardizing the continued existence of the sparrow.

D. Interim Operation Plan

The current Interim Operational Plan was the Corps' response to provide the required water flows to NESS mandated by the FWS Biological Opinion that found that the Corps' previous water management practices jeopardized the continued existence of the Cape Sable seaside sparrow. The Plan basically sends water east along the L-29 canal then south along the L-31 and is released below the 8.5 Square Mile Area. This regime still does not restore natural sheetflow to NESS.

E. Combined Structural Operational Plan ("CSOP")

As a reasonably foreseeable future action, the CSOP is the future operational plan for how the MWD Project will be operated when completed. The EIS planning process is currently proceeding. There is considerable controversy over water levels that will be permitted in Northeast Shark River Slough among agricultural interests, the 8.5 square mile community, Everglades National Park and the Corps.

F. Tamiami Trail Culverts

The Corps is proposing to construct 77 culverts under Tamiami Trail at 30 locations. The RGR/SEIS fails to assess cumulative impacts resulting from the TSP and the proposed culvert construction.

G. Land Use Patterns – Past Urban and Agricultural Development

Urban and agricultural growth has continued largely unabated for the past century destroying 50% of the historic Greater Everglades Ecosystem. These developments destroy habitat, create demands for flood protection and water supply, and are a source of pollution. Proposed developments such as the Florida City Development of Regional Impact (DRI), Providence and the Scripps Research Park to name a few will serve as a catalyst for more urban sprawl and subsequent demands for more flood protection and water supply, thus undermining both the hydrological goals of the MWD Project and CERP.

H. Comprehensive Everglades Restoration Plan

The RGR/SEIS fails to analyze the cumulative impacts of the TSP and the other projects it does identify. For example, while the RGR/SEIS mentions CERP, it does not provide a cumulative impacts analysis of the CERP and the TSP, as required by NEPA. CERP is controversial and some scientists believe it will not restore the Everglades. For example, in commenting on CERP, Everglades National Park staff concluded that CERP does not represent a restoration scenario and that there is a shortfall of wet season water level targets in Shark Slough.

I. Everglades Construction Project ("ECP")

The objective of the ECP is to build a series of Stormwater Treatment Areas to treat phosphorous inflows from the Everglades Agricultural Area into Water Conservation Area 2A and 2B. The

project is controversial because of concerns that it will not meet phosphorous targets and will not be able release adequate flows further downstream into WCA 3A and 3B and eventually into NESS.

VI. The RGRR/SEIS Fails to Adequately Address the Project's Compliance with Section 4(f) of the Department of Transportation Act.

The RGRR/SEIS states that Section 4(f) of the Department of Transportation Act of 1966, which was codified as 49 U.S.C. § 303, does not apply to the Project because the Project is funded through the Department of the Interior and does not involve approval by or funding from the Department of Transportation. However, the EIS fails to explain the process and/or program within the Department of Interior that is responsible for this funding. The SEIS also fails to explain what role, if any, the Department of Transportation has, especially considering that the TSP exceeds the funding allocated under the DOI Capital Asset Plan. The SEIS thus fails to adequately explain why Section 4(f) does not apply to the Project.

VII. The RGRR/SEIS Fails to Utilize the Best Scientific Data Available.

Appendix D contains the results of engineering modeling which simulates the effect that the various design projects would have on the Shark River Slough. Although the new model has increased in scope from the one produced for the 2003 GRR/SEIS, one looming omission highlights the inadequacy of this engineering analysis: not one of the five modeled alternatives resembles the TSP.

Five different bridge alternatives were modeled in order to determine their effect on the hydrologic conditions south of the Project. One of the primary aims of this modeling exercise was to determine what effect each of the alternatives would have on the velocity of the water. Higher velocities, which are associated with shorter bridge spans, are “extremely destructive to the ridge and slough environment of the Everglades immediately south of the Tamiami Trail.”⁹

It is impossible to overstate the relationship of water velocity to the health of the ridge and slough ecosystem. Proof that water velocity is of critical importance to the Everglades is contained in the attached document, “The Role of Flow in the Everglades Ridge and Slough Landscape,” produced by the Science Coordination Team of the South Florida Ecosystem Restoration Working Group. Restoration of these hydrologic features requires extreme sensitivity to water velocity, which is absent from the discussion of the relevant scientific data. The most relevant dataset that came out of this study is illustrated in Table 7 of Appendix D, which contains statistical data on the amount of acreage that will experience flow greater than 0.1 ft per second. Yet none of this scientific data reflect the conditions that will be present under the TSP.

⁹ Draft Revised General Reevaluation Report/Second Supplemental Environmental Impact Statement (RGRR/SEIS) for the Tamiami Trail Modifications, Appendix D § 12 (A).

CONCLUSION

Sierra Club strongly urges the Corps to select Alternative 17, the Skyway proposal, as the best alternative identified in the RGR/SEIS to restore water flow and ecological connection through the Everglades. The TSP lacks the advantages of the Skyway alternative and represents a vastly inferior option. Among other deficiencies, the TSP would not provide enough sheet flow to Everglades National Park. Indeed, the TSP would frustrate the restorative goals of CERP, and the additional right-of-way required to raise the highway bed would result in the destruction of wetlands and encroachment into Everglades National Park. Sierra Club maintains that implementation of the TSP would endanger the health of the Everglades ecosystem and the success of the \$7.8 billion CERP program.

The RGR/SEIS fails to provide an accurate and meaningful comparison between the TSP and the Skyway alternative; and, indeed, it distorts the relative costs of the two proposals. Additionally, the RGR/SEIS fails to adequately analyze the environmental impacts of implementing the TSP, and also fails to explore reasonable means of avoiding those impacts through the implementation of alternatives or mitigation measures. The RGR thus fails to comply with NEPA and is insufficient, as a matter of law, to support a decision by the Corps to implement the TSP in lieu of the environmentally superior Skyway alternative.

Sincerely,

 /s/

Aaron Isherwood
Senior Staff Attorney
Sierra Club
85 Second St., 2d Floor
San Francisco, CA 94107

 /s/

Brian Scherff
Co-Chair, Florida Chapter Everglades Committee
P.O. Box 69
Fort Myers, FL 33902-0069

Enclosures:

1. October 4, 2005 letter of Stuart L. Pimm, Doris Duke Chair of Conservation Ecology, Nicholas School of the Environment and Earth Sciences, Duke University
2. Comments of Dr. L.A. Prieto-Portar, Professor of Civil and Environmental Engineering, Florida International University

3. *Does Water Flow Influence Everglades Landscape Patterns?*, National Academy of Sciences (2003)
4. *The Role of Flow in the Everglades Ridge and Slough Landscape*, Science Coordination Team, South Florida Ecosystem Restoration Working Group (Approved by the SCT: January 14, 2003)
5. June 12, 2001 letter of Science Coordination Team
6. Kinza Cusic, *The Ecological Effects of Roads on Wetlands*, The Road RIporter, March/April 2001
7. *Florida Wildlife Federation v. U.S. Army Corps of Engineers*, No. 05-80339-CIV-MJ (Sept. 30, 2005)
8. Editorial: *Build the skyway*, The Miami Herald, August 24, 2005
9. Photograph taken by Brian F. Call



NICHOLAS SCHOOL OF THE ENVIRONMENT AND EARTH SCIENCES
DUKE UNIVERSITY

STUART L. PIMM, DORIS DUKE CHAIR OF CONSERVATION ECOLOGY

PHONE (919) 613-6141 E-MAIL STUARTPIMM@AOL.COM

To whom it may concern:

4th October 2005

These are my comments on the US ACE's Tentatively Selected Plan (TSP) for the Tamiami Trail Modifications Project under MWD. I find the plan to be totally inadequate ecologically. Moreover, it seriously and incompetently misrepresents scientific opinions that I made to ACE and others as evaluations of various alternatives.

TSP is a minimalist alternative to what is obviously one of the single most important aspects of Everglades' restoration — the reconnection of flows from WCA 3A into WCA 3B and then into the area of Everglades National Park that I shall call Northeast Shark Slough. Any one who examines satellite imagery, the maps made available for visitors at ENP, or even lands at Miami airport from the west immediately sees that L67 levees and the present Tamiami Trail block the natural flow of the Everglades as it forms a gentle curve first to the southeast, then back to the southwest. The alignment of the remaining tree islands — readily visible from the air — shows that original flow. ACE structures massively disrupt that natural pattern.

CERP — the plan intended to restore the Everglades has very few actions that do anything of the sort. In criticizing this plan, I asked the previous Secretary of Interior to establish an independent National Research Council committee to evaluate concerns about CERP's ability to restore the Everglades. In a series of reports, CROGEE did just that and was extremely critical. This is a now \$10 billion plan that effects few benefits, despite its promise to do that. To the extent that one can find environmental benefit in this massive expenditure of public funds, it comes from the much-touted "decompartmentalization" of the system — its return to natural flow paths. The TSP ensures that this will not take place — making a complete mockery of any claim that the ACE has any intention of providing environmental benefits.

In particular, I note the following:

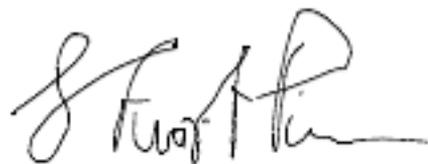
"The Cape Sable seaside sparrow is currently being protected under the Interim Operational Plan (IOP) as described in the May 2002 IOP FEIS. Regulatory water releases occurring east of the L-67 Extension crossing Tamiami Trail were to be increased 60 percent. Alternative 10 will be capable of passing the sufficient flow volumes under Tamiami Trail. The implementation of the project therefore does not preclude compliance with the RPAs of the 1999 Biological Opinion."

If this were a summary of the work done by my team, it would be perilously close to a deliberate falsehood. The Cape Sable seaside sparrow is in no way protected under IOP: it is simply kept in its perilously highly vulnerable state. The report my colleagues and I wrote on the ecological consequences of IOP make it clear that this Federally Endangered species has been spared extinction across half of its range — thus far. ACE actions in the mid-1990s resulted in the loss of half the numbers of this species brought about by spectacularly bad management decisions. Water managers thought it reasonable to flood (to a depth of a metre or more) the breeding areas of this ground nesting bird during its breeding season, when water levels are naturally low. The prolonged, deliberate flooding of 1993 to 1995 nearly eliminated the species across half of its range and did such significant damage to the habitat as to be readily visible on satellite images. The other side of this coin is that populations in the east — immediately south of Northeast Shark Slough are in over-drained and so fire-prone habitats.

Since then, water managers, responding to the Biological Opinion have not so seriously flooded this area. The population there survives at perilously low levels. In short, to say the sparrow is being protected is simply rubbish and does not follow from the reports the ACE has received. Holding a gun to someone's head and not pulling the trigger is not protecting them; discarding the gun is the preferred alternative.

The written record makes it clear that IOP — please note the “I” — was in place until an effective diversion of water to the east under MWD could relieve the situation. Under TSP, that will not happen.

Finally, I have already provided an assessment of “minimalist” versus “extensive flow” alternatives and its effects on the sparrow to the relevant agencies. From the perspective of this species, the latter is the strongly preferred alternative.

A handwritten signature in black ink, appearing to read "Stuart Pimm". The signature is fluid and cursive, with a long horizontal line extending from the end.

Stuart Pimm

Arnason.txt

From: DiamondtelDeb@aol.com

Sent: Tuesday, April 22, 2008 8:38 PM

To: TTMComments SAJ

Cc: Charlie.crist@myflorida.com; aronberg.dave.web@flsenate.gov;

saunders.burt.web@flsenate.gov; sancouncil@mysanibel.com;

DIST3@leegov.com; District11@MiamiDade.gov;

district@srwmd.state.fl.us;

District6@MiamiDade.gov; District7@MiamiDade.gov;

commissioners@broward.org; commissioners@colliergov.net;

commissioners@leegov.com; schlottman.kimmie.s37@flsenate.gov;

eeverham@fgcu.edu; wgcw@wgcw.org; dianner@hotmail.com;

cgray@fgcu.edu;

christinagwaltney@dep.state.fl.us; dplazas@news-press.com;

swohlpar@fgcu.edu; barrynh@browardaudubon.org; pcorcora@fgcu.edu;

shadowfaxfan@earthlink.net; ndemers@fgcu.edu;

saveitnowglades@yahogroups.com; ernie.mcclaney@cpcc.edu;

pquasius@collieraudubon.org; adrian.mirabilio@mail.house.gov;

susanglickman@verizon.net; joe@fusenow.org; wildfed@aol.com;

psiemen@stu.edu; mary.greco@jewishpalmbeach.org;

riverwatch@caloosahatchee.org; htaylor@gloryroad.net;

jonathan.uillman@sierraclub.org; luis.fleischman@jewishpalmbeach.org;

levind@ajc

Subject: 11-MILE EVERGLADES SKYWAY NEEDED, NOT ONE- COMMENT UNTIL MAY 9, 2008.

Skyway Coalition members and friends - Earth Day, Tuesday April 22, You can do something for the Everglades! Public Comment open until May 9, 2008 by e-mail to TTMcomments@usace.army.mil:

At 7 p.m. at F.I.U.'s Pharmed Arena, you will have a chance to give your input on the current 1-mile bridge planned for Tamiami Trail

Sorry I couldn't make it in person! I care deeply about the Everglades, Here are my comments for the Army Corps. I invite all copied to submit yours. Thanks, Deb

TAMIAMI TRAIL DRAFT LRR PUBLIC MEETING

Tuesday, April 22, 2008, 7:00 PM, FIU Pharmed Arena

11200 SW 8th St., Miami FL 33199

I urge the Army Corps to focus on the big picture in the Everglades, especially since we are spending \$billions to restore the Everglades, both within the State of Florida and Nationally to try to preserve our unique River of Grass.

Please, do not put in a quick, cheap fix of a 1-mile bridge when the whole 11-mile Skyway is needed to solve the underlying problem to restore sheet flow in the Everglades.

Arnason.txt

I have attended the Everglades Coalition and worked personally with Governor Crist, Sen Dave Aronberg and Sen Burt Saunders as well as former Rep Porter Goss, current US Rep Connie Mack, former State Senator Bob Graham, and a host of others from Florida Gulf Coast University such Peter Blaze Corcoran, head of their Center for Environmental and Sustainability Education and FGCU's new President Peter Bradshaw, other professors, local legislators and many students not only from FGCU, but from all over the State including Universities in Gainesville, Jacksonville, Orlando (Barry Law), Jupiter (FAU) and Miami who are very concerned with the long-term picture for our beloved Everglades, a national treasure we must protect.

Since the Federal Government is spending half of the \$11 Billion budgeted to restore the Everglades, I encourage you, as a Federal Agency, to coordinate with Everglades Restoration to find the funds there to build the 11-mile skyway for the best solution, not just a quick fix. Half measures will avail us nothing.

Sanibel now, years later, regrets not spending an extra \$100,000 to preserve a million dollar scallop industry when they built their bridge in the middle of the scallop beds, destroying them. Please take a lesson and do the right thing for the Everglades, the state of Florida and the Nation.

Please review the comments by Dr Wanless, an expert on Florida and sea level rise, also a keynote speaker at the Everglades Coalition I attended on Sanibel with Governor Crist and other prominent political and environmental leaders in the State:

* The science chair of Miami-Dade County's Global Warming Task Force and University of Miami Geology Chair, Dr. Harold Wanless, predicts a 3 to 5 foot sea level rise by 2100. He said that restoring natural historic flows may be pivotal to saving the Everglades. This week marks the 80th Anniversary of the completion of Tamiami Trail. In another 80 years, the road and much if not all the Everglades could be underwater if we don't make the right choices now. We hope State and Federal officials agree on a post-Mod waters bridging plan by July to address these predictions.

Independent experts have said the bridge could be built in 4 years or less. The Skyway Coalition is investigating creative financing arrangements from state and federal governments and public/private partnerships. Tolling revenues from new and existing sources could be tapped for this effort. Please do not let monetary concerns prevent the Corps from doing the right thing for our Everglades. That would be "penny-wise and dollar-foolish"

Sincerely Deb Arnason - c 386-288-4454
Clean Air, Clean Water, Clean Government
12 Dill St, Alva, FL 33920
The entire Corps document can be viewed at:

Arnason.txt

<http://www.saj.usace.army.mil/dp/mwdenp-c111/index.htm>
<<http://www.saj.usace.army.mil/dp/mwdenp-c111/index.htm>>

Need a new ride? Check out the largest site for U.S. used car listings at AOL Autos
<<http://autos.aol.com/used?NCID=aolcmp00300000002851>> .

Avola.txt

From: Michelle Avola [michelle@naplespathways.org]
Sent: Monday, May 05, 2008 8:10 PM
To: TTMComments SAJ
Subject: SAVE THE ROGG!

PLEASE do not to allow your project to prevent, impede or delay construction of the "River of Grass Greenway". Also, cyclists should be considered in bridge designs (e.g., shoulders should be free of obstructions such as rumble strips, raised reflectors, and drainage grates).

Thank you.

Michelle Avola

May 11, 2008

LTG Carl A. Strock
Commanding General & Chief of Engineering
U. S. Army Corps of Engineers - ATTN CECG
441 G Street NW
Washington, DC 20314-1000
carl.a.strock.ltg@usace.army.mil
Fax: 202/761-4463

Rebecca S. Griffith, Chief, Planning Division
Bradley A. Foster
US Army Corps of Engineers
Planning Division, South Florida Section
P. O. Box 4970
Jacksonville, FL 32232-0019
TTMComments@usace.army.mil
Fax: 904/232-3442

Re: Formal Comments – Groundwater Impacts Not Considered
Tamiami Trail Modifications Limited Reevaluation Report

Dear LTG Strock, Ms. Griffith and Mr. Foster:

Background

On March 21, 2004 and March 5, 2008 I provided comments on the proposed elevation of the Tamiami Trail, purportedly promoted as a form of Everglades restoration. Although a copy of my comment letters was included in your agency's "DRAFT Tamiami Trail Mmodification Limited Reevaluation Report & Environmental Assessment" dated April 11, 2008, there was no evidence that your agency took a hard look at the alternatives or impacts described in my comment letters. In fact, there is no evidence that your agency even considered the alternatives or impacts described in my previous comment letters. Specifically, there is no scientific evidence that elevating the Tamiami Trail will result in an increase in flow through the Everglades.

Failure to Consider Groundwater Impacts

Your agency failed to consider alternatives that are known to increase flows of both surface and groundwaters. Those alternatives include reductions in existing groundwater and surfacewater withdrawals from the Everglades Basin by agricultural, municipal and industrial users. Those withdrawals are not confined to mechanical pumping (e.g., supply wells and dewatering pumps). They include nonmechanical dewatering of the aquifer system by excavations (e.g., mine pits) throughout the Everglades, due to increased evaporative loss and volumetric displacement of groundwater into excavated areas. The mechanisms and environmental impacts of these types of water reductions are described in more detail in my 2006 publication titled, "Nonmechanical dewatering of the regional Floridan aquifer system. A copy of that peer-reviewed publication is attached to this comment letter.

The action alternatives considered by your agency failed to consider the fact that all would require considerable sources of "aggregate" (e.g., sand and rock) for construction. Aggregate is mined from the matrix of the Floridan aquifer system, generally from the shallow surficial aquifer. Examples include rock mining in the Everglades authorized under a single permit to 10 mining companies by your agency several years ago, resulting in Sierra's suit against your agency and the US Fish and Wildlife Service (FWS) and rulings by Judge Hoeveler in 2006 and 2007.

Removal of the aquifer matrix by mining **REDUCES** water availability and results in significant adverse environmental impacts to both wetlands and uplands (see the attached 2006 publication). An additional ~11,000 acres of the Everglades is proposed for aggregate mining by Rinker and Florida Rock Industries immediately up-gradient (north) of this proposed Tamiami Trail Modifications project. Thousands of additional acres in the Everglades Basin is proposed or has been excavated into the aquifer system by your agency under the guise of "reservoirs" for Everglades "restoration. All will result in further **REDUCTIONS** in water availability to the Everglades ecosystems, including the area at issue in the proposed Tamiami Trail Modifications project.

Dewatering of the Floridan aquifer by mining and mechanical pumping results in catastrophic, destructive wildfires, such as the muck fires that have been burning for days in the Everglades due to the dewatering of Lake Okeechobee. The mechanisms and environmental impacts of these catastrophic, destructive wildfires are described more fully in my 2007 publication titled, "More Inconvenient Truths: Wildfires and Wetlands, SWANCC and Rapanos. A copy of that peer-reviewed publication is attached to this comment letter. Adverse human impacts from these fires include asthma and other types of respiratory/pulmonary distress, as has been the case with the current muck fires in the Everglades.

Failure to Conduct a Comprehensive Cumulative Impacts Analysis

The Environmental Analysis (EA), Environmental Impact Statement (EIS) and Cumulative Impacts Analysis conducted by your agency and the FWS all failed to consider the cumulative adverse impacts associated with your proposed agency action for this project, as well as your past and proposed approvals of other mining and construction projects in the Everglades Basin. The approach for conducting a Cumulative Impacts Analysis was described by the U. S. Council on Environmental Quality's 1997 Cumulative Effects Report. A synopsis of that report is attached.

Because both your agency and the FWS failed to consider all of the cumulative impacts of the proposed project, your agency's conclusions by Mr. Woodley, Jr. on January 25, 2006 regarding the "Means to Avoid or Minimize Adverse Effects" also failed to account for cumulative impacts. For example, in Table 6 of the FWS's "Florida Panther Habitat Matrix" only the "Project Footprint" was considered, rather than the additional dewatering and destructive wildfires that the proposed alternative would cause in the Everglades.

Conclusions

In closing, I concur with the conclusion stated by Dexter W. Lehtinen in his letter dated January 9, 2006, that the proposed alternative (and considered alternatives) is not consistent with the purpose in PL 101-229 WRDA 2000. The estimated cost of approximately \$255 million in tax dollars for the proposed large-scale construction project ignores the fact that adequate water could be supplied to the entire Everglades Basin, at no cost to the tax payers, if your agency and FWS would identify all related cumulative impacts, issue no additional permits in the Everglades that would reduce water availability to the Everglades ecosystems and require mandatory avoidance and minimization of groundwater use and dewatering associated with existing permits you have issued in the Everglades basin.

Sincerely,



Sydney T. Bacchus, Ph. D.
Hydroecologist

Attachments

Bacchus 2006

Bacchus 2007

Synopsis of The U. S. Council on Environmental Quality 1997 Cumulative Effects Report

**WHAT ARE CUMULATIVE IMPACTS?
SYNOPSIS OF THE U. S. COUNCIL ON ENVIRONMENTAL QUALITY
1997 CUMULATIVE EFFECTS REPORT**

1. **Cumulative impacts** (effects) are not some nebulous, new concept that defies comprehensive, evaluation, or quantification. In fact, the large-scale, wide-spread damage to the environment from cumulative impacts was recognized at least by 1969, when the term was defined by 40 CFR § 1508.7 as follows:

"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."

2. Based only on the information provided in the comment letter, it is difficult to imagine that anyone could attempt to make a serious argument that the **"past, present, and reasonably foreseeable future actions" of this proposed project, in conjunction with the cumulative impacts that already have occurred in east-central Florida could be considered anything but contrary to the public interest.** This conclusion is drawn particularly with respect to the current state of the Floridan aquifer system and the adverse impacts this proposed project would have on ground water and all of the intimately-connected surface water resources, including wetlands and other riparian areas. Yet, there is no reference in the Public Notice to cumulative impacts. Approximately half of the yearly totals listed in the January 27, 2001 Daytona Beach News-Journal article by Catron were Nationwide General projects, based on my personal communication with the author (see <http://www.n-jcenter.com/2002/Jan/27/ENV1.htm>). The cumulative impacts of all of those NWP projects have not been considered, but combined with the proposed project, are significant and adverse.

3. For the benefit of those having difficulty comprehending cumulative impacts, the U. S. Council on Environmental Quality, Executive Office of the President published a report in January 1997 entitled, **"Considering Cumulative Effects Under The National Environmental Policy Act"** (Cumulative Effects Report). Some of the information in the Cumulative Effects Report particularly is useful in illustrating the types of things that must be considered for a scientifically-valid evaluation of the actual impacts of projects routinely authorized and/or permitted under the CWA by the COE in Florida. Table E-1 of the Cumulative Effects Report summarizes the basic principles of a cumulative effects analysis. The Executive Summary of that Cumulative Effects Report expands on these basic principles, stating, in relevant part:

".....The handbook presents practical methods for addressing coincident effects (adverse or beneficial) on specific resources, ecosystems, and human communities of all related activities, not just the proposed project or alternatives that initiate the assessment process." [page v]

"The process of analyzing cumulative effects can be thought of as enhancing the traditional components of an environmental impact assessment: (1) scoping, (2) describing the affected environment, and (3) determining the environmental consequences. Generally it is also critical to incorporate cumulative effects analysis into the development of alternatives for an EA or EIS. **Only by reevaluating and modifying alternatives in light of the projected cumulative effects can adverse consequences be effectively avoided or minimized.** Considering cumulative effects is also essential to developing appropriate mitigation and monitoring its effectiveness." [page v, emphasis added]

".....By evaluating resource impact zones and the life cycle of effects rather than projects, the analyst can properly bound the cumulative effects analysis." [page v]

" Determining the cumulative environmental consequences of an action requires delineating the cause-and-effect relationships between the multiple actions and the resources, ecosystems, and human communities of concern....Then **they must describe the response of the resource to this environmental change.....**" [page vi]

".....**Address the sustainability of resources, ecosystems, and human communities.**" [Table E-1, page vii, emphasis added]

3. The introductory chapter of the Cumulative Effects Report elucidates the purpose of analyzing cumulative impacts. Table 1-1 in that chapter provides a list of federal agencies, with examples of the types of situations in which cumulative impacts are (or should be) involved. The COE is the first agency listed in Table 1-1. The example provided in Table 1-1, for the COE's consideration of cumulative impacts is provided below, following the Congressional testimony excerpt explaining the purpose of evaluating cumulative impacts, and other relevant excerpts from the introductory chapter:

"...as a result of the failure to formulate a comprehensive national environmental policy...**environmental problems are only dealt with when they reach crisis proportions**..... Important decisions concerning the use and shape of man's environment continue to be made in small but steady increments which perpetuate requirements." [page 2, emphasis added]

"...Cumulative effects analysis should be the tool for federal agencies to **evaluate the implications of even project-level environmental assessments (EAs) on regional resources**." [page 3, emphasis added]

"incremental loss of wetlands under the national permit to dredge and fill and from land subsidence" [Table 1-1, page 2, emphasis added]

4. The fact the Floridan aquifer system has suffered irreparable damage in the form of subsidence, contamination, and depletion, to the point where Congress has authorized approximately \$8 billion dollars in tax relief for experimental remedies in south Florida alone, should be sufficient evidence to conclude **the environmental problems in Florida have reached crisis proportions**. The reason for this crisis can be found in the fact that cumulative impacts have not been considered. Figure 1-2 of the Cumulative Effects Report is a flow chart depicting the results of a review of 89 EAs announced in the Federal Register during the first six months of 1992, to determine how many EAs correctly treated cumulative impacts. Only three were found to have correctly considered cumulative impacts.

5. The principles of cumulative impacts are further summarized in Table 1-2. With respect to the information provided in Table 1-2 and this case, the "given resource" is the Floridan aquifer system. Some of the more relevant parts of Table 1-2, with respect to the issues addressed in this affidavit, are as follows:

"2. Cumulative effects are the total effect, including both direct and indirect effects, on a **given resource**, ecosystem, and human community of all actions taken, no matter who (federal, nonfederal, or private) has taken the actions." [emphasis added]

"5. Cumulative effects on a given resource, ecosystem, and human community are rarely aligned with political or administrative boundaries."

"7. Cumulative effects may last for many years beyond the life of the action that caused the effects....(e.g., acid mine drainage, radioactive waste contamination, **species extinctions**). **Cumulative effects analysis needs to apply the best science and forecasting techniques to assess potential catastrophic consequences in the future**." [emphasis added]

"8. **Each affected resource, ecosystem, and human community must be analyzed in terms of its capacity to accommodate additional effects**, based on its own time and space parameters....**The most effective cumulative effects analysis focuses on what is needed to ensure long-term productivity or sustainability of the resource**." [emphasis added]

6. Eight scenarios of accumulating effects are described in Table 1-3 of the Cumulative Effects Report. Examples of the eight scenarios ("Types") of cumulative impacts that are specific to Florida (based on the "Main Characteristics" in Table 1-3) are relatively easy to identify. Some of the examples already are occurring in Florida, at crisis proportions, while others are building to such levels. All of the examples could have been triggered solely by the General permits authorized by the COE in Florida. **Type 1** (frequent and repetitive effects on an environmental system) is exemplified by the extensive destruction of forested wetlands - particularly pond-cypress wetlands - with no "regrowth" or replacement. **Type 2** (delayed effects) is exemplified by collapse of the aquifer structure - sinkholes - from groundwater mining, and exposure of coastal organisms and human communities to slow-acting contaminants (e.g., endocrine disruptors) from aquifer-injected effluent and other wastes. **Type 3** (high

spatial density of effects on an environmental system) is exemplified by pollution discharges into the aquifer from nonpoint sources. **Type 4** (effects occur away from the source) is exemplified by breached groundwater "divides" causing diversions from one watershed as a result of groundwater pumping in another watershed. **Type 5** (change in landscape pattern) is exemplified by fragmentation of critical wildlife migration corridors (e.g., Florida black bear migration corridor). **Type 6** (effects arising from multiple sources or pathways) could be exemplified by synergism among contaminants injected into the aquifer. **Type 7** (secondary effects) is exemplified by any and all type of development following highway construction. **Type 8** (fundamental changes in system behavior of structure) is exemplified by large-scale flow reversals in the Floridan aquifer system, such that the aquifer system that formerly discharged ground water to springs, streams, wetlands, and coastal areas, now is sucking water from those same systems.

7. The Cumulative Effects Report further explains that, "in simplest terms, cumulative effects may arise from single or multiple actions and may result in additive or interactive effects." Table 1-4 of the Cumulative Effects Report is a matrix showing the four combinations of single and multiple actions combined with either additive or interactive processes. Again, examples of the four types of action/process outcomes (based on the matrix) that are specific to the situation in Florida are provided. The **single action/additive process** combination is exemplified by linear transportation projects (General Category 14) and particularly wetland road which result in continual deaths of wildlife and generally disrupt natural flow patterns. Another example is stormwater management facilities (General Category 43) excavated near depressional wetlands that result in continual draining of those wetlands. Mining activities (General Category 44) are yet another example of this type of cumulative impact, similar to excavated stormwater facilities in the continual draining of wetlands, but on a much larger scale. This combination also is exemplified by dewatering activities, such as those authorized under General Category, that result pathogenic fungal infections of tree roots that later result in the death of those trees. The **single action/interactive process** combination is exemplified by stormwater management facilities (General Category 43) that act as "attractive nuisances" to wildlife, exposing them to biomagnifying contaminants such as heavy metals they would not be exposed to in natural wetlands. The **multiple actions/additive process** combination is exemplified by single-family housing (General Category 29), residential, commercial, and institutional development projects (General Category 39) and agricultural activities (General Category 40) that all contribute to drawing down the Floridan aquifer system. The **multiple actions/interactive process** is exemplified by any combination of the General Categories referenced in this paragraph that lead to both the reduction in pristine aquifer discharges to Florida's coastal waters (disrupting salinity regimes), in conjunction with induced aquifer discharge of injected sewage effluent (stress from nutrient-loading and other contaminant).

8. The second chapter of the Cumulative Effects Report describes the importance of proper scoping. It is important to note that the General Categories of projects routinely authorized by the COE in Florida result in virtually all of the cumulative effects issues listed under Item 7 of Table 2-1 of the Cumulative Effects Report. The discussion regarding identifying geographic boundaries uses Figure 2-1 of the Cumulative Effects Report to illustrate the "utility of using the ecologically relevant watershed boundary of the Anacostia River basin rather than the political boundaries of local governments to develop restoration plans." Although watersheds are logical geographic units in many areas of the U. S., this is not the case in Florida. Extensive groundwater mining of the karst Floridan aquifer system does not recognize watershed boundaries any more than it recognizes political boundaries, and has resulted in breached groundwater "divides". Consequently, geographic boundaries of resources in Florida now must be expanded to coincide with the natural boundaries of the regional aquifer system. Table 2-2 of the Cumulative Effects Report illustrates how an aquifer is an appropriate geographic area for a cumulative impacts analysis involving water quality. In Florida, the regional aquifer also is an appropriate geographic area for evaluating virtually every other resource listed in Table 2-2 of the Cumulative Effects Report. The following quote from Chapter 2 of the Cumulative Effects Report reiterates the importance of expanded geographic boundaries for a scientifically-based cumulative impacts analysis:

"....Analyzing cumulative effects differs from the traditional approach to environmental impact assessment because it requires the analyst to expand the geographic boundaries and extend the time frame to encompass additional effects on the resources, ecosystems, and human communities of concern." [page 12]

9. Chapter 3 of the Cumulative Effects Report illustrates how to describe the affected environment

during a cumulative impacts analysis. For example, "the analyses and supporting data should be **extended in terms of geography, time, and the potential for resource or system interactions.**" [page 23, emphasis added] Numerous components of the affected environment are listed, with examples of various issues to be considered under each component. All of the components and issues listed in Chapter 3 of the Cumulative Effects Report are capable of resulting solely from the cumulative impacts triggered by the General permits authorized by the COE in Florida. Examples of components and issues particularly relevant to this case include the following [NOTE - the following "Surface Water" issues are equivalent to "Ground Water issues for Florida]:

"Surface Water

Water shortages from unmanaged or unmonitored allocations of the water supply that exceed the capacity of the resource.

Deterioration of recreational uses from nonpoint-source pollution, competing uses for the water body, and over-crowding. [page 25, emphasis added]

"Ground Water

Water quality degradation from nonpoint- and multiple-point sources of pollution that infiltrate aquifers.

Aquifer depletion or salt water intrusion following the overdrought or groundwater for numerous uncoordinated uses. [page 25, emphasis added]

"Wetlands

Habitat loss and diminished flood control capacity resulting from dredging and filling individual tracts of wetlands.

Toxic sediment contamination and reduced wetlands functioning resulting from irrigation and urban runoff." [page 25]

"Ecological Systems

Habitat fragmentation from the cumulative effects of multiple land clearing activities, including logging, agriculture, and urban development.

Loss of fish and wildlife populations from the creation of multiple barriers to migration (e.g., dams and highways)." [page 25, emphasis added]

"Socioeconomics

Over-burdened social services due to sudden, unplanned population changes as a secondary effect of multiple projects and activities." [page 25, emphasis added]

10. Chapter 4 of the Cumulative Effects Report explains **how to determine the environmental consequences of cumulative effects.** Table 4-3 provides an example of a narrative description of effects on various resources, illustrating how the significant cumulative loss of wetlands occurs. With respect to the issues addressed in this affidavit, some of the other more relevant points in that chapter (beginning with "Step 10") are as follows:

"Modify or add alternatives to avoid, minimize, or mitigate significant cumulative effects." [page 37]

"In preparing any assessment, the analyst should gather information about the cause-and-effect relationships between stresses and resources...." [page 38]

"If cause-and-effect relationships cannot be quantified, or if quantification is not needed to adequately characterize the consequences of each alternative, qualitative evaluation procedures can be used. The analyst may categorize the magnitude of effects into a set of number classes (e.g., high, medium, or low) or provide a descriptive narrative of the types of effects that may occur...." [page 41]

"...As discussed above, the magnitude of an effect reflects relative size or amount of an effect. Geographic extent considers how widespread the effect might be. Duration and frequency refers to whether the effect is a one-time event, intermittent, or chronic...." [page 44]

"...In most cases, however, avoidance or minimization are more effective than remediating unwanted effects. For example, attempting to remove contaminants from air or water is much less effective than preventing pollution discharges into an airshed or watershed. Although such preventative approaches can be the most (or only) effective means of controlling cumulative effects, they may require extensive coordination at the regional or national scale (e.g., federal pollution control statutes)." [page 45]

11. The final chapter of the Cumulative Effects Report addresses "**Methods, Techniques, and Tools for Analyzing Cumulative Effects.**" As a guide, Table A-1 (page A-8) provides a hypothetical checklist for identifying potential cumulative effects of a highway project (e.g., General Category 14 "linear transportation projects"). "Methods 9: Ecosystem Analysis" (page A-37) also is an important entry, based on the concerns expressed in this affidavit. Other aspects of this chapter that are most relevant to the problems addressed in this affidavit are as follows:

"...Fortunately, the methods, techniques, and tools available for environmental impact assessment can be used in cumulative effects analysis...." [page 49]

"Although the NEPA practitioner must draw from the available methods, techniques, and tools it is important to understand that a study-specific methodology entails using a variety of methods to develop a conceptual framework for the analysis...." [page 50]

"Ecosystem analysis involves considering the full range of ecological resources and their interactions with the environment. This approach can improve cumulative effects analysis by *providing the broad regional perspective and holistic thinking needed to address the following cumulative effects principles:* [page A-37]

"Focus on the resource or ecosystem...." [page A-37]

"Use natural boundaries.... [page A-37]

"Address resource or ecosystem sustainability...." [page A-37]

"Traditionally, environmental impact assessment has considered air quality, water resources, wildlife, and human communities as separate entities for analysis. This separation of resources has obscured many cumulative effects. Recognition of the interconnectedness of land, water, and human resources has driven many federal and state agencies to undertake ecosystem or watershed approaches to environmental protection....." [page A-37]

TAMIAMI TRAIL MODIFICATIONS

Draft Limited Reevaluation Report (LRR) and
Environmental Assessment (EA)

COMMENTS

Thank you for attending this evening's Public Meeting. We value your contribution. If you would like to provide additional comments on this evening's presentation and discussion, please provide comments below and return to us prior to **May 9, 2008**.

COMMENTS: (May be continued on reverse)

Please build the one-mile bridge ASAP!!
and let's keep the hope alive for a 10.7 mile
skyway!

We need to do what is right by the creatures
of the Glades, return to them a healthy home,
their habitat.

The world is watching what we do with this
precious Heritage Site!

A work force of volunteers (similar to Bannanza,
OR prison-force - not far from Evergl. N.P. is a prison)
can keep the culverts clean, and also water
flowing under the bridge. Money can come from
selling plaques to attach to bridge (or bricks) with
donors' money. Many billionaires in America.
Thank you for what you are doing, but hurry!!

NAME & CONTACT INFORMATION: (Optional)

Katie Bernabei
1713 SW 103 pl
Miami FL 33165

Please mail comments to:

Attn: Bradley A. Foster
U.S. Army Corps of Engineers
701 San Marco Blvd.
Jacksonville, Florida 32207-8175

Or

E-mail to: ttncomments@usace.army.mil

TO: ARMY CORPS ENGINEERS
P.O. BOX 4970
JACKSONVILLE FL 32232-0019
ATTN PLANNING DIV

GATOR PARK
Stan Carlin

P.O. BOX 517
MELBOURNE, FL 32902-0517
321-729-8387 • 305-559-4136

RE: MODIFICATION WATER
LRR 1EA
V.S. 41
CULVERT WATER VOLUME

RECEIVED

MAY 07 2008

DATE: 5/5/08

ATTN REBECCA S. GRIFFITH

BY CLEANING OUT 30'-50' WIDE CANAL SOUTH

BEFORE SPREADER SWALE - WATER VOLUME

SHOULD INCREASE - 1000 YDS SOUTH MORE

THAN 100 YDS SOUTH.

Resent
Stan Carlin

enclousd copy MAR 07 LETTER

Stan Carlin
P. O. Box 517
Melbourne Fl 32902-0517
321-729-8387 * 305-559-4136
Gator Park

March 26, 2007

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

Re: Modified Water Deliveries
Tamiami Trail – U.S. 41
Culvert and Canal Maintenance

Gentlemen:

In 1992 and 1993 White Construction repaved roadway and extended 8' to 10' south, and extended culverts one length south. White Construction said 80% or more of existing culverts were clogged with mud and trash. We asked if they were cleaning out the culverts so water could flow 100%. White Construction said "no" because it was not in their contract. There has also been no maintenance on the water distribution canals that run south of the culverts.

A clean out/maintenance contract should be issued now for all clogged culverts and canals so 100% of even water flow would be restored this year. This could be done rapidly and would be cost effective.

Sincerely,

Stan Carlin

Hackett.txt

From: ghackett@comcast.net
Sent: Friday, May 02, 2008 7:12 AM
To: TTMComments SAJ
Cc: Unknown Nedene Henrich
Subject: Tamiami Trail rebuilding (LRR/EA) keep it Bicycle friendly.

re: Limited Reevaluation Report and Environmental
Assessment (LRR/EA) Hi,

Please keep this road bicycle friendly. No obstructions in the shoulder, such as rumble strips, raised reflectors, or drainage grates. If any of these obstructions are required please keep them as far to the right as possible. Keep most of the 10 foot shoulder smooth and clear for skinny tire road bikes.

Thank you in advance.

Guy Hackett
405 NE 23rd AVE
Cape Coral, Florida

Deux42.txt

From: Deux42@aol.com
Sent: Wednesday, May 07, 2008 9:44 PM
To: TTMComments SAJ
Subject: Tamiami Trail Modifications

Access for sportsman, and airboat is not avail., north or south, of Trail and should be.

Access to area 3a, for airboat in case of plane crash is not avail.,and should be.

Flowage easement to Airboat Association of Florida, should NOT change day to day operations, or recreation access.

The bridge, is too expensive, the 55 curvets will flow enough with higher water level in L-29

Wondering what's for Dinner Tonight? Get new twists on family favorites at AOL Food
<<http://food.aol.com/dinner-tonight?NCID=aolfod00030000000001>> .

GP 8 JorgeMF.txt

From: JORGEMF@comcast.net

Sent: Monday, April 14, 2008 12:22 PM

To: TTMComments SAJ

Subject: Question

would the public meetings be an appropriate place to request that a bike/nature trail be instituted as part of this project?

GP 9 Loftus.txt

From: williamloftus@bellsouth.net
Sent: Monday, April 14, 2008 5:26 PM
To: TTMComments SAJ
Subject: Public Comment

While the proposed alternative may provide incremental benefit for the southern Everglades, it does not provide nearly the amount of flow across a wide-enough cross-section of Tamiami Trail to restore the hydrological conditions of Shark River Slough. Neither will it allow enough water to pass the western area of the cross-section near S-333 to alleviate flood conditions in WCA-3A during high rainfall years. Why throw good money after bad? It makes more sense to do this project correctly by elevating as much of the cross-section as possible, rather than spending millions doing an inadequate job. Only by eliminating this hydrological barrier will Shark River Slough begin its recovery.

Although the document states that the project is in compliance with EE 13112, it addresses only exotic plants. There are at least a dozen species of exotic fishes and several non-native snails in the canals that are not addressed in the document. How will the swales and any spreader canals affect populations of these animals and prevent their entry into the ENP?

GP 10 Melvin.txt

From: Sean R. Melvin [seanrmelvin@mac.com]
Sent: Thursday, May 01, 2008 10:33 AM
To: TTMComments SAJ
Subject: Limited Reevaluation Report and Environmental Assessment
(LRR/EA)

hello

as i know you must have many things of more importance then reading emails i will make this short

on this project

keep the needs of cyclists in mind.. from the mom and dad to the guy putting in 400 miles a week we need a safe way to get around and putt in miles as well

have a great one

Sean R. Melvin
Partner

Island Bike Shop
Ave Maria 239 434 8401
Naples 239 732 8400
Marco Island 239 394 8400

CONFIDENTIALITY NOTICE

This email and any files transmitted with it are from Sean R. Melvin. This email address, message, and any files are confidential and intended only for the addressee. If you are not the intended recipient or have received this email in error, please call me immediately at (239) 963-7156 or promptly email me and then delete the message.

Thank you.

GP 11 Musgrove .txt

From: martha musgrove [malmusgrove@yahoo.com]

Sent: Sunday, May 11, 2008 8:41 PM

To: TTMComments SAJ

Subject: Tamiami Trail bridge comment from Martha Musgrove

To whom it may concern:

I support your proposed plan to build a Tamiami Trail bridge to complete the Modified Waters Delivery Project. This will allow more water to flow into the Northeast Shark River Slough section of Everglades National Park, and it will clear the way to implement additional Everglades Restoration projects (known locally as decompartmentalization and sheetflow enhancement) to restore sheetflow through Conservation Area 3. Completion of the Modified Water Deliveries Project has been too long delayed.

Ultimately Tamiami Trail will have to become a series of bridges to pass all the water needed to ensure the viability of Everglades National Park. That goal begins with construction of the first bridge, for which I hope Congress will appropriate what is necessary.

I have followed these issues for many years. It is my considered opinion that there is nothing the COE or Congress could do this year that would provide more direct benefits to Everglades National Park. Those of us committed to saving and restoring the Everglades recognize that it is irresponsible to let our pursuit of perfection trample the good.

MLM

Ms. Martha Musgrove
2432 Edgewater Dr.
West Palm Beach, FL 33406
561-965-9409

Be a better friend, newshound, and know-it-all with Yahoo! Mobile.
Try it now.

<http://us.rd.yahoo.com/evt=51733/*http://mobile.yahoo.com/;_ylt=Ahu06i62sR8HDtDypao8wcj9tAcJ>

GP 12 Siemon.txt

From: Robbie Siemon [rsiemon@hgdomain.net]
Sent: Monday, May 05, 2008 8:25 AM
To: TTMComments SAJ; TTMComments SAJ
Subject: Mod Waters

I support finishing the original Mod Waters Act of 1989? (nine years ago!!!!) so that we can start restoration. We need to act not deliberate endlessly while the ecosystem dies. We can try to fund the bridge at a later time but let's get started.

Robbie Siemon
208 Ashworth Steet
West Palm Beach, Fl. 33405

STEARNS WEAVER MILLER
WESSLER ALHADEFF & SITTERSON, P.A.

Miami ■ Ft. Lauderdale ■ Tampa

Andrew E. Stearns

Direct Line: (305) 789-3412

Fax: (305) 789-3395

Email: astearns@swwmwas.com

Museum Tower, Suite
2200

150 West Flagler Street

Miami, Florida 33130

(305) 789-3200

May 9, 2008

Via Email and FedEx

Colonel Paul Grosskruger
U.S. Army Corps of Engineers,
Jacksonville District
701 San Marco Boulevard
Jacksonville, FL 32207-8175

***RE: Airboat Association of Florida Comments to the
Modified Water Deliveries to Everglades National Park
Tamiami Trail Modifications Limited Reevaluation
Report and Environmental Assessment (LRR/EA)***

Dear Colonel Grosskruger:

The Airboat Association of Florida ("AAoF") hereby submits its comments to the U.S. Army Corps of Engineers ("USACE") Modified Water Deliveries to Everglades National Park Tamiami Trail Modifications Limited Reevaluation Report and Environmental Assessment ("LRR/EA"). These comments are specifically directed to the U.S. Army Corps of Engineers' ("USACE") proposed acquisition of AAoF-owned real estate interests as referenced within the LRR/EA. The AAoF also incorporates by reference its May 7, 2007, comments submitted in response to the USACE Draft Third Supplemental Environmental Impact Statement (TSEIS), all comments made by the AAoF at public meetings, and all correspondence directed to and from the AAoF and the USACE relating to the USACE's proposed acquisition of real estate interests from the AAoF.

The AAoF objects to the LRR/EA to the extent it delineates the taking of the AAoF's property by the USACE where a taking of AAoF property was explicitly precluded under the Everglades National Park Protection and Expansion Act of 1989 ("Expansion Act").

The Expansion Act expanded the size of the Everglades National Park ("ENP"). The AAoF owns a ten (10) acre parcel of property adjacent to and wholly outside of the boundaries of the expanded ENP, as expanded by PL 101-229. As the USACE states in the LRR/EA:

The Airboat Association of Florida property was explicitly excluded from acquisition under the Expansion Act.

* * *

The Airboat Association's ten-acre parcel located off of Tamiami Trail was exempt from the ENP boundary.

* * *

This [AAoF] Property was explicitly excluded from acquisition under the Expansion Act.

* * *

The Airboat Association of Florida was specifically excluded from the boundary of the ENP map at the time Public Law 101-229 was enacted.

(LRR/EA, 2-10; 2-11, 6-5, F-3).

Nevertheless, the USACE's contends that real estate interests in the AAoF's property must be taken by the USACE without providing the legal justification for the purchase of such an interest.

A perpetual flowage easement up to elevation 8.5 feet and occasional flowage easement up to elevation 9.5 feet is required over the 10 acres [owned by the AAoF] due to an increase in water levels.

(LRR/EA, F-6). The USACE, within the LRR/EA, fails to propose the preferred and reasonable alternative to the taking of AAoF property: the raising of the elevation of the AAoF's property to a height above the estimated 100 year flood height.

The raising of the elevation of property is an alternative that the USACE extended to other stakeholders similarly affected by the USACE's actions with regards to the Modified Water Deliveries to Everglades National Park ("MWD") Project. The raising of the AAoF's property is the preferred alternative to mitigate the prospective damage to the AAoF's property that the USACE contends will occur with the implementation of the MWD Project.

The Airboat Association of Florida

The AAoF is a nonprofit organization established on December 21, 1951, by sportsmen/conservationists and is one of the oldest active conservation organizations in the State of Florida. In 1952, the AAoF acquired the ten (10) acre parcel of land it currently owns, located approximately fourteen (14) miles west of Miami at 25400 Tamiami Trail, Miami, Florida.

Due to its unique location, the AAoF enjoys unique access to the ENP. The AAoF extends its unique access to the ENP to various government and law enforcement agencies on a regular basis. Recently, the AAoF has authorized, among others, the National Park Service, Miami-Dade County Fire Rescue, and the U.S. Army Special Forces to utilize the AAoF's property as a staging area to facilitate access the ENP. The U.S. Forest Service regularly utilizes the AAoF's property as a firefighting staging area for its firefighting activities along the Tamiami Trail and within the ENP.

The Expansion Act expanded the ENP by approximately 107,600 acres (the "Expansion Area"). Congress included within the Expansion Area all publicly and privately held land south of and adjacent to Tamiami Trail from approximately S-334 on the east to approximately S-333 on the west, a stretch running approximately ten-point-seven (10.7) miles, *with the exception of* the ten (10) acre parcel owned by the AAoF. As acknowledged by the USACE in the LRR/EA, the AAoF's ten (10) acre parcel is the *only* property Congress excluded from the Expansion Area along the length of the Tamiami Trail. As noted previously, the LRR/EA specifically acknowledges that:

The Airboat Association of Florida was specifically excluded from the boundary of the ENP map at the time Public Law 101-229 was enacted.

(LRR/EA, F-3).

The Expansion Act contemplates the taking of property in two circumstances, first, for properties located within the Expansion Area (§ 102(c)(1)), and second, for properties located partially within and partially outside of the Expansion Area (§ 102(d)). Nowhere does the Expansion Act authorize the taking of land wholly outside of the Expansion Area; rather, it unarguably specifically precludes such a taking.

Authority of USACE to Take Private Real Property

Army Regulation 405-10, Acquisition of Real Property and Interests Therein, outlines the circumstances in which the USACE may acquire real property:

1-3. Authority to acquire real property and interest therein

While the Federal Government has the inherent power to acquire land for its constitutional purposes, this power can be exercised only at the discretion of Congress. No land will be purchased in the name of the United States except under a law authorizing such purchase (R.S. 3736; 41 U.S.C 14). No military department may acquire real property not owned by the United States unless the acquisition is expressly authorized by law (10 U.S.C 2676).

As provided by law and regulation, USACE may only take real property where it is expressly authorized by Congress to do so.

The AAoF's Property Was "Carved Out" of the Expansion Area by the Expansion Act

If, as the USACE claims, the USACE's authority to implement the MWD Project emanates from The Expansion Act, then the project must be implemented while preserving the AAoF's private property rights, as provided for by The Expansion Act. Quite simply, if Congress had intended for the AAoF's property to be taken in conjunction with the implementation of the Expansion Act, Congress could have included the AAoF's ten (10) acre parcel in the 107,600 acre Expansion Area. Quite simply, Congress didn't. Congress "carved out" a single stakeholder, the AAoF, from the massive expansion of the ENP. In doing so, Congress expressly intended to preserve the AAoF's private property rights.

Proposed Taking of AAoF Real Estate Interests

In the LRR/EA, the USACE states that, in connection with its undertaking to implement the MWD Project, the USACE proposes to "secure real estate interests" to private property owned by the AAoF.

A perpetual flowage easement up to elevation 8.5 feet and occasional flowage easement up to elevation 9.5 feet is required over the 10 acres [owned by the AAoF] due to an increase in water levels.

(LRR/EA, F-6). The LRR/EA does not propose any alternative to the taking of a flowage easement. The LRR/EA contains draft language of the proposed flowage easement, never before shown to the AAoF prior to the publication of the LRR/EA, that constitutes a *per se* taking of the AAoF's property:

FLOWAGE EASEMENT (Permanent Flooding)

The perpetual right, power, privilege and easement in, upon, over and across (the land described in Schedule "A") (Tracts Nos. ____ and ____) for the purposes set forth below:

a. Permanently to overflow, flood and submerge the land lying below elevation 8.00 feet NGVD 29 in connection with the operation and maintenance of the Modified Water Deliveries to Everglades National Park project for the purposes as authorized by the Act of Congress approved _____.

b. Occasionally to overflow, flood and submerge the land lying above elevation 8.00 feet NVGD 29 and below 9 feet NVGD 29 in connection with the operation and maintenance of said project.

Together with all right, title and interest in and to the structures and improvements now situate on the land below elevation 8.0 feet NVGD 29. . .The perpetual and assignable right, power, privilege and easement permanently to overflow, flood and submerge Tract No. _____ in connection with the operation and maintenance of the federal project as authorized; provided that no structures for human habitation shall be constructed or maintained on the land below 9 feet NGVD 29...

(LRR/EA, F-13-14).

In summary, the USACE's proposed easement provides that the AAoF is to abandon practically all of its rights to its property situated below 9.0 feet NGVD. Such a "flowage easement" is in reality equivalent to a fee simple interest in property, whereby AAoF would be asked to abandon practically all of its rights of possession, use, and enjoyment of its property. The LRR/EA elevation exhibit of the AAoF's property clearly shows how the proposed a "flowage easement" would actually be a taking of nearly the entire property:



Draft 2008 Tamiami Trail Modification LRR and EA
Modified Water Deliveries to Everglades National Park
F-22

April 2008

(LRR/EA, F-22).

The USACE may not take real property where it is without the express authority to do so (AR 405-10). The Expansion Act does not authorize the USACE to take land that is located wholly outside of the Expansion Area. The USACE's proposal to take a "flowage easement" upon the AAoF's property is beyond the scope of the USACE's express authority provided under in The Expansion Act.

The AAoF Has Not Been Negotiating the Terms of a Flowage Easement with the USACE

In the LRR/EA, the USACE states that:

The [Jacksonville] District has been negotiating a flowage easement with the [AAoF] for several years and has made commitments to the landowner to acquire a flowage easement, not fee. During preparation of the Real Estate Supplement, SAJ and SAD staff worked very closely to prepare estate language that meets the needs of the landowner and the project.

(LRR/EA, F-6). For absolute clarity, contrary to the assertion above by the USACE in the LRR/EA, the USACE and AAoF have never negotiated terms of a flowage easement relating to the AAoF's property. Although the AAoF agrees that the USACE has committed that it will not seek a fee interest in the AAoF's property, prior to the publication of the LRR/EA and through today's date, the USACE has not approached the AAoF to discuss the terms of a proposed flowage easement.

In the past, the USACE attempted to purchase a flowage easement from the AAoF, but the USACE's proposed flowage easement constituted nothing less than a *per se* taking of the AAoF property. On March 3, 2005, the USACE, in writing, proposed the purchase of a flowage easement across the AAoF's property. Although the USACE's proposal was entitled "flowage easement," the terms of the proposal were such that the AAoF would surrender virtually all rights of possession, use and enjoyment of the AAoF's property to the USACE.

On March 31, 2005, in writing, the USACE threatened that if the AAoF did not accept its proposed purchase of a flowage easement, the USACE would initiate "eminent domain proceedings for the acquisition of a flowage easement" against the AAoF's property. On May 13, 2005, the AAoF responded in writing in opposition to the USACE proposed eminent domain action. In its response, the AAoF raised various alternatives to the taking of its property, including the raising of the AAoF's property. On August 9, 2005, the USACE withdrew its offer to purchase a flowage easement across the AAoF's property. To date, the USACE has not pursued an eminent domain action against the AAoF's property.

Although there have been no negotiations between the USACE and the AAoF regarding the terms of any acquisition of any interest of AAoF property by the USACE, the USACE states in the LRR/EA that it has determined an estimated cost to acquire such interests.

The new real estate costs represent the estimated cost of a flowage easement for the Airboat Association of Florida property for all alternatives that increase the stage constraint in the L-29 canal.

* * *

The estimated value of the required real estate interests [in the AAoF's property] is \$1,625,000.

(LRR/EA, 2-10; LRR/EA, F-6). The LRR/EA does not specify how it determined that the value of a flowage easement encumbering the AAoF's property is \$1,625,000, nor has the USACE otherwise shared any such information with the AAoF. The AAoF believes that the value of any interest in its ten (10) acre property is significantly in excess of \$1,625,000.

If, from the USACE's perspective, the AAoF's refusal to accept the terms of the USACE's March 3, 2005 proposal constitutes "negotiation," then there has indeed been negotiation between the USACE and the AAoF. Otherwise, contrary to the USACE's assertions in the LRR/EA, negotiations between the USACE and AAoF regarding the terms of any flowage easement have not occurred.

There is No Comparable Property

As a result of the Expansion Act, the only private property adjacent to the Expansion Area and wholly outside the ENP is the AAoF's property. Quite simply, by act of Congress there is no comparable property in existence. If the USACE takes the AAoF's property, there is no comparable property where the AAoF may relocate. If Congress had intended such a result, it could have easily included the AAoF's property within the Expansion Area, which Congress didn't do. Again, the only reasonable interpretation of the Expansion Act is that Congress intended the AAoF's property not to be taken by the USACE or otherwise.

Reasonable Alternative - Raise the AAoF's Property

The USACE has a reasonable alternative to the taking of the AAoF's property: Raise the AAoF's property to an elevation above the anticipated post-MWD Project 100-year flood level. This alternative has been extended to other stakeholders in the area, as noted in the USACE's TSEIS:

Two Miccosukee Tribe of Indians family group settlements are located within the project area: the Tigertail Camp and the Osceola Camp. Increased flows to ENP would result in higher water stages that would have had a potential for flooding the settlements. Facilities at the Tigertail Camp were elevated by the USACE to a

May 9, 2008

Page 9

level above water stages anticipated for MWD. Similarly, ENP is currently coordinating with Miccosukee Tribe of Indians to raise facilities at the Osceola Camp.

The LRR/EA, like the TSEIS before it, does not propose, consider, or contemplate raising the AAoF's property to a height above the projected 100-year flood stage level. The USACE, in the LRR/EA and the TSEIS, fails to elaborate as to why the alternative of raising of other properties was reasonable in the case of those stakeholders, yet not reasonable as to the AAoF.

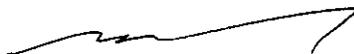
The AAoF's has, in writing and in numerous public appearances, discussed the reasonable alternative of raising the AAoF's property with the USACE. Why the alternative of raising the AAoF's property is conspicuously absent from the LRR/EA is a mystery. The AAoF's property is privately owned property wholly outside the boundaries of the ENP. Raising the AAoF's property to a level above the predicted 100-year flood stage level is a reasonable alternative that will preserve the AAoF's private property rights.

Conclusion

The USACE proposed taking of the AAoF's property as provided under the LRR/EA is unreasonable and is unauthorized. A reasonable alternative to the taking of the AAoF's property is the raising the AAoF's property to a protected elevation above the anticipated 100-year flood level.

The AAoF looks forward to working with the USACE to establish a reasonable alternative to the taking of the AAoF's property.

Sincerely,



Andrew Stearns
For the Firm

cc: Airboat Association of Florida

GP 14 Steele.txt

From: Dewey Steele [stee9190@bellsouth.net]
Sent: Monday, April 21, 2008 7:37 AM
To: TTMComments SAJ
Subject: Comments on Tamiami Trail

Dewey Steele
22320 SW 256 Street
Homestead FL 33031
305-247-0064
stee9190@bellsouth.net
April 21, 2008

Dear Sir or Madam,

Please enter my comments on Tamiami Trail/Everglades restoration into the record:

Restoring the flow of water through the Everglades is critical and the only way to help restore the health of Florida Bay, The Ten Thousand Islands and the rest of the ecosystem dependent on clean water flow.

In the past half century I have witnessed:

*
 water being blocked by the Tamiami Trail resulting in flooding of tree islands to the north and death and destruction of wildlife and habitat.

*
 reduced water flow to the south resulting in destruction of habitat and algae build up in Florida Bay

*
 polluted water being dumped into Biscayne and Manatee Bays destroying wildlife

If we are really serious about Everglades restoration the only possible solution is removing the barriers to water flow. The only real way to accomplish this is with a very long elevated causeway and or opening up many large culverts across the entire length of the Trail. Anything less would be inadequate.

I am totally opposed to beginning any project, such as a one mile bridge, that does not incorporate the idea of fully restoring water flow to the southern Everglades. I am all for beginning a project immediately aimed at restoring historical water flow funded, in part, by Defense Department allocations, tourist taxes, rock mining per ton fees and development impact fees.

Thanks for your consideration.

Sincerely,

GP 14 Steele.txt

Dewey Steele

GP 15 Yanez.txt

From: Mario Yanez [mario@earth-learning.org]

Sent: Monday, April 21, 2008 5:55 PM

To: TTMComments SAJ

Subject: Tamiami Trail Bridge

The 1-mile bridge is so insufficient and is not the intent of the CERP. As you may remember, CERP's original intent was to restore the functionality of the Greater Everglades system. Please reconsider the implementing 11-mile Skyway. Nothing short of that will suffice. Dare to make your work relevant to the health of the Greater Everglades.

Sincerely,

Mario Yanez

8201 SW 99 Court

Miami, FL 33173

This page intentionally left blank