

# South Florida Ecosystem Restoration Task Force Meeting

Integrated Delivery Schedule (IDS)  
Cost-Sharing Issues

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# Cost-Sharing Issues Presentation Overview

- Crediting / Programmatic Balancing
- CERP Funding Considerations
- Water Quality
- Agrochemicals
- Wetland Mitigation



# Cost-Sharing Issues

## Crediting / Programmatic Balancing

- CERP Master Agreement Overview
  - Only costs for projects with executed Project Partnership Agreements (PPAs) will be considered
  - SFWMD receives credit for costs associated with land acquisition and “in-kind work” on construction
  - To avoid a required cash contribution, Federal expenditures must be less than the total of SFWMD’s actual credits plus “projected contributions”
- The USACE will recognize the SFWMD’s “projected contributions” as follows:
  - Immediately upon signing a PPA
    - The value of all lands needed for the project
    - The cost of construction completed prior to signing the agreement
  - Upon execution of an SFWMD contract for construction
    - The entire amount obligated by the contract



# Cost-Sharing Issues

## Crediting / Programmatic Balancing

- Master Agreement Procedures
  - Quarterly financial reports
  - Yearly adjustments to maintain 50-50 cost-share balance
    - Revise construction responsibilities for upcoming years
    - Provide federal funding for land acquisition
    - Reschedule execution of PPAs
    - Adjust construction schedules
    - Provide cash contribution, as necessary
- USACE can never get ahead of SFWMD in 50-50 cost-share balance, even for short periods



# Cost-Sharing Issues

## CERP Funding Considerations

Cost-Share = Design Funding +  
Executed Partnership Agreements

- Picayune Strand, L-31N Pilot, Melaleuca Eradication, Site 1, and Indian River Lagoon PPAs executed
- Execution of Indian River Lagoon PPA places SFWMD ahead of USACE through 2012
- USACE anticipates funding for design in FY11 to be \$57M, \$35 M more than SFWMD



# Cost-Sharing Issues

## Project Status

Executed PPA	Proposed WRDA	Other
Picayune Strand	Broward Water Preserve Areas	N. Palm Beach
L-31 N Seepage	C-43 W Reservoir	DECOMP
Site 1 Impoundment – Phase I	Biscayne Bay Coastal Wetlands – Phase I	ENP Seepage
Melaleuca Eradication Facility	C-111 Spreader Canal	Lake O Watershed
IRL – South		
<i>IRL- Natural Lands</i>		

SFWMD has invested \$1.4 billion dollars that are currently not creditable.



## Cost-Sharing Issues

### Water Quality - Background

- **WRDA 1996** authorizes USACE to cost-share 50-50 on CERP water quality features that were determined by the Secretary of the Army to be essential to Everglades restoration
- **1999 Feasibility Report** (Yellow Book) and Chief's Report determined 22 project components with water quality features to be essential to Everglades restoration and recommended these features for 50-50 cost-share
- **WRDA 2000** authorized the Taylor Creek-Nubbin Slough Storage and Treatment Area as a 50-50 cost-shared project
- **May 2007-** USACE Headquarters determined that because this project helped achieve the Lake Okeechobee TMDL, established by the State after WRDA 2000, the water quality features were *not* eligible for federal cost-share



## Cost-Sharing Issues

### Water Quality – Background (continued)

- **November 2009** – ASA Policy Memo- Water quality features determined to be essential to Everglades restoration may be recommended for cost-share, even if they help achieve existing water quality standards
  - Cost-share determination would be made on a case by case basis
  
- **USACE Headquarters interpretation-** Cost-share authorized only when a water quality feature provides water quality enhancement above and beyond an existing water quality standard
  - Difficult or impossible to comply when the State TMDLs are based on restoration targets



# Cost-Sharing Issues

## Water Quality Impacts

### Schedule and Cost-Share Impacts

- Water quality cost-share issue has delayed Lake Okeechobee Watershed PIR by over three years
- Current USACE Headquarters policy interpretation could result in making over \$500 million worth of water quality features not cost-sharable



# Cost-Sharing Issues

## Agrochemicals

- Criteria for Cost-Sharing\*
  - Presence of hazardous substances resulted from use of fertilizer or pesticide registered under the Federal Insecticide, Fungicide and Rodenticide Act
  - Hazardous substance levels resulted from legal application of the pesticide or fertilizer in accordance with label instructions
  - Levels of hazardous substance do not exceed any applicable Federal or State regulatory criteria
  - Requirement for specialized soil management results solely from the fact that Federal project will change the land use and create an aquatic environment with more stringent ecological requirements
  - Adequate documentation of regulatory approval for the proposed soil management strategy

\*Criteria designated in letters from the ASA(CW)'s office



## Cost-Sharing Issues

# Agrochemicals in Project Lands

### C-44 Reservoir and STAs – Observed Soil Copper Levels vs. Regulatory Limits and Ecological Guidelines

- Observed concentrations 0.13 to 457 ppm
- Regulatory Limit for Human Health and Safety (for commercial/industrial land use)
  - State 89,000 ppm
  - Federal 41,000 ppm
- USFWS Interim Screening Criteria (to protect Snail Kites) 85 ppm



# Cost-Sharing Issues

## Agrochemicals (continued)

- Cost-Share Impacts
  - Current policy approved by Secretary Darcy may reduce the non-cost sharable portion of the soil management plans for addressing agricultural chemicals
- Criteria for Cost-Sharing
  - Approved soil management strategy may be a cost-effective approach
  - Engineering risks are adequately addressed
- Issues Due to Changes in Policy
  - Lack of criteria that must be met for the management of impacted soils to qualify for cost-share
  - Issues are due to changes in policy
- Policy / Statutory Changes Needed
  - Change in Army policy to authorize USACE to recommend cost-share in a Project Implementation Report for specialized handling of agrochemicals meeting proposed criteria; or
  - CERP-specific authorization in WRDA to allow cost-share for specialized handling costs



# Cost Sharing Issues

## Wetland Mitigation

### ■ Issues

- Multiple revisions to the manner in which the U.S. Army Corps of Engineers (USACE) assesses impacts and benefits to wetlands for Comprehensive Everglades Restoration Plan (CERP) projects
- Letter sent from USACE to the SFWMD indicating that the SFWMD must provide mitigation for more than 15,000 acres of wetland impacts prior to the expiration of the EAA A-1 Reservoir permit on July 11, 2011
- SFWMD's ability to build restoration projects on property purchased from U. S. Sugar Corporation (River of Grass Project) will be adversely affected by the continued requirement of mitigation for wetland impacts on a project by project basis.
- The U.S. Environmental Protection Agency (USEPA) is currently considering the proposal to allow mitigation lift be applied within the footprint of the Stormwater Treatment Areas (STAs)



# Cost Sharing Issues

## Wetland Mitigation (continued)

- Policy/Law/Interpretation
  - The USACE has asserted jurisdiction over wetlands used that may qualify for the “prior converted croplands” exemption under Section 404 of the Clean Water Act. Appropriate application of the exemption would mean less exposure to the SFWMD for wetlands impacts.
  - As USACE projects move forward in the Corps Civil Works process, USACE Planning staff have supported and documented the “self mitigating” nature of the CERP project components. The USACE should apply this concept consistently within the agency, including the USACE Regulatory Staff.
  - USEPA, the USACE, CEQ, SFWMD and Florida Department of Environmental Protection (FDEP) to develop a system-wide approach consistent with the approach used for Corps Civil Works restoration projects including CERP.



# Questions