

Dispute Resolution

The Water Resources Development Act of 1996 directed the South Florida Ecosystem Restoration Task Force (Task Force) to: “facilitate the resolution of interagency and intergovernmental conflicts associated with the restoration of the South Florida ecosystem among agencies and entities represented on the Task Force.” Conflict resolution has been, is and will remain an essential component in assuring progress and success in implementing ecosystem restoration in South Florida.

In April 1999, the United States Government Accounting Office (GAO) published a report concluding: “the timely resolution of disputes regarding the South Florida ecosystem restoration is important to avoid cost overruns and unnecessary delays in attaining the goals and benefits of the initiative.” Subsequently, the United States Congress (Congress) noted the GAO recommendations and further directed the development of recommendations for resolving the most difficult conflicts. In the FY 2000 Appropriations Bill, Congress directed the Secretary of the Interior to develop recommendations in consultation with the other major partners in this effort for resolving the most difficult conflicts.

In May 2000, the Task Force conducted detailed dispute resolution discussions and directed a subsequent effort to develop recommendations for Task Force consideration. An expert panel was formed and its recommendations were submitted to the Task Force in January 2001. The Task Force then referred the report to the Working Group for its recommendations.

The Working Group formed the Dispute Resolution Issue Team (Issue Team). The Issue Team developed the procedures set forth below to be utilized as protocols for the Working Group to follow in facilitating the resolution of conflicts. The Working Group has given its interim approval pending Task Force action on the following procedures:

1. Proposing an Issue

- Any Working Group member can propose an issue for Working Group consideration.
- The Proposal must be submitted on the Working Group form (see attached).
- The completed issue form will:
 - describe the issue and the proposer's position on the issue;
 - identify other parties involved in the issue and their position regarding the issue;
 - describe how the issue fits the Working Group criteria discussed below
 - ; and
 - describe the type of action the proposer is requesting from the Working Group.

2. Criteria for Proposing an Issue

- The issue or dispute significantly affects the progress of restoration including, but not limited to instances where there is a dispute over science or facts, and;
- The timing is appropriate for the Working Group to consider the issue, and;
- The Working Group can add value by considering the issue. In considering whether the Working Group can add value, the following factors should be evaluated:
 - 1) Is the issue clearly identified and the dispute well-framed?
 - 2) Do enough key parties to the dispute want the Working Group to attempt to address the issue?
 - 3) Are there other forums or groups already engaged in addressing the dispute?
 - 4) How many parties or interests are involved in the issue?

3. A Vetting Panel

- The Working Group would constitute a small vetting panel representing Working Group entities, normally 3 members, for each issue. The Working Group Chair would propose a slate, which would be approved by the Working Group, to constitute a vetting panel.
- The purpose of the Vetting Panel is to clarify the issue and potential outcomes and to assess the proposal in light of the criteria in 2 above for Working Group consideration.
- The proposal will first be routed to the vetting panel.
- The vetting panel will meet with the Working Group member proposing the issue to discuss the issue, how the issue fits the Working Group criteria, and the proposer's expectations of Working Group action.
- The vetting panel will meet with others involved in the issue to discuss their positions on the issue, their potential objections to Working Group consideration, and their expectations of Working Group action.
- If appropriate, and with the aid and consensus of all involved parties, the vetting panel will refine the descriptions, the issue(s) and the action to be taken. The vetting panel will assess the proposal based on the Working Group criteria for proposing an issue.
- The vetting panel, through its chair or other designee, will report the proposal in a neutral fashion to the Working Group along with its assessment.

4. Working Group Discussion

- The Vetting Panel member will make a brief presentation to the Working Group.
- The proposing member may make an additional presentation of the issue to the Working Group.
- The Working Group should discuss whether to consider the issue applying the criteria described in section 2 above.
- If a Working Group member has objected to having the issue considered, the objecting member may present their objection to the Working Group.
- While recognizing that the Working Group is dependent on the goodwill and participation of all members, the Working Group shall discuss taking up the issue over the objection of one of its members when necessary.
- The Working Group will discuss the action to be taken. The action to be taken could be that action suggested by the proposing member or other actions. Actions could include technical panels, issues teams, or public hearings.

5. Working Group Decision

- The Working Group will vote on whether or not to consider the issue or whether to table the issue.
- If the Working Group chooses to consider the issue it will decide the action to be taken including, but not limited to, those processes that have worked well in the past, such as issue teams and technical panels.