

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

RESOLUTION NO. 2014-0410

A Resolution of the Governing Board of the South Florida Water Management District authorizing the Executive Director to sign a letter to the U.S. Army Corps of Engineers expressing support for the Central Everglades Planning Project, and affirming South Florida Water Management District's financial capability to satisfy the obligations of the Non-Federal Sponsor described in the Central Everglades Planning Project, Final Integrated Project Implementation Report and Environmental Impact Statement, dated April 2014 and for which funding, is subject to approval of future fiscal year state budgets by the State Legislature and Governor, and District budgets for CEPP by the State Legislature, Governor and District Governing Board; providing an effective date.

WHEREAS, Congress, in Section 601 of the Water Resources Development Act of 2000, approved with modifications the Comprehensive Everglades Restoration Plan (CERP) contained in the Final Integrated Feasibility Report and Programmatic Environmental Impact Statement, dated April 1, 1999, as a framework for making modifications and changes to the Central and Southern Florida Project; and

WHEREAS, the Central Everglades Planning Project (CEPP) is composed of increments of major CERP components that will provide significant environmental benefits to the central Everglades ecosystem, the St. Lucie Estuary and the Caloosahatchee Estuary, and will help meet the other water-related needs of the region; and

WHEREAS, the CEPP Recommended Plan (Recommended Plan) as contained within the CEPP Integrated Project Implementation Report and Environmental Impact Statement, dated April 2014, (CEPP PIR/EIS) will improve the quantity, quality, timing, and distribution of water into Water Conservation Areas 3A and 3B, Everglades National Park, and Florida Bay by adding an average of approximately 210,000 acre-feet per year of additional freshwater flow in the central Everglades; and

WHEREAS, this additional water will help restore pre-drainage vegetative communities and habitat for fish and wildlife while providing incremental restoration of natural processes critical for the development of peat soils and tree islands, which are essential features of the Everglades ridge-and-slough landscape; and

WHEREAS, the Recommended Plan will reduce the number and severity of high-volume discharges from Lake Okeechobee into the St. Lucie and Caloosahatchee Estuaries and will improve salinity in these estuaries; and

WHEREAS, the Recommended Plan will improve the salinity in Florida Bay resulting in greater abundance and diversity of sea grasses and other estuarine plant and animal species; and

WHEREAS, the Recommended Plan will increase public water supply in Broward and Miami-Dade Counties by approximately 12 and 5 million gallons per day, respectively; and

WHEREAS, the Recommended Plan will also maintain water supply for agricultural users in the Lake Okeechobee Service Area and will also maintain current levels of service for flood protection in the CEPP study area; and

WHEREAS, the expedited planning process for the development of the CEPP Integrated Project Implementation Report and Environmental Impact Statement involved extensive coordination and input by the public and federal, state, and local resource management and regulatory agencies; and

WHEREAS, the Recommended Plan will utilize existing South Florida Water Management District owned lands; and

WHEREAS, the Recommended Plan implementation is dependent upon project interdependencies and phasing with other CERP and non-CERP Projects, and the need for multiple Project Partnership Agreements, and

WHEREAS, Stakeholders have expressed concern that the current version of the Draft Final PIR will not be available for public review prior to the adoption of this Resolution and request the Corps to revise its planning process in the future to allow the public to review the most current version of the Draft Final PIR prior to the local sponsor's letter of support;

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:

Section 1. The Governing Board acknowledges that water quality issues need to be resolved prior to implementing CEPP projects. Issues include the need to revise the compliance methodology of the Consent Decree (Appendix A) and also to reach agreement on joint measures which may be needed in the event of an exceedance of Appendix A resulting from a change in operation of a federal project. Failure to develop a mutually agreed upon revised compliance methodology of the Consent Decree (Appendix A) or mutually agreed upon joint measures which may be needed in the event of an exceedance of Appendix A resulting from change in operation of a federal project will preclude the SFWMD from implementing, approving, or operating CEPP Projects.

The Governing Board acknowledges that the following negotiated language in the District Engineer's Recommendation Section (Section 8) of the PIR/EIS with respect to concepts regarding water quality that were jointly developed by the United States Army and the State of Florida be used to govern the implementation and operation of CEPP project features:

"Restoration of the Everglades requires projects that address hydrologic restoration as well as water quality improvement. This has been recognized by the National Academy of Sciences in its most recent biennial report where it noted that near-term progress to address both water quality and water quantity improvements in the central Everglades is needed to prevent further declines of the ecosystem. The significant amount of water resulting from CEPP is contemplated to significantly improve restoration of the Everglades. Both the Federal and State parties recognize that water quantity and quality restoration should be pursued concurrently and have collaborated to develop and concur on a suite of restoration strategies being implemented by the State to improve water quality ("State Restoration Strategies"), as well as other State and Federal restoration projects, both underway and planned, to best achieve Everglades hydrologic objectives. Specific examples of Federally authorized projects include the Everglades Restoration Transition Plan, Modified Water Deliveries to Everglades National Park Project, and the Tamiami Trail Next Steps Project.¹ One of the goals of these projects and their associated operating plans, as well as certain components of the CERP awaiting authorization or that are being planned as part of the CEPP is to improve water quantity and quality in the Everglades through more natural water flow within the remnant Everglades which includes the water conservation areas and ENP. Variations in flows of the C&SF system may result from a variety of reasons. These reasons include natural phenomena (e.g. weather) and updates to the operating manuals to achieve the purposes of the C&SF Project such as flood control and water supply.

One goal of the Consent Decree² is to restore and maintain water quality within ENP. The Consent Decree established, among other things, long-term water quality limits for water entering ENP to achieve this goal. The existing limits for ENP are flow dependent and, generally, increased volume of water results in a lower allowable concentration of phosphorus to maintain the overall load of phosphorus entering the ENP. There will be redistribution of flows and increased water volume above existing flows associated with system restoration efforts beyond the current State Restoration Strategies projects. The USACE and its Federal and State partners recognize that to achieve long-term hydrologic improvement, water quality may be impacted, particularly as measured by the current Consent Decree Appendix A compliance methodology. The USACE and the State partners agree that the monitoring locations/stations for inflows to ENP

¹ The next phase of bridging for Tamiami Trail roadway as authorized by Congress.

² *United States v. South Florida Water Management District, et al.*, Case No. 88-1886-CIV-Moreno (U.S.D.C., S.D. Fla.).

will require revision. An evaluation of this and other aspects of the compliance methodology are currently being conducted by the Technical Oversight Committee (TOC).

In an effort to address these potential impacts and determine updates to Appendix A to reflect increased inflows and new discharges into ENP since the Consent Decree was entered, the parties to the Consent Decree have established a process and scope for evaluating and identifying necessary revisions to the Appendix A compliance methodology utilizing the scientific expertise of the TOC. The TOC may consider all relevant data, including the 20 years of data collected since Appendix A was implemented. Ultimately, such evaluations and changes to the Appendix A compliance methodology would be recommended by the Consent Decree's TOC for potential agreement by all parties. Failure to develop a mutually agreed upon and scientifically supportable revised compliance methodology will impact the State's ability to implement or approve these projects.

The aforementioned State Restoration Strategies will be implemented under a Clean Water Act discharge permit that incorporates and requires implementation of corrective actions required under a State law Consent Order, as well as a Framework Agreement between the U.S. Environmental Protection Agency and the State discharge permitting agency, the Florida Department of Environmental Protection, to ensure compliance with Clean Water Act and State water quality requirements for existing flows into the Everglades. The Clean Water Act permit for the State facilities, the associated Consent Order (including a detailed schedule for the planning, design, construction, and operation of the new project features), and technical support documents were reviewed by, and addressed all of, the U.S. Environmental Protection Agency's previous objections related to the draft National Pollutant Discharge Elimination System ("NPDES") permits, prior to issuance.

All parties are committed to implementing the State Restoration Strategies, joint restoration projects, and associated operational plans, in an adaptive manner that is consistent with the objectives of the underlying C&SF Project. The USACE and the State will use all available relevant data and supporting information to inform operational planning and decision making, document decisions made, and evaluate the resulting information from those decisions to avoid adverse impacts to water quality where practicable and consistent with the purposes of the C&SF Project. Based upon current and best available technical information, the Federal parties believe at this time that the State Restoration Strategies, implemented in accordance with the State issued Consent Order and other joint restoration projects, are sufficient and anticipated to achieve water quality requirements for existing flows to the Everglades. If there is an exceedance of the Appendix A compliance limits, which results from a change in operation of a Federal project, and it has been determined that an exceedance cannot be remedied without additional water quality measures, the Federal and

State partners agree to meet to determine the most appropriate course of action, including what joint measures should be undertaken as a matter of shared responsibility. These discussions will include whether it is appropriate to exercise any applicable cost share authority. If additional measures are required and mutually agreed upon, then they shall be implemented in accordance with an approved process, such as a general reevaluation report or limited reevaluation report, and if necessary, supported through individual project partnership agreements. Failure to develop mutually agreed upon measures and cost share for these measures may impact the State's ability to operate the Federal project features."

Section 2. The Governing Board acknowledges that U.S. Army Corps of Engineers assurances in Section 2, Section 6 and the District Engineer's Recommendation Section (Section 8) of the PIR/EIS with respect to project interdependency and phasing with other CERP and non-CERP Projects, use of existing SFWMD owned lands, and project benefits and cost share, enables the Governing Board to endorse the Letter of Support. Such assurances include the following:

- a. The CEPP PIR/EIS recognizes that all features of the state's Restoration Strategies must be completed and meet state water quality standards prior to initiating construction of most CEPP project features.
- b. The CEPP PIR/EIS acknowledges that the operation of State facilities is required for achievement of CEPP project benefits. The CEPP PIR/EIS further recognizes that these state facilities are subject to legal requirements and will not be operated in such a manner that will cause exceedances of the State's water quality requirements and, as such, may limit the anticipated CEPP project benefits.
- c. The CEPP Recommended Plan features in the PIR/EIS utilize existing SFWMD owned lands.
- d. The CEPP PIR/EIS includes certain project dependencies and requirements including: completion and operations of Modified Water Deliveries prior to implementation of CEPP project features that provide additional water to Everglades National Park and modification of the 2008 Lake Okeechobee Regulation Schedule to achieve all CEPP project benefits and comply with Savings Clause.
- e. The CEPP PIR/EIS includes the Corps' need to request Congressional authorization for specific statutory language allowing the Corps to cost share 9.5% of the yearly OMRR&R costs of State facilities and certain C&SF Project features used by CEPP from appropriations made available for CERP OMRR&R activities.

f. The CEPP PIR/EIS is composed of implementation phases with logical groupings of recommended plan features that maximize benefits to the extent practicable consistent with project dependencies and acknowledges the need to execute individual Project Partnership Agreements, or amendments to existing Project Partnership Agreements prior to initiating construction of each implementation phase.

Section 3. The Governing Board acknowledges that the Recommended Plan in the Draft PIR is subject to a Programmatic Biological Opinion and Select Concurrence on Effects to Threatened or Endangered Species and Critical Habitat **dated April 2014** from the U.S. Fish and Wildlife Service ("Service"). The Programmatic Biological Opinion requires future consultation with the Service to occur before CEPP project features are constructed. Any subsequent consultation document(s) must be finalized and satisfactory to the Governing Board before SFWMD will execute Project Partnership Agreement(s) for CEPP project features.

Section 4. The Governing Board authorizes the Director of Administrative Services Division to sign the Central Everglades Planning Project Non-Federal Sponsor's Self-Certification of Financial Capability, on behalf of the SFWMD, expressing financial capability to satisfy the Non-Federal Sponsor's obligations set forth in the CEPP PIR/EIS. The South Florida Water Management District's financial capability is subject to the following conditions:

- a. Approval of future fiscal year state budgets by the State Legislature and Governor, and District budgets for CEPP by the State Legislature, Governor and District Governing Board.
- b. The USACE and SFWMD have approximately equal programmatic expenditures on an average annual basis for implementation of CERP.
- c. CEPP is implemented in accordance with a SFWMD and USACE jointly agreed upon CERP project prioritization and the Integrated Delivery Schedule.

Section 5. The Governing Board acknowledges that the CEPP PIR/EIS is subject to further review by the public, State and Federal agencies as well as Army Corps of Engineers headquarters and Department of Army. Any substantive or material changes to the CEPP PIR/EIS including the Record of Decision, will require further review and approval of the Governing Board.

Section 6. Based on the assurances and conditions documented in Section 1 through Section 5 of this resolution, the Governing Board of the South Florida Water Management District (SFWMD) hereby authorizes the Executive Director to sign a letter to the U.S. Army Corps of Engineers, on behalf of the SFWMD, expressing support for the Central Everglades Planning Project Final Integrated Project Implementation Report and Environmental Impact Statement, dated April 2014.

Section 7. This Resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this 10th day of April, 2014.

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT, BY ITS GOVERNING BOARD

ATTEST:


District Clerk / Secretary

By: 
Chairman

Approved as to form:

By: 
Office of Counsel


Print Name



CENTRAL EVERGLADES PLANNING PROJECT NON-FEDERAL SPONSOR'S
SELF-CERTIFICATION OF FINANCIAL CAPABILITY
FOR DECISION DOCUMENTS

I, Douglas Bergstrom, do hereby certify that I am the Director for the Administrative Services Division of the South Florida Water Management District (the "Non-Federal Sponsor"); that I am aware of the financial obligations of the Non-Federal Sponsor for the Central Everglades Planning Project if Project Partnership Agreements are approved by the Non-Federal Sponsor's Governing Board and signed by the Chair; and I certify that the Non-Federal Sponsor will have the financial capability to satisfy the non-Federal Sponsor's obligations, as set forth in the Central Everglades Planning Project, Final Project Implementation Report dated April 2014 subject to approval of future fiscal year state budgets by the State Legislature and Governor and District budgets for CEPP by the State Legislature, Governor, and Governing Board as set forth in the Local Sponsors Letter of Support and Governing Board Resolution No. 2014-0410. I understand that the Government's acceptance of this self-certification shall not be construed as obligating either the Government or Non-Federal Sponsor to implement a project or appropriate funds.

IN WITNESS WHEREOF, I have made and executed this certification this 10th day of April, 2014.

BY: Douglas A Bergstrom

TITLE: Director, Administrative Services Division

DATE: April 10, 2014



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

April 11, 2014

Colonel Alan M. Dodd
District Commander
U.S. Army Corps of Engineers
701 San Marco Boulevard
Jacksonville, FL 32207-8175

Subject: Letter of Support for the Central Everglades Planning Project Final Integrated Project Implementation Report and Environmental Impact Statement

Dear Colonel Dodd:

The purpose of this letter is to express the South Florida Water Management District's (SFWMD) support for the Central Everglades Planning Project Final Integrated Project Implementation Report and Environmental Impact Statement (PIR/EIS) dated April 2014. The SFWMD is authorized to act as local sponsor for Comprehensive Everglades Restoration Plan (CERP) projects and has played an integral role in the CEPP PIR/EIS development by providing technical support. The SFWMD commends the U.S. Army Corps of Engineers for extensive outreach and coordination which resulted in a Recommended Plan that has broad stakeholder support.

The CEPP will beneficially affect more than 1.5 million acres in the St. Lucie and Caloosahatchee Estuaries, WCA 3A, WCA 3B, Everglades National Park, and Florida Bay. In addition to redistributing existing treated water in a more natural sheetflow pattern, the recommended plan provides an average of approximately 210,000 acre-feet per year of additional clean freshwater flowing into the central portion of the Everglades. This increase in freshwater flow to the Everglades is approximately two-thirds of the additional flow estimated to be provided by the CERP. The recommended plan also reduces the number and severity of undesirable, high-volume discharges from Lake Okeechobee, improving salinity in the St. Lucie and Caloosahatchee Estuaries. The additional water flowing into northern WCA 3A and ENP will help to restore pre-drainage vegetative communities and habitat for fish and wildlife while providing incremental restoration of natural processes critical for the development of peat soils and tree islands, which are essential features of the Everglades ridge and slough landscape.

Increased flows to Florida Bay will improve salinities, resulting in greater abundance and diversity of sea grasses and other estuarine plant and animal species.

The federal authority for preparing the CEPP PIR/EIS is contained in Section 601(d) of the Water Resource Development Act of 2000. We look forward to Congressional authorization and appropriation of funds for this important CERP project so that the CEPP can move forward into the design and construction phase.

While not legally binding on the SFWMD, this letter voices the SFWMD's support, as set forth in and subject to the terms of Governing Board Resolution No. 2014-0410, for the CEPP PIR/EIS. This resolution is composed of six substantive sections covering the following issues: 1) water quality (Appendix A); 2) assurances contained in Sections 2, 6, and 8 of the Draft Final PIR; 3) completion and review of future Endangered Species Act consultation documents; 4) CEPP Self Certification of Financial Capability; 5) further review of the Draft Final CEPP PIR; and 6) Executive Director's authorization to sign a Letter of Support for the CEPP. Also enclosed is the Central Everglades Planning Project Non-Federal Sponsor's Self-Certification of Financial Capability.

On behalf of the State of Florida, the SFWMD is proud to serve as the local sponsor with the U.S. Army Corps of Engineers on this first CERP project to restore the heart of the Everglades. This project embodies the success of the ongoing partnership between the State and Federal governments to Everglades restoration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Blake C. Guillory', written over a horizontal line.

Blake C. Guillory, P.E.

Executive Director

South Florida Water Management District