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

REPLY TO
ATTENTION OF
Regulatory Division

AUG 2 5 1997

Dear Interested Party:

The purpose of this letter is to share with all interested parties the status of the Environmental Impact Statement in Southwest Florida.

The enclosed document provides a synopsis of the comments received on our first draft of a Memorandum of Understanding that was shared with County Commissioners in both Lee and Collier Counties and, by separate letter, mailed to interested parties.

We are now arranging a mutually convenient date to meet with representatives of Lee and Collier Counties, since they would be Principals under this Memorandum of Understanding, to discuss these comments and to prepare a revision that could be presented to the full membership of the Board of County Commissioners, to all interested parties, and the public.

At this time, we are not asking for comments specifically on the enclosed document or on further potential revisions, but, of course, we will accept and consider any comments that are made.

If you have any questions, comments, or changes to the mailing list, feel free to contact me at the addresses below.

Sincerely,

Bob Barron
Project Manager

Enclosure

U.S. Mail: Regulatory Division, Jacksonville District, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232
Facsimile: 904-232-1684 Telephone: 904-232-2203
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Summary of Comments - - - - **FOR INFORMATION & DISCUSSION PURPOSES ONLY**- - - - Prepared August 21, 1997

July 17, 1997 Draft MOU		Chamber/EDC Markup August 5, 1997 presented to Boards of County Commissioners of Collier County and Lee County	Synopsis of All Other Comments ([-20-] = page number of the package of the copies of the comments assembled by Corps)
Memorandum of Understanding Environmental Impact Statement (EIS) Southwest Florida		Memorandum of Understanding Environmental Impact Statement (EIS) Southwest Florida Recommended changes prepared for Collier County Board of Commissioners by the Chamber/ EDC Coalition, presented on August 5, 1997.	**Note: The synopsis of the comments in this column were preapared to provide a convenient review of all the comments made on a particular section of the MOU. The Corps has read and will consider the entire written document from the author of the comment.**
BACKGROUND.		BACKGROUND. WHEREAS, The National Environmental Policy Act (NEPA), Section 2, states as its purpose to declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; and to enrich the understanding of ecological systems and natural resources important to the Nation; and WHEREAS, NEPA, Section 101, further declares it to be the policy of the Federal Government, in cooperation with state and local governments, and other concerned public and private organizations, to use all practicable means to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans; and	Following are comments applying to the MOU as a whole: [-20-] should be carrying capacity study [-26-] write CA's and PA's without apostrophes [-57-] Chamber/EDC document not acceptable [-72-] Do not weaken PEIS process just to bring aboard county commissioners [-73-] Do not focus just on large projects but also on single family lots [-73-] PEIS must have implementation and enforcement provision [-73-] Corps needs to increase staffing in SW Florida
WHEREAS, the Corps of Engineers, under the provisions of the Clean Water Act (CWA), is charged with protecting the physical, chemical, and biological integrity of the nation's waters to include ensuring that impacts to the aquatic environment be avoided, if practicable, and, if not, be		WHEREAS, the Corps of Engineers, under the provisions of the Clean Water Act (CWA), is charged with protecting the physical, chemical, and biological integrity of the nation's waters to include ensuring that impacts to the aquatic environment be avoided, if practicable, and, if not, be	[-79-] CWA has language re: secondary and cumulative impacts different from NEPA so "...ensuring that impacts, including secondary and cumulative impacts, to the aquatic..."

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minimized and compensated (mitigated); and		minimized and compensated (mitigated); and	[-74-] "compensated for unavoidable impacts.."
WHEREAS, the Corps of Engineers, under the provisions of the Endangered Species Act (ESA), is charged with ensuring that any activity permitted does not jeopardize the continued existence of a Threatened or Endangered Species or adversely modify the designated critical habitat; and		WHEREAS, the Corps of Engineers, under the provisions of the Endangered Species Act (ESA), is charged with ensuring that any activity permitted does not jeopardize the continued existence of a Threatened or Endangered Species ~~or adversely modify the designated critical habitat~~; and	[-79-] ESA requires agencies to use their authority to recover species, not just disallow activities that jeopardize: "..does not adversely impact or jeopardize..."
WHEREAS, the Corps of Engineers, under the provisions of the National Environmental Policy Act (NEPA), is charged with ensuring that federal activities do not cause significant harm to the environment through a procedure that includes developing and analyzing various alternatives, considering secondary and cumulative impacts, and weighing the public interest through full public disclosure and participation; and		WHEREAS, the Corps of Engineers (Corps), under the provisions of the National Environmental Policy Act (NEPA), is charged with ensuring that federal activities do not cause significant harm to the environment through a procedure that includes developing and analyzing various alternatives, considering secondary and cumulative impacts, and weighing the public interest by balancing the favorable impacts of development against the detrimental impacts, known as the public interest review. The process will provide for ~~through~~ full public disclosure and participation; and	[-79-] add: "Whereas, the Corps of Engineers, under the provisions of the Fish and Wildlife Coordination Act (F&WCA), is charged with ensuring conservation of fish and wildlife through the exercise of its authority, and has a responsibility to consult with the Fish and Wildlife Service regarding impacts; and"
WHEREAS, the current process of modifying land for new uses is very onerous to the owners due to a sequential and fragmented planning and regulatory system -- from zoning through a long sequence of permits, each of which brings new requirements and often conflicts with zoning and previous permitting, leads to great frustration and unproductive expenses for the applicant, and less than optimum results for the environment; and		WHEREAS, the current process of modifying land for new uses can be ~~is very~~ onerous to applicants ~~the owners~~ due to a sequential and fragmented planning and regulatory system in ~~-- from zoning through a long sequence of permits, each of~~ which ~~brings~~ new permit requirements ~~and~~ often conflicts with zoning and previous permitting, which leads to great frustration and unproductive expenses for the applicant, and less than optimum results for the environment; and	[-62-] Delete as highly subjective. [-74-] Delete "onerous" "frustration" "unproductive expenses" as inappropriate descriptors

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WHEREAS, closer coordination of the Comprehensive Planning process conducted between the counties, cities and the Corps and other regulatory agencies would minimize conflicts between land use planning and Federal, State, and local conservation requirements; and		WHEREAS, the state has mandated and the applicable counties have , through ~~closer coordination of~~ the Local Government Comprehensive Planning ~~p~~Process, coordinated~~conducted between the counties, cities and the Corps and other regulatory agencies would minimize conflicts~~ between land use planning and ~~Federal, State, and local~~ conservation requirements, and in recognition that the Boards of County Commissioners of Collier and Lee Counties (BCC) are the elected representatives of more than 500,000 people, the resulting comprehensive plans adopted by each county should therefore be given due consideration by the Corps and other regulatory agencies as required by 40 C.F.R. 1506.2(d); and	
WHEREAS, the increasing number, size, and complexity of permit requests by the people of Southwest Florida has created a condition where the Corps of Engineers and other regulatory agencies are experiencing extraordinary difficulty in, on a case-by-case basis, addressing their responsibilities under Federal and State Law, and are at the point where all permit processing is taking longer, and where denials may become more frequent, and where the environment may receive less protection than required by law.		WHEREAS, ~~the increasing number, size, and complexity of permit requests by the people of Southwest Florida has created a condition where~~ the Corps of Engineers is ~~and other regulatory agencies are~~ experiencing ~~extraordinary~~ difficulty in, on a case-by-case basis, addressing its ~~their~~ responsibilities in a timely manner due to the number, size, and complexity of permit requests within the Estero River Basin; and ~~under Federal and State Law, and are at the point where all permit processing is taking longer, and where denials may become more frequent, and where the environment may receive less protection than required by law.~~ WHEREAS, the natural environment within the study area has been and continues to be negatively impacted by historical alterations to natural drainage patterns which occurred prior to current regulatory controls and by the spread of nuisance exotic species, particularly melaleuca and brazilian pepper, creating both	

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		the need and opportunity for restoration of these areas as compensation for unavoidable impacts; and WHEREAS, the Corps has determined that the preparation of a programmatic Environmental Impact Statement (EIS) will result in a more efficient, effective, timely, streamlined, cost-conscious, objective, and predictable environmental permitting process for projects within the study area,	
THEREFORE, to better serve the people of Southwest Florida by synchronizing adopted land use and conservation planning, while simultaneously fulfilling the Corps' responsibilities under NEPA, and assisting other regulatory agencies in their decision making process, by signature below, the Commissions of Collier and Lee the Corps of Engineers as Cooperating Agencies (these three agencies hereafter referred to as the Principals), agree to jointly prepare an Environmental Impact Statement (EIS). The organizations/agencies signing below, after the Principals, agree to serve as Cooperating Agencies (CA).		THEREFORE, to better serve the people of Southwest Florida by synchronizing the Corps permitting process with the adopted local land use and conservation plans ~~planning~~, while simultaneously fulfilling the Corps' responsibilities under NEPA, and assisting other regulatory agencies in their decision making process, by signature below, ~~the Commissions of Collier and Lee counties and~~ the Corps of Engineers, with the cooperation of the Boards of County Commissioners of Collier and Lee County as Cooperating Agencies (these three agencies ~~hereafter~~ referred to as the Principals), ~~agree to jointly~~ will prepare an Environmental Impact Statement (EIS). The organizations/agencies signing below, after the Principals, agree to serve as Cooperating Agencies (CA) or Participating Organizations (PO) as the case may be.	[-27-] the distinctions in responsibilities and authority between the principals and cooperating agencies should be better delineated [-52-] Purpose of study is improved enforcement of regulations when considering development projects environmental impacts. Only as a beneficial consequence would be the permitting process be streamlined. Streamlined permitting is not the purpose. [-74-] Understand that FWS, EPA, NMFS can be cooperating agencies. But can State or Local agency be similarly responsible for the EIS? Does this give them NEPA standing? Can the MOU be legally binding on the Federal NEPA process?
TENETS. The preparation of the EIS will be guided by the following tenets.		TENETS. The preparation of the EIS will be guided by the following tenets. • The purpose and need of the EIS shall be to streamline the environmental permit system while continuing to ensure environmental	

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• The EIS will be completed within 18 months from the date of the last signature below. • The issues and geographical area of the EIS must be defined collaboratively during the first two months via an open public scoping process. • The EIS shall be restricted to specific issues relevant to the regulatory authority of the Corps, including, but not limited to, protection of wetlands, mitigation, endangered species, cumulative and secondary impacts, water management, and water quality unless the Principals agree that it would be prudent to expand the scope. • The EIS will be funded by the Regulatory Division of the Jacksonville District, Corps of Engineers, within the constraints of the availability of funds to the district for this purpose as determined by the District Engineer and by other CA's who to contribute within the constraints of availability of funds to them for this purpose.		protection. It is a principal purpose of this MOU to reduce delay in the individual permit process and to bring greater certainty and uniformity to that process while simultaneously protecting the environment. ~~The~~ EIS will commence on or about September 1, 1997 and will be completed on or about December 31, 1998.~~within 18 months from the date of the last signature below~~ • The ~~issues and~~ geographical area of the EIS is generally defined to be the Estero River Basin and will ~~must~~ be specifically defined and approved by the Principals ~~collaboratively~~ after input from the public, Cooperating Agencies, and Participating Organizations during the first two months via an open public scoping process. • The EIS shall be restricted to the following ~~specific~~ issues ~~relevant to~~ within the regulatory authority of the Corps~~;, including, but not limited to,~~ protection of wetlands, mitigation, threatened and endangered species, cumulative and indirect ~~secondary~~ impacts, water management, and water quality~~, unless the Principals agree that it would be prudent to expand the scope.~~ • The EIS will be funded by the Regulatory Division of the Jacksonville District, Corps of Engineers, within the constraints of the availability of funds to the district for this purpose as determined by the District Engineer~~, and by other~~ CA's ~~who agree~~ may elect, at their sole discretion, to contribute within the constraints of availability of funds to them for this purpose, however contribution of funds is not a prerequisite for CA's. The scope of the EIS will be adjusted to ensure that the funds allocated to the process are sufficient to complete the EIS in the time frame defined herein.	[-27-] timeline from date of signature of last principal [-74-] Suggest some "wiggle room" language if not done in 18 months [-79-] What happens if takes 19 months, do we default to last-ditch compromise at month 18? Suggest target 18 months but say no longer than 2 years. [-79-] "...area of the EIS must be determined ~~collaboratively~~ consistent with the requirements of the acts during the first two months via a collaborative open public... [-74-] recommend Corps Public Interest Review factors be consulted for inclusion here [-79-] "...protection of wetland functions and values, mitigation, protection of fish and wildlife including threatened and endangered species...". Functions added because CWA requires protection of functions and by policy "no net loss and must regulate adjacent land uses to preserve wetland function and values. [-27-] principals should not be able to expand scope of study thereby possibly expanding regulatory authority over municipalities [-63-] NMFS has no $$ but staff will participate

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• Adopted Future Land Use Maps and related Elements of the Collier County and Lee County Comprehensive shall be used as the Counties' preferred alternatives for purposes of the EIS.		• The ~~A~~adopted Future Land Use Maps and related Elements of the Collier County and Lee County Comprehensive Plans shall be used as the land use plan and shall be the ~~Counties'~~ preferred alternatives for purposes of the EIS.	[-74-] "preferred alternative" selected after EIS analysis. Saying up front biases process [-80-] delete "preferred" since establishes expectations, injects bias, confer special status, lack of objectivity [-63-] delete for brevity as no other alternatives are listed in document [-27-&-70-] Comprehensive Plans of Counties and Cities since county plans not apply within cities [-64-] "...Plans shall be used as the County's and the State of Florida's preferred..."
• Analysis will be holistic and regional -- individual projects or properties shall not be targeted for selective analysis or implementation of EIS alternatives.		• Analysis will be holistic and regional -- individual projects or properties shall not be targeted for selective analysis or delay or implementation of EIS alternatives.	[-56-] Do not support using Comp plans as preferred since not enforced [-57-] add to end of sentence, "although projects recognized as representative of area-wide generic issues or representing potential cumulative impacts may be included for illustrative purposes."
• There are a myriad of existing and ongoing studies and plans that address water quality, stormwater, wetland, and listed species impacts in the region. The EIS will utilize this work to the maximum extent possible and will not duplicate or supersede any prior or ongoing local or regional studies, activities, or plans, including but not limited to Lee County's Environmental Lands Acquisition and Restoration Program and mitigation banking projects. Gaps must be identified as early as possible to allow sufficient time to acquire necessary additional information.		• There are a myriad of existing and ongoing studies and plans that address water quality, stormwater management, wetland, and listed species impacts in the region. The Corps~~EIS~~ will identify during the scoping phase which existing studies will be used to address issues within the scope of the EIS ~~utilize this work to the maximum extent possible~~ and will not duplicate or supersede any prior or ongoing local or regional studies, activities, or plans, including but not limited to Lee County's Environmental Lands Acquisition and Restoration Program and public or private mitigation banking projects. It is the intent to base the study primarily on existing and available data and analysis; any deficiencies ~~Gaps~~ must be identified as early as possible to allow sufficient time to acquire necessary additional information without delaying the	[-26-] change "There is ~~are~~ a myriad" [-21-&-30-] process in place to assess validity of studies [-57-] add "...and will not without proper justification duplicate..." [-57-] "..and mitigation banking projects. However, existing studies may be refined or augmented to further analysis necessary for the EIS process." [-75-} agree should not duplicate existing studies but "superseding" plans or activities may be necessary...is MOU obligating

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		process. The EIS shall be based on sound scientific and technical data and analysis. • Approved jurisdictional delineations, listed species surveys, and other field verified information shall be accorded the greatest weight and the study must clearly acknowledge that any information which has not been field verified will not be used as the basis for any binding decisions until such verification has occurred. • A Geographic Information System database will be developed early in the process to be used as the common reference and mapping system for the EIS.	ourselves to not supersede? [-51-] remove the word "binding"
• Private property rights shall be clearly acknowledged and respected in EIS alternatives. It is recognized that neither the Corps permitting nor this EIS convey a property right nor authorize any injury to property or invasion of other rights.		• Private property rights shall be clearly acknowledged and respected in EIS alternatives. It is recognized that neither the Corps permitting nor this EIS convey a property right nor authorize any injury to property or invasion of other rights. Any provision of the EIS which is regulatory in nature, or which is applied through any means in a regulatory manner which results in the taking of private property rights under the U.S. Constitution, and the amendments thereto is invalid, or the U.S. shall pay just compensation for the taking. • No provision of the EIS shall prevent the construction of transportation corridors or improvements identified by either the FDOT, MPO, or BCC as necessary to serve the existing or future public needs of Southwest Florida, especially those improvements that will provide relief to the existing transportation network in the event of a hurricane or other natural disaster.	[-75-] Do we need to state that the EIS will not authorize injury to property rights?
• Cooperating agencies will include representation from State, local and regional organizations including, but not limited to,	•	• Cooperating agencies shall have the meaning specified in 40 C.F.R. 1508.5 and may will include any Federal, ~~representation~~	[-26-] add phrase "civic associations"

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business, economic development, real-estate, service providers, environmentalists, government agencies as well as other groups which have an interest in this process.		~~from~~ State, or local agency which has jurisdiction by law or special expertise. ~~and regional organizations including, but not limited to, business, economic development, real-estate, service providers, environmentalists, government agencies as well as other groups which have an interest in this process~~. • Participating Organizations (PO) shall include representation from State, regional, and local organizations including, but not limited to, business, economic development, real estate, service providers, civic, conservation and environmental organizations which can make a meaningful contribution to the preparation of the EIS and contribute to a balanced process.	[-57-} economic development, growth management interests, real-estate, service providers, varied environmentalists and conservation, government..."
• The Corps, Florida Department of Environmental Protection, South Florida Water Management District, and any other regulatory agency participating in the EIS shall continue to accept and process permit applications. If applications can be processed to completion, agencies shall not withhold or delay a decision to issue, modify, or deny a permit due to the EIS preparation.		• The Corps, Florida Department of Environmental Protection, South Florida Water Management District, and any other regulatory agency cooperating ~~agency participating~~ in the EIS shall continue to accept, ~~and~~ process, and take action on permit applications while the EIS is underway. ~~If applications can be processed to completion, agencies~~ and shall not withhold or delay a decision to issue, modify, or deny a permit due to the EIS preparation, nor shall any agency seek to impose conditions or requirements based on unadopted provisions of any draft EIS. • The EIS will not cause the alteration of any permit conditions or requirements of any development which has obtained a permit or applied for a permit prior to the commencement of the EIS.	[-57-] If applications can be lawfully processed [-65-] consider some type of informal coordination forum for previewing development requests that come in during the EIS process. [-93-] add to end "...any draft EIS. This EIS is voluntarily undertaken by the Corps and other Federal agencies and is not required within the meaning of 40 CFR 1506.1(c).
• A major goal of the EIS will be to streamline the environmental review and permitting process for all applicants; bring more speed, consistency, certainty and economy to the process.		• A major goal of the EIS will be to streamline the environmental review and permitting process for all applicants; bring more speed, consistency, certainty and economy to the process, and to establish	[-63-] goal of EIS should be to provide environmental protection with an efficient and consistent process

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		specific criteria and presumptive standards for future permit issuance .	[-26-] instead of ";" say "in order to" [-52-] Purpose of study is improved enforcement of regulations when considering development projects environmental impacts. Only as a beneficial consequence would be the permitting process be streamlined. Streamlined permitting is not the purpose. [-60-] add to end of sentence "...the process to the extent possible without jeopardizing the overall goal of maintaining the integrity and long term viability of all significant wetlands in the study area."
• EIS activities must be conducted in support of the public interest in achieving a sustainable balanced economy in concert with a healthy environment. Appropriate weight must be given to the economic impact of the conclusions reached on property owners, public costs, and public benefits and quality of life to develop meaningful, sustainable, and economically viable solutions. Every consideration will be given to ensure that the EIS will not result in detrimental impacts to the economic development and diversification of the Southwest Florida economy.		• EIS activities must be conducted in support of the public interest in achieving a sustainable balanced economy in concert with a healthy environment. Appropriate weight must be given to the economic impact of the conclusions reached on property owners, public costs, and public benefits and quality of life to develop meaningful, sustainable, and economically viable solutions. Every consideration will be given to ensure that the EIS will not result in detrimental impacts to the economic development and diversification of the Southwest Florida economy. Should the application of findings in the EIS result in detrimental impacts to the economic development and diversification of the Southwest Florida economy, then the Principals shall re-evaluate and revise those EIS provisions that have caused the detrimental impacts.	[-75-] streamlined permitting is one of several goals, not the major goal. [-58-] "...healthy sustainable environment..." [-80-] "...appropriate weight as required under NEPA and CWA must be given..." [-20-&-31-&-80-]Language stating EIS will not result in detrimental economic impacts is too restrictive and certain to create an "economically neutral" expectation. NEPA requires consideration of economic impacts of alternatives but does not established that the preferred alternative be the one with the least economic impact [-61-] "Every consideration will be given to help ensure that the EIS will not result in widespread detrimental impacts...." [-58-] "..viable solutions. Every consideration will be given ~~to ensure~~ so that the EIS will not

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			unnecessarily result in detrimental impacts to the economic development and diversification of the Southwest Florida economy. This section is dependent upon economic development not exceeding the ability of the natural systems to sustain that growth. [-63-] sentence "Every consideration....that EIS will not result in detrimental impact to economy..." should be deleted since predetermines the outcome of the EIS [-80-] "Every consideration...that EIS ~~will not result in detrimental~~ avoid unnecessary impacts to..." [-94-] add "the Principals shall re-evaluate and to the extent practicable and not inconsistent with sound scientific practices revise those EIS provisions
• The EIS shall balance the public interest factors used in Corps permit reviews. These include conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.		• The EIS shall include a ~~balance the~~ public interest review using the adopted criteria ~~factors~~ used in Corps permit reviews. These include a balance of the detrimental and favorable impacts to: water management, mitigation, threatened and endangered species, ~~conservation,~~ economics, ~~aesthetics, general environmental concerns,~~ wetlands, ~~historic properties~~, fish and wildlife ~~values~~, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, and considerations of private property rights and ownership, ~~and, in general, the needs and welfare of the people.~~	[-58-] "..interest reviews to achieve an environmentally sustainable growth pattern."
• County Comprehensive Plans will be amended to incorporate the applicable portions of the Consensus Alternative within one year of the completion of the EIS.		• ~~County Comprehensive Plans will be amended to incorporate the applicable portions of the Consensus Alternative within one year of the completion of the EIS.~~	[-64-] Compliance with this must be at discretion of local government. DCA may require use of EIS information in determining

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			whether natural resources are being protected as required in local plans [-56-] supports amending to synchronize with Corps permitting requirements [-16-] 2 pages of discussion and background that comp plan "is a statement that is general, indicates intent but by itself leaves lots of wiggle room" [-22-] include tenet that CA's will find plan amendments consistent with their rules and regs (no waiting in bushes)
• Florida Sunshine law obligations of non-federal participants shall be respected. The EIS shall be conducted in a manner that ensures full opportunity for public participation.		• Florida Sunshine law obligations of non-federal participants shall be respected, and Federal agencies shall abide by Sunshine Law provisions except where they are in conflict with Federal Law. The EIS shall be conducted in a manner that ensures full opportunity for public participation.	[-71-] important all parties take part through full public disclosure [-77-] encourage Corps schedule meetings well in advance [-77-] important for Corps to keep in mind most of the agencies participating are under obligations of Florida Sunshine Law
		PRINCIPALS - The Principals (Corps, Lee County BCC, Collier County BCC) upon receipt of public input , shall determine the EIS scope, geographic boundary, schedule, committee membership, and shall direct the activities of all committees and oversee the study process. Each Principal shall have the right to withdraw from the EIS in the event that they determine that a provision of this agreement has been violated.	[-20-&-30-&-56-] Corps retains control of PEIS, state as tenet specifically delineating decision authority [-80-] should explicitly state that all final decision authority regarding scoping, determinations, evaluations, and preferred alternative rests with it along. [-57-] implementation of study rests solely with Corps [-82-] strongly suggest control remains with Corps
COOPERATING AGENCIES. Success demands that all partners bring commitment to the process. GENERAL. CA's commit to the following. • Commensurate with the unique		COOPERATING AGENCIES~~.~~ AND PARTICIPATING ORGANIZATIONS ~~Success demands that all partners bring commitment to the process.~~ GENERAL. CA's and PO's commit to the following.	[-75-] At least 12 cooperating agencies listed. Not clear how NEPA process will include these agencies/entities nor how will respond to each other. Can State/Local be cooperators?

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authorities and capabilities of each agency, allocating sufficient resources to ensure completion of the EIS within 18 months. • Ensuring appropriate representation and participation at each meeting convened by the Principals. • Making a sincere effort to develop a consensus alternative to an extent which is consistent with their governing laws and regulations. SPECIFIC. To an extent consistent with their governing laws and regulations, CA's make specific commitments as follows. ***{Below are 2 example possibilities -- details will be filled in after discussions with each agency -- all CA's should consider making appropriate commitments to ensure success}*** • Secretary, Department of Community Affairs agrees to facilitate and expedite changes to the Collier County and Lee County Comprehensive Plans which implement the preferred alternative of the EIS. {discuss specific language changes to be made with DCA} • Executive Director of the SFWMD agrees to provide conceptual water quality certification in support of a Programmatic General Permit.		• Commensurate with the unique authorities and capabilities of each agency, allocating sufficient resources to ensure completion of the EIS within the specified time frame~~,18 months~~. • Ensuring appropriate representation and participation at each meeting convened by the Principals. • Making a sincere effort to develop a consensus alternative to an extent which is consistent with their governing laws and regulations. SPECIFIC. To an extent consistent with their governing laws and regulations, CA's make specific commitments as follows. **{Below are 2 example possibilities -- details will be filled in after discussions with each agency -- all CA's should consider making appropriate commitments to ensure success}** • Secretary, Department of Community Affairs agrees to facilitate and expedite changes to the Collier County and Lee County Comprehensive Plans which implement the provisions ~~preferred alternative~~ of the EIS accepted by the Principals, and the public after review in accordance with Chapter 163, F.S. • Executive Director of the SFWMD agrees to provide conceptual water quality certification in support of a Programmatic General Permit.	[-27-] the commitment to provide resources is overbroad and should be refined [-57-] caution against locking into 18 months [-80-] change "preferred alternative" to "consensus alternative" [-51-] add to the sentence "However, DCA cannot require the County to adopt a particular provision of the EIS that the County has not approved per post EIS review as provided for herein, or otherwise determined is inconsistent with the goals and objectives of the Plan as a whole or that the County believes will be detrimental to the welfare of its citizens." [-65-] DCA willing to make commitment if Lee and Collier willing to cooperate. Willing to consider Chapter 163 agreement. [-77-] Our concern is how a conceptual water quality certification could be applied and the fact that the FDEP would also have to be included in this discussion.

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• FDEP: • FGFWFC: • FDOT: • FWS: • EPA: • Estero Bay Agency for Bay Management (ABM) agrees to provide the technical support to assist in the development and execution of the EIS process. • Southwest Florida Regional Planning Council (SWFRPC) agrees to provide the technical support to assist in the development and execution of the EIS process. • Governor's Commission for a Sustainable South Florida, Southwest Florida Issues Group (SWIG) agrees to provide a variety of opportunities for public discussion of the process and for development of study products: • etc.		• FDEP: • FGFWFC: • FDOT: • FWS: • EPA: • Estero Bay Agency for Bay Management (ABM) agrees to provide the technical support to assist in the development and execution of the EIS process. • Southwest Florida Regional Planning Council (SWFRPC) agrees to provide the technical support to assist in the development and execution of the EIS process. • Governor's Commission for a Sustainable South Florida, Southwest Florida Issues Group (SWIG) agrees to provide a variety of opportunities for public discussion of the process and for development of study products: • etc.	[-96-] add NMFS [-80-] where does ABM get resources to do this? [-77-] recognize financial constraints on these organizations
ADMINISTRATION. Must follow a logical, time bound plan to develop the EIS anchored by clear administrative procedures and responsibilities. A proposed conceptual plan designed to implement this memorandum is found at Appendix A. It is intended to be flexible and may be adjusted or modified as needed to provide the EIS in the agreed timeframe. FINAL PRODUCT. The goals of the process will be as follows. • Completed EIS consistent with Federal		ADMINISTRATION. Must follow a logical, time bound plan to develop the EIS anchored by clear administrative procedures and responsibilities. A proposed conceptual plan designed to implement this memorandum is found at Appendix A. It is intended to be flexible and may be adjusted or modified as needed to provide the EIS in the agreed timeframe. FINAL PRODUCT. The goals of the process will be as follows. • Completed EIS consistent with Federal	[-65-] when mention Federal laws and regs,

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laws and regulations which is also supported by the elected representatives and public they serve in Southwest Florida, which established a consensus preferred alternative for Corps permit review under section 404 of the Clean Water Act within 18 months from the ratification of this agreement. • Conceptual Water Quality Certification for the entire region studied. • Biological opinion for the entire region studied. • Conceptual basis for a Programmatic General Permit for the study area region developed for administration by an appropriate agency. • A happy public in Southwest Florida with confidence in their government and a clear understanding that economic development and environmental stewardship can be accomplished simultaneously with minimal conflict		laws and regulations which is also supported by the elected representatives and public they serve in Southwest Florida which established a consensus preferred alternative for Corps permit review under section 404 of the Clean Water Act within 18 months from the ratification of this agreement. • Conceptual Water Quality Certification for the entire region studied. • Biological opinion for the entire region studied which will identify critical habitat for endangered species. • • • • • • Conceptual basis for a Programmatic General Permit for the study area region developed for administration by an appropriate agency, the goals of which shall include those set out in this MOU. • Specific criteria and presumptive standards for permits within areas deemed appropriate for regulated activities. • Species management plan guidelines specific to the region. • ~~A happy public in Southwest Florida with confidence in their government and a clear understanding that economic development and environmental stewardship can be accomplished simultaneously with minimal conflict.~~	also include State laws and regs [-26-] to what does "which" refer? [-75-] Should "conference" first, then after selected preferred alternative and a General Permit is proposed, a Biological Opinion could be written [-80-] How is Biological Opinion for all species for a region done? Also, right to re-initiate consultation under ESA is a right public cannot give up [-52-] Leery of delegation of federal permitting to State and Local and, if done, with reviews and ability to rescind. [-51-] add word "Corps" to permit [-75-] a "happy" public? [-65-] "well served" instead of "happy" public [-2-] "A well-served public in Southwest Florida, confident that their government will make every effort to assure that economic development will occur in concert with environmental stewardship" [-58-] "A ~~happy~~ public in Southwest Florida ~~with~~ that possesses increased confidence in their government and a clearer understanding

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		• Upon completion of the EIS, each county will evaluate the results and, during the next available Comprehensive Plan amendment cycle, make a determination if and to what extent modifications should be made to the County Comprehensive Plan to implement agreed upon recommendations. No amendments to the respective Comprehensive Plans will be adopted without public hearings before the respective Board of County Commissioners, and Local Planning Agency with full and complete input from the public as required by Chapter 163, F.S.	that costs and benefits of economic development.." [-21-&-31-&-53-] If local plans is primary means to implement then Corps insure compliance [-51-] add "The recommendations, consensus alternatives and provisions of the EIS are non-binding on each County in regard to the acceptance and implementation of same by modifications to the County Comp Plan and County development regulations. All parties to this MOU agree that the Board of County Commissioners of the respective Counties retain full authority and power with respect to the acceptance or adoption and implementation of any recommendations or provisions arising from the EIS. Each County reserves the right to accept, reject or modify any such recommendations or provisions of the EIS in the County Comprehensive Planning process." [-29-] add "In cooperation with the CA's, conceptual plans, including funding commitments, will be formulated to address the flooding problems in the Estero and Imperial River basins."
[Signature Page not shown herein]		[Signature Page not shown herein]	[-58-] Florida Wildlife Federation, Southwest Florida ~~Chapter~~ Office [-63-] Regional Administrator ~~Director~~, National Marine Fisheries Service [-63-] NMFS has long internal review process prior to signing MOU [-75-] FWS Solicitor will have to review MOU

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			prior to signing [-75-] Federal agencies should be principals?
Appendix A Conceptual Implementation Plan • Months 1 and 2. Corps will publish this agreement and solicit written comments from public on the issues and geographic scope of the EIS. SWIG will conduct own workshops to prepare their recommendation. Corps, in consultation with PA's and CA's, determines scope and establishes an "Alternative Development Group (ADG)" Concurrently, the ABM will establish a "Technical Group (TG)" to prepare, at the end of Month 2, a report describing known existing data and potential data gaps.		Appendix A Conceptual Implementation Plan • Months 1 and 2. Corps will publish this agreement and solicit written comments from public on the issues and geographic scope of the EIS. SWIG will conduct own workshops to prepare their recommendation. Principals ~~Corps~~, in consultation with ~~PA's and~~ CA's and PO's, determine,s scope and establish~~es~~~~establishes~~ an "Alternative Development Group (ADG)" and a ~~Concurrently, the ABM will establish a~~ "Technical Group (TG)" as the two standing committees. The TG will ~~to~~ prepare, at the end of Month 2, a report describing known existing data and potential data gaps. Voting membership of ADG and TG will be members of the public who reside in Collier and Lee County. Representatives of governmental agencies shall be non-voting, ex-officio advisors to these two standing committees. The Principals shall also establish a "Drafting Group (DG) comprised of individuals with experience in the preparation of environmental impact statements, to prepare the EIS document.	[-21-&-31-] should be accelerated to max extent possible [-80-] Timeline should have some flexibility? [-18-] include 60,000 in "Stove Pipe" [-20-&-30-&-52-&-57-] all Lee, Collier and part Hendry Counties [-25-] include Gordon River, Naples & Rookery Bays [-28-] From Estero south to Cocohatchee inclusive [-70-] two counties hydrologically connected [-72-] Collier out to SR29 and Lee south of Caloosahatchee River [-80-] Where is support/resources for ABM? [-30-] the ABM is the appropriate group for Technical and the preferred group for public input as opposed to the SWIG. [-57-] Carefully review to ensure equitable representation [-72-] focus coordination through SWFRPC and ABM
• Months 3, 4, and 5. The ADG will meet to identify factors used to evaluate alternatives. The TG (with review/comments by the ABM) will coordinate with the ADG to identify what data is available to measure those factors, identify gaps, determine how they will be filled with, and prepare a preliminary "Technical		• Months 3, 4, and 5. The ADG will meet to identify factors used to evaluate recommendations and alternatives. The TG (with review/comments by the ABM) will coordinate with the ADG to identify what data is available to measure those factors, identify	[-26-] meaning of word "alternative" is not clear

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Appendix. The Corps will notice the availability of these and the SWIG will conduct a workshop to prepare their comments on the direction of the work.		gaps, determine how they will be filled within the budget and time frame of the study, and prepare a preliminary "Technical Appendix. The Corps will notice the availability of these and the SWIG will conduct a workshop to prepare their comments on the direction of the work.	
• Months 6, 7, and 8. The ADG will identify a range of alternatives to the preferred alternative, prepare a "Progress Report" in Month 7, then identify a "consensus alternative", and prepare, by Month 9, a report of its work. The TG will complete the draft Technical Appendix. SWIG will hold public workshops in Months 7 and 9 to prepare their comments on the progress of these groups' activities.		• Months 6, 7, and 8. The ADG will identify a range of recommendations and alternatives ~~to the preferred alternative~~, prepare a "Progress Report" in Month 7, then identify a "consensus alternative" and prepare, by Month 9, a report of its work. The TG will complete the draft Technical Appendix. SWIG will hold public workshops in Months 7 and 9 to prepare their comments on the progress of these groups' activities.	[-21-&-31-] We have problem understanding what a consensus alternative is. PEIS must conform to federal statutes irrespective of whether or not someone agrees with results.
• Months 9, 10, and 11. The SWFRPC edits/synthesizes the reports from the groups, background material, and NEPA-required technical material into a Draft EIS document. The Corps, in consultation with other PA's and CA's, reviews/proofs the Draft EIS, and solicits written comments from the public. The Corps holds two public hearings jointly with respective County Commissions for comments on the Draft EIS. SWIG holds public workshop to prepare recommendation on "what is next".	•	• Months 9, 10, and 11. The DG ~~SWFRPC~~ edits/synthesizes the reports from the groups, background material, and NEPA-required technical material into a Draft EIS document. The Principals~~Corps~~, in consultation with ~~other PA's and~~ CA's and PO's, reviews/proofs the Draft EIS, and solicits written comments from the public. The Corps holds two public hearings jointly with respective County Commissions for comments on the Draft EIS and to ~~. SWIG holds public workshop to~~ prepare recommendation on "what is next".	[-51-] does "review/proof" of EIS provide County with the ability at that point to modify or reject, etc?
		~~(Appendix A continues on next page) Appendix A (continued)~~	
• Months 12, 13, and 14. PA's discuss "what is next" and reconvenes the ADG to prepare a preliminary revision to its report. ABM directs TG to prepare a preliminary		• Months 12, Principals~~13, and 14. PA's discuss "what is next" and~~ reconvenes the ADG to prepare a preliminary revision to its report and ~~, ABM~~ directs TG to prepare a	[-26-] delete "s" from "reconvenes"

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revision of the Technical Appendix. SWIG holds public workshop to prepare their comments on the preliminary revisions. • Months 15, 16, and 17. ADG and TG complete revisions. SWFRPC edits/synthesizes the Final EIS document. The Corps, in consultation with other PA's and CA's, reviews/proofs the Final EIS and issues notice in federal register and solicits written comments from the public. Month 18. Counties initiate process for modification of their Plans. Corps prepares Record of Decision.		preliminary revision of the Technical Appendix. SWIG holds public workshop to prepare their comments on the preliminary revisions. • Months 13,14, and 15~~15, 16, and 17~~. ADG and TG complete revisions. DG ~~SWFRPC~~ edits/synthesizes the Final EIS document. The Principals with input from the CA's and PO's~~Corps, in consultation with other PA's and CA's~~, reviews/proofs the Final EIS and issues notice in federal register and solicits written comments from the public. Month 16~~18~~. ~~Counties initiate process for modification of their Plans~~. Corps prepares Record of Decision.	[-51-] does "review/proof" of EIS provide County with the ability at that point to modify or reject, etc?