

*Approved Meeting Minutes
South Florida Ecosystem Restoration Task Force
Miami Airport Marriott
Miami, Florida
July 9, 2002*

Welcome and Approval of Minutes

Ms. Ann Klee called meeting to order at 11:05 AM. It is a mini meeting with two items on the agenda. Task Force members were provided with briefing booklets (Enclosure 1). Mr. Tom Gibson made a motion to approve the June minutes, which was seconded by Mr. Rick Smith. **Action: June minutes adopted.**

Ann Klee, Chair, U.S. Department of the Interior
Ernie Barnett for David Struhs, Vice-Chair, Secretary, Department of Environmental Protection
Billy Causey for Sloan Rappoport, U.S. Department of Commerce
Henry Dean, Executive Director, South Florida Water Management District
Jose Diaz, Mayor, City of Sweetwater
Andrew Emrich, U.S. Department of Justice
Thomas Gibson, Associate Administrator U.S. Environmental Protection Agency
Mack Gray, Acting Deputy Undersecretary, U.S. Department of Agriculture
Dexter Lehtinen, Special Assistant, Miccosukee Tribe of Indians
Jim Murley for Clarence Anthony, Mayor, City of South Bay
Patty Power for Jim Shore, Seminole Tribe of Florida
Rick Smith for Denver Stutler, Executive Office of the Governor
Earl Stockdale for Les Brownlee, Under Secretary of the Army and Acting Assistant Secretary for Civil Works
Michael Collins, Chair, Water Resources Advisory Commission
Rock Salt, Executive Director, South Florida Ecosystem Restoration Task Force

Whiparound

Mr. Earl Stockdale representing Secretary Brownlee who regretted not being able to attend this meeting. He noted that the Strategic Plan talks broadly about indicators for success, goals and measures. The Army would like to preserve room for an expanded discussion of the CERP and the relationship of the Programmatic Regulations and how they will be used to evaluate the success of that plan.

Mr. Billy Causey for Sloan Rappoport who sends his regrets. NOAA remains committed to the goals and efforts of the Task Force and Working Group. He encouraged the continuation of this productive, open dialogue. He shared his concern about the water quality in the Keys and noted there are many sources of the degradation of the water. Scientists have been able to isolate a pathogen that could impact elk horn coral, major reef forming coral, which has been dying at an alarming rate. He offered the opportunity to provide a briefing at a future meeting.

Ms. Patty Power for Jim Shore, hoped the measurements in the Strategic Plan would be lined up with CERP goals.

Mr. Mack Gray said he looked forward to the meeting.

Mr. Jim Murley sitting in for Mayor Anthony announced the celebration to be held at the Biscayne Bay Nature Center on Friday, July 12th. It would be acknowledging support of Biscayne Bay by the State of Florida and the SFWMD.

Mr. Michael Collins announced the WRAC would be reviewing the land acquisition strategy the following week as a follow-up to this Task Force's request at its last meeting. They will be asked to provide comments on what has and hasn't worked in the past. WRAC comments will be provided to the Task Force at the September meeting. **Follow-up: Ms. Klee requested time on the September agenda to discuss land acquisition.**

Mr. Henry Dean said he concluded that he had not done a very good job in explaining the comprehensive nature of the restoration effort, given the series of articles that appeared in the Washington Post. He suggested a presentation and in-depth discussion be scheduled for a future meeting, focusing on the different parts of ecosystem restoration and how integral it is for the parts to work. He added that history is a great teacher to avoid repeating the same mistakes.

Mr. Andrew Emrich extended his appreciation for all the hard work that has gone into the plan. He suggested that comments directly related to matters in litigation, not be included in the report.

Mr. Dexter Lehtinen responded that Mr. Emrich's suggestion would result in 80% of the plan being deleted. The record of decision for the Interim Operational Plan (IOP) has been issued and "has the effect of declaring Everglades restoration illegal". The tribe feels progress will not be made, since you can't both restore the Everglades and seek even lower water levels. Mr. Lehtinen also noted a recent federal court ruling concerning the 8.5 SMA. He added that this is the fourth time government activity in the East Everglades has been declared illegal. An appropriations bill is pending with substantive language to change the role of DOI and make legal the illegal activity. The tribe takes the position that the language not be included.

Mr. Tom Gibson echoed Mr. Causey's comments on water quality and complemented the staff on the plan and added he was looking forward to today's discussion.

Ms. Ann Klee echoed Mr. Emrich's comment and explained this report includes the Task Force's statutory obligation to report on the status of the restoration effort. It is not the appropriate forum to bolster litigation positions and she did not agree with Mr. Lehtinen's characterization.

Task Force Strategy and Biennial Report

Rock Salt reviewed the historical background for the report. GAO issued a report in 1999 that recommended the Task Force develop an outcome oriented Strategic Plan. In November 1999, report language from the Interior Appropriations Committee directed the Secretary of the Interior, as Chair of the Task Force, to implement GAO's recommendations. In July 2000, the Task Force approved the Strategy document, which was later reviewed and critiqued by GAO. In their critique, GAO noted substantial progress yet noted a number of areas where their original recommendations had not been met, specifically Goal 3, a lack of specificity in end results, and the linkage between the strategic goals and their outputs. The current draft (Encl. 3) is the Working Group's recommendation to the Task Force. It attempts to respond to the GAO comments and address those items not in the original Strategy document. It also updates the plan as required every two years. Additionally, Congress asked DOI to provide an estimate of the total cost of the restoration and for it to be updated every two years. The cost estimate of \$14.8 billion was submitted in March 2000 and is included as an appendix to the report. The total cost estimate of \$14.8 billion remains unchanged.

A number of comments from Task Force members have been received and incorporated into the document. Seven items remain for Task Force discussion.

The Task Force first took up Mr. Lehtinen's motions A and B, proposing the deletion of all indicators of restoration success. He said it was inappropriate to have these since they are being developed under the Programmatic Regulations' process. Ms. Klee stated this effort would be broader than the programmatic regulations' process and this would serve as a cross-reference and address non-CERP related projects. Mr. Lehtinen said it was false reporting and said he wanted to see water quality and quantity as measures. Ms. Klee did not disagree with water quality and quantity as being important measures, however, it is inaccurate to say that restoration of species or habitats is unimportant. They are equally important. Mr. Lehtinen said they were going out of their way to protect a scavenger species and they are degrading the Everglades to let a scavenger species have a parking lot. Ms. Klee said the Corps and FWS was not going to build a parking lot and agreed they should not be doing single species management. Mr. Lehtinen said he did not trust the FWS and recommended deleting these performance measures.

Mr. Stockdale said there is recognition of the requirement to comply with the Endangered Species Act and applicable laws. These are representative species and it would be appropriate to single out some species as indicator species to measure success of the plan. He agreed it would be appropriate to note why these species were selected in the report. Ms. Klee said it would be an important addition to the report as well as recognition of Programmatic Regulations.

Mr. Lehtinen also suggested changing the 4th paragraph (page 23) to “RECOVER recommends”, Ms. Klee agreed that the change would clarify the role of RECOVER. Mr. Causey added that indicators are needed to gauge success and are the ones “we know the most about” i.e., pink shrimp.

The Task Force next considered the recommendation of DEP to delete Goal 3 from the Strategy. Mr. Barnett said there many things contained in Goal 3 that cross over to the urban areas and are beyond the jurisdiction of the agencies. However, things like clean air and clean water should be integrated into Goal 1 and 2. He emphasized that they want to make sure they have the right quality and quantity of water. He also noted that the environmental justice and equity should not be framed as a “stand alone” task, but should rather be incorporated into how business is done. None of the substance would go away just be reformulated.

Mr. Murley supported keeping Goal 3, he agreed the various requirements are for the entire ecosystem, including the entire land area and offshore waters. Congress is saying there is a distinct difference between the ecosystem and the surface area covered by CERP or ECP. The Task Force struggled with these issues in 2000. It is important to understand that the impacts are coming from development and the population growth occurring throughout the sixteen counties. Although it is not the Task Force’s job to mandate, it would be a positive sign to recognize the role of local government and assist them in becoming a partner. He noted the mandatory requirement in Florida Law, Chapter 187, that they shall protect the Everglades in their planning and zoning. Ms. Klee agreed that keeping it as a separate goal would make it clear that those sets of issues are important but they are not the purview of the federal agencies and this is where the state and local governments play the primary or sole role. If it is merged then the ability to make that point would be lost. Mr. Stockdale also agreed with keeping this as a separate goal and suggested deleting the subgoal on environmental justice, which could become redundant and confusing if left in the current format. Ms Klee agreed it should apply to all the goals and subgoals.

Mr. Smith stated that the document is a product of the Task Force and the words clearly indicate this report does not instruct local government on how to plan their land use. One of the ways this goal will be implemented is to acquire 60,000 acres of greenways and trails. Much of what is in Goal 3 is a state and local government responsibility and he would not agree to any words that would send a different message. He stated Goal 3 still needed more work and offered to suggest edits to improve it. He cautioned against sending a message to the Legislature and the local governments that the federal government is trying to tell them how to plan their land use. Mr. Causey he respected what Mr. Barnett and Mr. Smith are saying, however he believes this goal is critical to bringing people into the picture.

Mr. Collins said one of the reasons the environmental justice issue is still being struggled with is that it was set up as a separate issue and it needs to be an underlying principal that is integrated throughout everything that is done. Mr. Barnett emphasized he was not advocating the position not to deal with those things but rather deal with them in an integrated way. Environmental Justice is one of the most important priorities that should be elevated and integrated as a general operating procedure. Ms. Power stated that after reading the Washington Post it is clear this is not being communicated very well. She did not disagree with Mr. Barnett’s comments but just cautioned how things are read and misread. Ms. Klee suggested that the Working Group be directed to rewrite this section and integrate the Environmental Justice topic throughout the document since it is an overarching principle that applies to all three goals. Ms. Klee suggested this provides the opportunity to address some of the misconceptions of the Post article up front in the document. Henry Dean suggested that a preamble be developed to clarify the difference between this Strategy and the CERP. Mr. Gray agreed with the concerns with the Washington Post articles, and stated they have an opportunity to make significant improvements to clarify the effort. **Action: Working Group asked to 1) draft an introductory preamble emphasizing the connectivity of this Strategy and the CERP, 2) rewrite the environmental justice topic by moving it from Sub Goal 3D and elevating it as a basic**

principle throughout the document and 3) revise the Goal 3 section based on recommendations provided by Mr. Smith.

The Task Force then took up the Army's concerns with tree islands as indicators. COL May noted the sensitivity with tree island restoration but asked how long it will take and how progress would be measured. Mr. Gibson noted that progress would be measured over decades, years or centuries. Mr. Salt stated that the disappearance of the tree islands has been cited as one of the key degradations to the Everglades system and their recovery seemed to be an appropriate way to address this. Scientists are doing research, but don't know by what date they can be recovered. Ms. Klee asked whether tree islands would come back if water levels are changed. Mr. Lehtinen responded that by getting the water right, the degradation would be halted. However, those tree islands that have been reduced in size or eliminated will not necessarily come back. He said it is the hope of the Miccosukee Tribe that no more tree islands are killed. Ms. Klee suggested revising the goal to reflect arresting further destruction or degradation of tree islands and conducting additional research on re-creation of tree islands. Mr. Lehtinen agreed these words would be useful, however he did not believe there were any projects listed to build back tree islands. Mr. Stockdale said the Army would be in agreement to this revised language. **Follow-up: Text should be revised to address "arresting further degradation of tree islands and conducting additional research on re-creation of tree islands".**

The Task Force next took up the Miccosukee Tribe's comments regarding conflicting agency missions. Mr. Lehtinen said there are conflicting goals between hydroperiod restoration and the application of the Endangered Species Act to require habitat be either maintained or established that is inconsistent with restoring natural water levels. It is the tribe's position that natural water levels are more important than creating an artificial habitat for the sparrow. It is confusing because what is good for a species is often assumed to be natural, yet it is an area where policy decisions need to be made. Mr. Lehtinen referred to modeling charts that led to the signing of the record of decision for the IOP. COL May clarified that the results were not the modeling results the IOP is based on. The Corps is just beginning to analyze what these new modeling results would mean and they are not what was used for the record of decision. There is a need to differentiate between the short-term recovery action and the long-term restoration effort. Mr. Lehtinen stated these actions are related to saving 10% of the sparrow population in the western Everglades and they are not "rationally" related to Everglades restoration. Ms. Klee disagreed and stated that short and long-term recovery of the sparrow is consistent with Everglades restoration. The sparrow is not being encouraged to live there and the ESA does not impose affirmative obligation to create habitat. She emphasized that jeopardy needs to be avoided in the short-term and the sparrow is only "one plank" in the overall restoration effort. She did not agree that IOP or implementation of other actions are degrading the system or inconsistent with restoration. The operating structures are already there and the endangered species analysis takes this into consideration.

Ms. Power added that when restoring natural hydroperiod, what has come in to the drier areas will be killed. Restoration has tradeoffs and a lot of balancing will be needed to accomplish the goals. Ms. Klee agreed and urged moving to a multi-species approach and hoped that no species will be driven to extinction until the balance is right. Mr. Lehtinen said Congress should be provided with the fact that 88,000 acres will be degraded. Ms. Klee had no objection to providing the facts in the report, but noted that one fact is not an accurate reflection of the situation and all the facts should be included. Mr. Lehtinen said there is a tendency to not include the negative impacts. Ms. Klee said there would be some positive and negative impacts and suggested drafting a few sentences that state that fact. **Follow-up: Working Group asked to revise this section of the report.**

Mr. Lehtinen reviewed his other motions as follows:

- Motions S and T, dealing with water quality
- Motion T deals with the consent decree.

Mr. Dean conceded that one of the lead scientists pointed to uncertainties with the Districts ability to meet all of the requirements of the Everglades Forever Act. He opposed any language that states the District is unable to attain phosphorus reduction goals since that conclusion is premature. Goals have not yet been set by the ERC and the issue of the permitting process has yet to be addressed. It was his view that good

progress is being made with things like BMPs in the EAA. Mr. Barnett agreed and added that the State is confident that compliance will be achieved by 2006. Mr. Lehtinen suggested deleting the reference to the Everglades Forever Act. Mr. Collins explained that the quote was taken from the District's Consolidated Report and could be misleading since the report is referencing what has happened during the previous year. Mr. Gray noted his concern with the 10 parts per billion standard. He is concerned with the effect on agricultural and whether it would run agriculture out of south Florida. Mr. Barnett acknowledged there is an imbalance with areas in the Everglades Protection Area that don't meet the standard today. The Consent Decree followed by the Everglades Forever Act lays out the framework. The BMP program is working very well and STAs are performing better than planned. The water quality standard has three prongs: designated use, numeric criterion and regulatory implementation. The 10 ppb standard is science based and the state is confident it will be in compliance. There will be portions of the Everglades that will not meet its designated use because of legacy pollutants. Mr. Barnett added that a sector in the agricultural business community applauds what has been done in the EPA. The Clean Water Act is not designed to punish people who are doing the right thing. **Action: motion S – The Task Force agreed to include the first two sentences up to “long term standard”.**

Ms. Klee acknowledged that motion T deals with a complex endeavor. The language is an accurate reflection that the Everglades Forever Act is an embodiment of the Consent Decree. Mr. Collins noted there would be some point when the Everglades Forever Act is fully implemented and no longer under the Consent Decree. Mr. Emrich stated the consent decree has been modified, and suggested the Working Group take another stab at this language. **Follow-up: Working Group asked to take a look at Motion T to ensure consent decree language is correct.**

Finally, the Task Force quickly reviewed a number of more minor issues suggested by Mr. Lehtinen. The following actions were taken:

- Mr. Lehtinen noted there is an affirmative statement that flooding is not caused by the restoration efforts and suggested deleting the sentence. **Task Force agreed to delete sentence.**
- Motion 2 – **no longer applicable with the deletion of the sentence in motion one**
- Motion 3 - **Task Force agreed to make the changes as presented by Mr. Lehtinen**
- Motion 4 – **Task Force agreed to delete both sentences**
- Motion 5 – **Task Force directed to end the sentence with “flood protection” with the first sentence to remain**
- Motion 6 – regarding non-structural flood protection, Ms. Power said it should remain. COL May explained the Corps has been directed to consider non structural options in flood protection. **Task Force tasked Working Group to redraft the paragraph.**
- Motion 7 – Ms. Klee explained the Strategic Plan is not the mechanism to urge the Corps to do something. **Mr. Lehtinen agreed to provide materials for the Readahead to the September Task Force meeting.**
- Motion K – Modified Water Deliveries project history should be expanded. **Working Group directed to re-draft the language so that it is accurate and brief to include the history of the locally preferred option.**
- Motion L – “restoring the slough as is practicable” appears in the law – **Working Group directed to include the language from the law.**
- Motion M – 8.5 square mile area is outside of the maps of the flood prone residential areas and therefore asked for it to be deleted, it is on the east-western side of the South Dade Conveyance System. COL May said he would like to research this with the FEMA flood mapping. **Working Group and the Corps directed to figure out the correct description for the 8.5 square mile area.**
- Motion N – **Working Group directed to update this section with an accurate description.**
- Motion O – **Working Group directed to pick up the language with the exception of the last sentence, which was deleted.**
- Motion P – **Task Force directed the addition of the proposed paragraph.**

Mr. Stockdale noted the document could cause confusion between its goals and those of CERP's. He suggested including language that the Corps is developing the Programmatic Regulations that will set forth

measures and criteria for CERP. Ms. Power asked whether the programmatic goals were a subset of these and noted this makes it confusing. She stressed this needs to be crystal clear and urged the Task Force to use this document as an opportunity to try to straighten out some of the misconceptions as a result of those articles in the Washington Post. Ms. Klee hoped the preamble would help to do this. Mr. Collins acknowledged there is a certain amount of misinformation and the press did not help the matter. The Task Force members agreed they should provide clear language in the preamble that cannot be misinterpreted.

Mr. Causey said there is a need to do a better job and to track water quality and suggested the documents be consistent. COL May said he was not sure how helpful it would be to add detailed goals and processes for CERP which is a subset of a larger strategic effort. As a minimum, a framework needs to be defined that will reduce it to an easy to understand format.

Mr. Stockdale said the report acknowledges this is a multi faceted endeavor and many of those projects and initiatives have a clear stated purpose. CERP has its own regulations and that initiative is complementary to the effort, which is being discussed here.

Public Comment

Patrick Hayes said he was disappointed that the Loxahatchee River is not mentioned in the opening statement of this document. He reminded everyone that it was this state's first federally designated wild and scenic river. This river does benefit pieces of other programs and said it was a travesty to leave this river out. He acknowledged the District's commitment to saving this river.

Madeleine Fortin (8.5 square mile area resident) noted the Federal Court ruled in favor of the residents of the 8.5 square mile area against the Corps of Engineers. Residents do get letters in the mail stating their properties will be condemned including those residing west of the canal and west of the levy. She said two Senators are threatening to hold up all future WRDA bills until the Corps is more economically accountable. The Corps has wasted \$100 million to avoid digging a \$30 million ditch. She said it is hard to justify this to Congress and the public. It was her opinion that the Corps is losing a lot of credibility in Washington. She suggested USGS or NAS review the hydrology and referred to a book, which refers to the areas as the south Dade Conveyance System. It also shows traditional water levels throughout the system and noted that the land the 8.5 square mile area sits on is not flood prone.

Mr. Donald Onstead and Mr. Robert Robbins (Dade County Fire Rescue) addressed the bridge being put up along Tamiami Trail and hoped it would be constructed high enough to allow passage of their 17' high rescue airboat as well as access points that would enable them to continue their rescue services.

April Gromnicki welcomed the Task Force to Miami. She was glad the Strategic Plan was getting done. She noted there were three major restoration projects (Water Preserve Areas, Indian River Lagoon and Southern Golden Gates Estates) headed for authorization earlier this year. They collectively cover more than half the land area that CERP covers and are considered to provide early success. Authorization now is questionable on two of the projects. She encouraged the Task Force to discuss these as well as other issues that are arising.

Charles Cutler (Disabled Veterans) said people in this community are being left out of the overall Strategic Plan. There needs to be an effort put toward community involvement. Also need to educate the public and share the opportunities that exist. Everyone needs to work together and since everyone has something to bring to the table.

Meeting adjourned 3:30 PM.

Post meeting note: Mr. Joel Marco arrived at the meeting to provide public comment after the meeting had adjourned and requested that his written comments (Enclosure5) regarding sportsmen be provided to members of the Task Force.

Enclosures:

1. Briefing Binder
 - a. Agenda
 - b. Revised Draft Strategy (July 2002)
 - c. Written comments from Task Force Members
 - d. Department of Interior comments
 - e. Summary of unresolved issues
 - f. June meeting minutes
 - g. Denver J. Stutler appointment letter
2. National Academy of Science Quarterly Report (June 25, 2002)
3. Bylaws South Florida Ecosystem Restoration Council, Inc.
4. Membership List of the South Florida Ecosystem Restoration Council, Inc.
5. Joel Marco's written comments