



Miccosukee Tribe of Indians of Florida

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Andrew Bert Sr., Secretary
Jerry Cypress, Lawmaker

COL Rock Salt, Executive Director
South Florida Ecosystem Restoration Task Force
Florida International University
OE Building, Room 148 - University Park Campus
Miami, Florida 33199

June 2, 2000

SUBJECT: Strategic Plan

Dear COL Salt:

At the Working Group meeting of May 31 - June 1, 2000 you requested comments on the Strategic Plan no later than June 2, 2000. At that time, I opined that one (1) day was insufficient time to properly evaluate this document. The Working Group then voted to send the Strategic Plan to the Task Force (TF) without further review by the Working Group. Undoubtedly, you noticed that I voted against this. I believe the Strategic Plan is fatally flawed.

The following observations are not intended to be comprehensive by any means. After all, I just got this document yesterday! Below are some of the reasons I believe the Strategic Plan is flawed:

1. This is not a "Plan".

It was never the intent of the General Accounting Office (GAO) for the TF to develop a "plan". What the GAO asked the TF to do was to "*outline how the restoration effort will occur*". The GAO also asked the TF to "*link the strategic goals established by the South Florida Ecosystem Restoration Task Force (TF) to outcome-oriented annual goals*". The document prepared by the Working Group is certainly not a plan. It might arguably be called a "Summary of Project Goals".

2. No public involvement in formulation of the "Plan".

As currently written, the document does not clearly articulate which goals will be met during which year. By referring to this document as a "Strategic Plan", you imply that the document will be used as some sort of blueprint for restoration. There is a significant process problem with calling this a "Plan" because there has been ZERO public involvement in the development of this document. This document (if it really is a plan) violates the principle of Government-in-the-Sunshine. If this document is to be used as a "blueprint" it will have far reaching implications for substantially affected

parties. There has been no National Environmental Policy Act (NEPA) review performed on this "plan". In fact, there has been negligible buy in to the "plan" among the members of the Working Group.

3. The "Plan" hides the real costs of restoration.

To date, the U.S. Congress (and the American public) have been led to believe the restoration of the Everglades will cost \$7.8 Billion. Nothing could be further than the truth. This confusion results from the poor choice of titles for the "Restudy Plan". In reality, there is nothing "comprehensive" about the Comprehensive Everglades Restoration Plan (CERP). Congress is being asked to fund the CERP at \$7.8 Billion. However, the actual cost of Everglades Restoration exceeds \$14.8 Billion! By not being honest with Congress, the TF employs "Bait and Switch"! This is exactly why the GAO has asked for the TF to tell them what the goals are and how they will be achieved. I certainly will not be a party to this deception.

4. Restoration is more than the CERP.

The document should include more than the Comprehensive Everglades Restoration Plan (CERP). The goals listed in the document should be conformed to mirror the numerous components of Everglades ecosystem restoration. Every component of restoration should be listed with it's respective goals. The following is an *incomplete* list of some of the projects which (taken as a whole) comprise Everglades ecosystem restoration:

Comprehensive Everglades Restoration Plan GOALS

1. Enhance Ecological Values
 - (a) Increase the total spatial extent of natural areas
 - (b) Improve habitat and functional quality
 - (c) Improve native plant and animal species abundance and diversity
2. Enhance Economic Values and Social Well-Being
 - (a) Increase availability of fresh water (ag/urban/industrial)
 - (b) Reduce flood damages (ag/urban/environmental)
 - (c) Provide recreational and navigation opportunities
 - (d) Protect cultural and archeological resources and values
3. Strategic Goals of CERP
 - (a) Regain lost storage capacity
 - (b) Restore more natural hydropatterns
 - (c) Improve timing and quantities of fresh water deliveries to estuaries
 - (d) Restore water quality conditions

Multi-Species Recovery Plan GOALS

1. Restore and maintain biodiversity of native plants and animals
2. Recover threatened and endangered species
3. Ensure plans and permits are compatible with restoration
4. Develop and manage hydrology in a balanced approach
5. Ensure proper management of undeveloped and restorable lands
6. Restore and sustain Florida Bay, adjacent estuaries and costal waters
7. Maintain health and biodiversity of coral reef system

Kissimmee River Restoration GOALS

1. Approximate historical flow characteristics of Kissimmee River
2. Provide necessary storage and regulation schedule modifications
3. Increase quantity and quality of wetland habitat
4. Provide environmental enhancement for fish and wildlife
5. Approximate pre-channelization flood plain inundation levels

Modified Water Deliveries Project GOALS

(List goals)

C-111 Project GOALS

(List goals)

EFA Goals

1. ECP Structures Permitting goals
2. Non-ECP Structures Permitting goals
3. WQ Compliance by Dec 31, 2006 in EPA
4. Numeric Criterion by Dec 31, 2003
5. BMP Program goals
6. C-139 Basin Regulatory Program
7. etc.

Lake Okeechobee Goals

1. TMDL for Lake Okeechobee
2. 40 ppb in-lake concentration
3. etc.

State WQS Compliance Goals

1. Achieve FAC 62-302 (11) -Biological Integrity Criterion
2. Achieve FAC 62-302 (31) - Dissolved Oxygen Criterion
3. Achieve FAC 62-302 (47) - Nuisance Species Criterion
4. Achieve FAC 62-302 (48 A&B) - Nutrient Criterion
5. Achieve FAC 62-302 (13) - Excessive Nutrients
6. Achieve FAC 62-302 (14) - Existing Uses
7. Achieve FAC 62-302 (15) - Continuance of Existing Pollution
8. Achieve FAC 62-302 (16) - New Pollution
9. etc.

Seminole Tribal Restoration Goals

(List the goals)

Miccosukee Tribal Restoration Goals

1. Ensure adequate volume, timing, distribution, flow and quality of water to maintain and perpetuate natural Everglades habitats and functional ecosystems.

2. Ensure adequate water quality to restore natural ecosystems and prevent eutrophication of the Everglades and Conservation Areas and resulting imbalances in aquatic flora and fauna.
3. Maintain the spatial complexity, diversity and productivity of Everglades plant and animal communities.
4. Ensure adequate flood protection for Tribal lands, including the "Triangle" and Tree Islands in the Water Conservation Areas.
5. Recognize Tribal Sovereignty.

TMDL Goals - 303(d) List

(List goals)

Florida Keys Marine Sanctuary

(List NOAA Goals)

NOTE: The above list is not complete, but I think you get the idea. In my opinion, "Everglades ecosystem restoration" is much to complex to boil down to only three goals. In fact, some agencies goals are at odds with other agencies goals. Consider the current dilemma we find ourselves in with the conflicting goals of the Modified Waters Delivery Project, the Endangered Species Act and the Multi-Species Recovery Plan. Consider also the conflicting needs of all water consumers: Urban Utilities, Industrial, Agricultural and Environmental needs. Failure to individually list all the various components that constitute Everglades restoration obstructs the true goals from being realized.

5. Everyone wants to get their piece of the Money Pie.

The Strategic Plan has become a "Christmas Tree", where all agencies put their favorite ornament on the tree. If you bother to check the list of projects you will discover numerous projects that do little to accomplish the above goals. As a reality check, every project sheet should be subjected to this question: "What goal does this project accomplish?" If the project does not accomplish one or more of the goals listed above, it does not belong on the list. By the way, this simple test will eliminate at least half of the project sheets and drive the true cost of restoration to some semi-realistic amount.

6. Local land use planning is not a responsibility of the federal government.

Goal 3 (Compatibility with Built Environment) has been a state planning failure. It remains a state responsibility. The US Congress will not (and should not) become involved in local land use planning. For this reason, Goal 3 does not belong as a proper goal in Everglades restoration. Leaving it in may appease the Governors Commission but it is certain to draw fire from critics in Congress.

7. Quantification of Restoration Goals is a mistake.

I believe that attempting to quantify the goals is a mistake. This is similar to the "head-counts" of Vietnam; where commanders were caught up in a "numbers game". This didn't work in Vietnam and it won't ensure environmental success here. Examples of faulty goals: (1) *"Acquire 607,000 acres of land for habitat protection by 2015"*. (2) *"The average rate of commercial harvest of pink shrimp on the Dry Tourgas fishing grounds will equal or exceeds the 600 pounds per vessel-day rate"*

that occurred during the years 1961-1962 to 1982-1983; and the proportion of large shrimp in the long term average catch will exceed 500 pounds per vessel." In my opinion, it is entirely inappropriate to include land acquisition as a goal for ecosystem restoration (although it may help to achieve a goal). It is equally inappropriate to list a COMMERCIAL goal for one specific industry.

8. The "Plan" endorses the EFA and doesn't even mention the requirements of the Settlement Agreement.

The document currently has a major deficiency in the discussion of water quality. The "vision statement" doesn't even mention water quality in the central Everglades (WCA & ENP). The Everglades Forever Act (EFA) has been determined in federal court to (1) violate state water quality standards, (2) violate the federal Clean Water Act and (3) violate the Anti-degradation Policy. Instead of mentioning the numerous illegal shortfalls of the EFA, the document states: "*In 1994 the Florida legislature enacted the Everglades Forever Act, which codified measures to improve water quality.....is being developed to ensure that all basins discharging into, from, or within the Everglades, other than those included in the EAA, meet state water quality standards.*" It is outrageous to present the EFA as an act which will ensure water quality compliance and ignore the findings of the judicial system.

9. The "Plan" pretends EPA's determination on phosphorous doesn't exist.

The document completely ignores the EPA determination for phosphorous in the Everglades. It is very significant that EPA has already determined that 10 ppb of total phosphorous is **NECESSARY** to protect the flora and fauna of the Everglades. The use of the word *necessary* was intentional on EPA's part. EPA also determined that 10 ppb was **SCIENTIFICALLY DEFENSIBLE, NOT OVERLY PROTECTIVE and PROTECTIVE OF THE DESIGNATED USE**. These determinations by EPA will preclude Florida from adopting any numeric criterion higher than 10 ppb in the Everglades. Florida DEP knows this and it is evidenced by the fact that the debate over the correct number is all but over. However, EPA did leave open the possibility of a LOWER number. The Everglades Consolidated Report 2000 has an adequate summary on this issue that should be incorporated into the document.

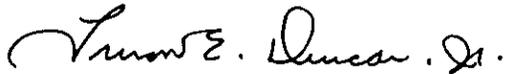
10. 10 ppb Criterion is not only a GOAL - it's the law!

The 10 ppb criterion has already been legally adopted in Water Conservation Area 3-A. The Tribe's water quality standards were approved by EPA on May 25, 1999. These standards are in effect now. It is totally unacceptable to not mention "the achievement of 10 ppb TP criterion in the WCA-3A" as a goal. The 10 ppb criterion for total phosphorous applies to the Federal Reservation (in northern WCA-3A) and to the Miccosukee Reserved Area (along Tamiami Trail in southern WCA-3A). This isn't just a goal - it's the law! It should be included as a goal in this document.

In summary, I find very little about the "Strategic Plan" which reflects the true goals of Everglades ecosystem restoration. I believe the document is dishonest in that it does not adequately point out the numerous projects which are integral to restoration. The document down-plays the true cost of environmental restoration. This document may also be illegal because you did not involve the public in it's formulation (avoidance of NEPA requirements). These are some of the reasons why I voted against sending this document to the TF. I think it is unconscionable that the Working Group won't get a chance to discuss the changes before it is forwarded to the TF. Perhaps your staff can make

the necessary changes before presentation to the TF on June 19, 2000. I would appreciate an opportunity to see what you propose to present to the TF as soon as the document has been repaired. If you have any questions or I can be of assistance in clarifying my position, I may be reached at (305) 223-8380, extension 2240.

Sincerely yours,



Truman E. Duncan, Jr.
Water Resources Director

cc.

Billy cypress, Tribal Chairman
Dexter Lehtinen, Tribal General Counsel
Terry Rice, Working Group Alternate
Joan Lawrence, SFWMD