

CHAPTER 7

CONSULTATION AND COORDINATION

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7.0 CONSULTATION AND COORDINATION

Under the National Environmental Policy Act (NEPA), all agencies are required to consider all environmental impacts for federal projects and federal rules. NEPA also requires agencies to cooperate with other federal agencies, and with state and local governments, and to involve public stakeholders or citizens. All persons and organizations that have a potential interest in the Proposed Action are urged to participate in the NEPA environmental analysis process. These persons and organizations may include federal, state, and local agencies; federally recognized Indian tribes; interested stakeholders; and minority, low-income, or disadvantaged populations. Throughout this process, the public may obtain information on the status and progress of the environmental impact statement (EIS) by contacting:

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7.1 PUBLIC INVOLVEMENT

As part of public involvement, information describing the EIS process and the proposed project was distributed following NEPA guidelines. The public scoping process was initiated when the Notice of Intent (NOI) to prepare an EIS for the proposed A-1 Shallow Flow Equalization Basin (FEB) was published on August 28, 2012 [(77 FR 51981, Document No. 2012-21186, page 51981-51983) (Appendix D)]. The NOI provided information on the purpose and need for the Proposed Action, background, the alternatives to be evaluated, and the geographic locations of the project sites. The NOI further provided the date, time, and location for the scoping meeting and the point of contact information at U.S. Army Corps of Engineers (USACE) to submit comments and receive additional information.

Notification was sent on the USACE Corporate Communications e-notification list for Facebook, YouTube, Twitter, and Flickr. A news release was published on August 29, 2012 that requested input and comments on the project. The USACE also sent the public notice and notice of intent to 598 interested parties who have requested to receive notifications on the previous A-1 Reservoir mailing list, the list generated by the Florida Department of Environmental Protection (FDEP) for the A-1 Shallow FEB project, the Central Everglades Planning Project (CEPP), the River of Grass project, and parties interested in the Everglades

Agricultural Area. The list includes a broad spectrum of interested parties encompassing private individuals; local, county, state, and federal government and agencies; businesses; educational institutions; elected officials at all levels; and special interest groups. Additionally, the public scoping meeting and request for comments on the proposed project were announced on the USACE Jacksonville District Web site at:

<http://www.saj.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>.

In addition to posting information on the websites and mailings, the USACE conducted a scoping meeting in West Palm Beach, Florida (Palm Beach County) on September 6, 2012 in an effort to help identify significant issues and data gaps and to assist in evaluating the alternatives, identifying other alternatives, and analyzing the potential impacts. The location was selected on the basis of accessibility for the public throughout the primary regions affected by the Proposed Action. Public stakeholders; representatives of federal, state, and local agencies; and federally recognized Indian tribes were contacted through mail as part of the scoping process. The mailing list was prepared using several lists of interested parties provided by the South Florida Water Management District (SFWMD), the FDEP, and USACE.

As interested parties were identified, the list was updated continuously throughout development of the EIS. Anyone who requested information on the EIS was added to the mailing list. Persons who attended the public scoping meetings or other meetings were also added to the list. USACE considered the results of the scoping process to develop a range of alternative actions, including the No Action Alternative, to develop this EIS and aid in its permit decision. The overall scoping process consisted of the following elements:

- EIS Kick-off Meeting with state and federal agencies held on August 3, 2012;
- Developing a public participation plan, in accordance with NEPA, as guidance for conducting outreach to the public;
- Publishing and announcing public scoping meetings in the *Federal Register*;
- Distributing a public notice announcing public scoping meetings and locations to federal, state, and local agencies and officials; stakeholders; and other interested parties (mailing list found in Chapter 9);
- Distributing a press release to media outlets;
- Sending agency and tribal consultation letters by mail;
- Holding a public scoping meeting to inform the public about the Proposed Action and to solicit oral and written comments on the issues that should be addressed in the EIS; and
- Reviewing and categorizing oral and written comments to be evaluated in the draft EIS.

7.2 AGENCY AND PUBLIC COMMENTS

Comments were received as a result of the public scoping meeting and in response to the USACE's public notice. Comments were received verbally and written on comment cards at the public scoping meeting, by email and by letter. The USACE considered the comments collected during development of this EIS and all comments are included in the public administrative record.

7.2.1 PUBLIC SCOPING MEETING – SEPTEMBER 6, 2012

Eighteen (18) people attended the scoping meeting in West Palm Beach (**Table 7-1**). Two comments were received on comment cards, while five comments were made verbally (one of which was also submitted on a comment card).

Table 7-1 Public Scoping Meeting Comments

Comment received by:	Comment
Public Comment Form	The project is positive for the environment, the state and local economy and the long term health of the Everglades.
Public Comment Form	Suggests that the ruminant pond apple slough be restored south of Lake Okeechobee to reduce phosphorus levels. Also suggests flow is routed through the Holey Land Wildlife Management Area and the Rotenberger tract. Recommended incorporating or implementing the 1994 Recon Study "Plan 6" but recognizes that the land is not acquired.
Verbal	Commenter reiterated comment made on the Public Comment Form concerning the 1994 Recon Study Plan 6, and suggested pond apple slough be restored south of Lake Okeechobee.
Verbal	Requested that a reservoir or deep FEB be evaluated as an alternative. The alternative analysis should analyze the reservoir would have greater flow attenuation that would have greater phosphorus reduction but would cost more money.
Verbal	A question was asked about the difference between the A-1 and A-2 FEB. The USACE provided a verbal response and clarified that the A1 FEB is proposed by the SFWMD while the A-2 FEB is a separate project that is part of the federal project, CEPP. CEPP is evaluating a separate A-2 FEB on lands west of the A-1 project site as a federal Planning project. The EIS is only for the SFWMD's proposed project (the A-1 FEB) since they are separate independent projects.
Verbal	The EIS process should compare the benefits with the cost as specified in the White House document, Sustaining Environmental Capital: Protecting Society and the Economy, a report completed in July 2011.

7.2.2 PUBLIC NOTICE FOR SCOPING MEETING

The NOI, public notice, and news release commenting process resulted in the submission of eight (8) comments, two of which simply requested to be on the email distribution list (Table 7-2). One comment stated that the CEPP workshop in Miami was planned on the same night as the A-1 Shallow FEB scoping meeting in West Palm Beach. Therefore, USACE rescheduled the CEPP workshop so there would be no conflicts in the public's opportunities to attend either or both meetings. The comments in response to the public notice for the scoping meeting are described below:

Table 7-2 Scoping Meeting Public Notice Comments

Comment received by:	Comment
Email	Support was given for the A-1 FEB project and the improvements to improve water quality. The commentor was optimistic that the project would not negatively impact wildlife, and the construction process should minimize any take of wildlife.
Email	The USACE was informed that a CEPP workshop was scheduled in Miami on the same night as the A-1 Shallow FEB workshop in West Palm Beach.
Email	Florida Power and Light (FPL) requested information on the location of any FPL facilities in the project area.
Email	A request was made to send an electronic copy of the public notice.
Comment letter	Audubon Florida, Florida Oceanographic Society expressed support for the A-1 FEB project, and requested that the analysis be conducted in a timely manner to realize the benefits quickly. The letter requested further discussion concerning wetland mitigation and the effects of operation.
Comment letter	Florida Fish and Wildlife Conservation Commission provided a copy of their letter to the Florida Department of Environmental Protection stating that (1) all state listed species should be considered in the evaluation, (2) recreation use should be incorporated, (3) that the effects on Holey Land Wildlife Management Area and Water Conservation Area 2 and 3 be evaluated, and (4) a contingency plan be developed if it is found that a water storage shortfall is discovered.

7.2.3 PUBLIC NOTICE FOR RELEASE OF DRAFT EIS

The USACE coordinated the project on the USACE's website on 22 February 2013 with a 45 day comment period to coincide with the release of the public notice. One comment was received requesting a hard copy of the EIS. The document was provided to the commentor. Two commentors requested to review the modeling data, which was provided to the commentors

by FTP site on March 1, 2013. The State Clearinghouse and the Seminole Tribe of Florida also provided comments in response to the draft EIS. The comment letters and a comment matrix which describes the responses are included in Appendix J.

7.3 AGENCY COORDINATION

7.3.1 COOPERATING AGENCIES

The USACE invited the United States Environmental Protection Agency (USEPA), the Department of Interior (DOI), and the U.S. Fish and Wildlife Service (USFWS) to become a cooperating agency on the EIS by letter dated October 9, 2012. The USEPA accepted cooperating agency status on October 16, 2012, while the DOI accepted on October 30, 2012. The USFWS agreed to assist with the development of the federally-listed threatened and endangered species portion of the EIS. A separate interagency scoping meeting was deemed not necessary and instead early agency involvement occurred during weekly phone conference meetings and through the development of the content of the EIS.

7.3.2 U.S. FISH AND WILDLIFE SERVICE

On February 22, 2013, the USACE consulted formally with the USFWS under the Endangered Species Act and provide a Biological Assessment that analyzes the effects of the project on federally listed threatened or endangered species. The USFWS provided a comment letter dated March 27, 2013, requesting for information needed to complete the Biological Opinion. The Corps provided the information by email on April 10, 2013.

7.3.3 STATE HISTORIC PRESERVATION OFFICE

The Bureau of Archaeological Research conducted a Phase I archaeological survey of the 16,593 acre A-1 project site in September 2012. The survey was conducted to comply with Section 106 of the National Historic Preservation Act of 1966 (PL89-665, as amended) and Section 267 of the Florida Statutes to consider the effects upon historic properties and historic properties eligible for listing in the National Register of Historic Places. The survey also evaluated all potential cultural resources in the project area. The Cultural Resource Assessment Report for the A-1 project site was completed on September 27, 2012, and provided to the State Historic Preservation Officer (SHPO), Division of Historical Resources. The SHPO reviewed the report and the draft EIS and provided a letter dated March 7, 2013, that the project is unlikely to adversely impact any historic or archaeological resources.

7.4 TRIBAL COORDINATION

The USACE notified the Seminole Tribe of Florida (Seminole Tribe) and the Miccosukee Tribe of Indians of Florida (Miccosukee Tribe) of the NOI, public notice, and public scoping meeting. On September 4, 2012, the Seminole Tribe requested by letter that the USACE formally invite the Seminole Tribe to participate in the NEPA process as a cooperating agency on the EIS. The USACE and the Seminole Tribe discussed the request by telephone on September 17 and met in person on September 27, 2012, to discuss the process and consider all possibilities of being a cooperating agency. After the meeting on September 27, the Seminole Tribe provided a letter stating that the NEPA and the federal Trust responsibility of formal coordination could occur concurrently, and outlined outstanding issues: Environmental concerns with water sources, flow routes and operation, and impacts to tribal lands and usage rights; and cultural resource concerns with the broader landscape of environmental restoration projects. The Seminole Tribe stated that they would reconsider their request to be a cooperating agency on the EIS. The Miccosukee Tribe did not provide any comments.

The USACE initiated Government-to-Government consultation with all federally recognized Native American Indian Tribes with interests in the State of Florida, including the Seminole Tribe, the Miccosukee Tribe, the Poarch Band of Creek Indians, the Seminole Nation of Oklahoma, the Muscogee (Creek) Nation of Oklahoma, as well as the Tribal Historic Preservation Officer, and the Advisory Council on Historic Preservation on February 22, 2013 (Appendix J). Through personal discussions with the Miccosukee Tribe, the USACE was advised that no comments will be provided. The USACE received comments from the Seminole Tribe on the draft EIS and provided a written response (Appendix J). The USACE also incorporated the Seminole Tribe's comments in the final EIS.