

*Approved Meeting Minutes
South Florida Ecosystem Restoration Task Force
Miami, Florida
February 4, 2003*

Ms. Ann Klee called the meeting to order at 12:45 PM. She noted Mr. Tom Gibson had been promoted to Chief of Staff and the new representative for EPA is Mr. G. Tracy Mehan. She welcomed Mr. Ben Grumbles who is sitting in for Mr. Mehan and Mr. Tim Keeney sitting in for Mr. Sloan Rappoport. The October meeting minutes were adopted without changes.

Ann Klee, Chair, U.S. Department of the Interior

David Struhs, Vice-Chair, Secretary, Department of Environmental Protection

Henry Dean, Executive Director, South Florida Water Management District

Jose Diaz, Commissioner, Miami Dade County

Andrew Emrich, U.S. Department of Justice

Benjamin Grumbles for G. Tracy Mehan, Assistant Administrator U.S. Environmental Protection Agency

Tim Keeney for Sloan Rappoport, Senior Policy Advisor, U.S. Department of Commerce

Dexter Lehtinen, Special Assistant, Miccosukee Tribe of Indians

Ron Marlow for Mack Gray, Acting Deputy Undersecretary, U.S. Department of Agriculture

Jim Murley for Clarence Anthony, Mayor, City of South Bay

Patty Power for Jim Shore, Chairman, 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, Task Force Advisory Body

Rock Salt, Executive Director

Whip around

Mr. David Struhs thanked everyone for attending the meeting. He reported the Governor introduced the budget proposal for fiscal year 2003 – 2004 with full Everglades funding for \$200 million (combined with WMD) for CERP. He acknowledged the remarkable job the President and the Administration in Washington are doing. Ms. Klee noted Ms. Fran Mainella was at the Big Cypress National Preserve announcing a new commitment of resources to control exotic species, this will prove to be a great partnership that will pool resources. Ms. Klee added that Ms. Mainella would also be announcing that the President's budget will also include \$40 million for acquisition of mineral rights in Big Cypress. Mr. Struhs applauded the President's commitment to stop future oil drilling in the Everglades noting it was a huge commitment by the President. He reported that the new phosphorus rule would be drafted in the next few days and he hoped to have a rule in hand by the next Task Force meeting. He noted the great job the WMD has done with the "rock pits", Palm Beach Aggregates, an existing quarry on the fringes of the Everglades. He referred to it as the only place in Florida that a hole could be punched in the ground where it can hold water. The state was able to put a contract to acquire the water storage capacity in the rock pits. He emphasized that this would be a huge step forward by dramatically improving flood control, water supply and environmental restoration and will put the effort twelve years ahead of schedule. He displayed some posters noting that the first of two kiosks for the Everglades Trail have been built and will be open to the public in Fakahatchee Strand and Collier Seminole State Parks within the next few days. He offered to make this available to the federal parks in order to have a similar theme throughout all the parks in Florida. Ms. Klee said it is important to emphasize that results are being achieved right now and this needs to be emphasized in Congress as well.

Gene Duncan said Mr. Lehtinen was on his way. He noted the Tribe's concerns with the Land Acquisition Strategy, which involves acquisition of lands held by the tribe. The WMD has voted to start condemnation proceedings on these lands and the Miccosukee Tribe would not be able to support anything along these lines. He predicted that this would be yet another year of the Cape Sable Seaside Strategy tragedy. He hoped someone would listen this time as a result of the Avian Ecology Workshop. He reminded the group that there is a court decision saying that the Corps does not have the authority to implement alternative 6-D for the 8.5 square mile area, yet they are still pushing in that direction. He said that people are trying to

change the law rather than comply with the law. He hoped that the right thing is done in respect to the 10ppb for the phosphorus standards.

A moment of silence for the victims of the Columbia space shuttle was observed at 1:00PM.

Commissioner Diaz welcomed everyone to one of Miami's newest facilities at the airport. He thanked the WMD and the Corps for their continued work with Dade County and noted it will be two seasons without any major flooding. He informed the group that the Miami Dade County committees have been restructured and he will be serving as Vice Chair of the Governmental Operations and Environment Committee that will deal with flooding issues.

Jim Murley said Mayor Anthony was out of the state on travel and unable to attend this meeting. He stressed the importance of the intergovernmental effort to help those cities around Lake Okeechobee.

Ron Marlow stated that Dr. Gray was unable to attend this meeting and he had nothing to report.

Rick Smith for Denver Stutler had nothing to report. Ms. Klee recognized Mr. Smith as the new Chair of the Working Group.

Mr. Grumbles said he saw many familiar faces around the table and said he was honored to participate. He said everyone at EPA recognizes the importance of this effort not just for the Everglades but for the nation as well.

Mr. Dean followed up Mr. Struhs' comment and noted that Congress designated the Loxahatchee River as a Wild and Scenic River in 1985. It is only one of two in Florida. Unfortunately, there has been a dramatic shift in the ecosystem for several reasons, some of it involving increased inflows of saltwater. A group of concerned citizens along with staff from Jonathan Dickinson State Park have expressed concern for restoring that river. He was pleased to announce that the Governing Board has approved the purchase of the Cypress Creek, forested wetlands that will also serve as water storage and attenuation. This will help to jump start CERP and the restoration of the Loxahatchee River. Mr. Dean commended COL May, Jay Slack, Maureen Finnerty and their staff who have all been working hard along with staff from the WMD. He reported he toured the Interagency Modeling Center, housed at the WMD that was put together in a relatively short time.

Tim Keeney informed the group that he is the current co-Chair of the Invasive Species Task Force. NOAA will continue to support this effort and will redraft their Strategic Plan to reflect ecosystem management. NOAA is concerned that \$900,000 for restoration and monitoring does not appear in the Senate Omnibus bill, which is important to assess whether the plan is working or not. OMB has put together the Cross Cut Budget and this item had been left out. He praised the RECOVER team for their continued efforts to develop initial indicators and benchmarks of success.

Mr. Stockdale said Mr. Brownlee was unable to attend and he was delighted to represent the Army at this meeting. He reported the Army continues to work diligently on completing the programmatic regulations. He informed the Task Force that a stakeholder meeting had been scheduled for Thursday of that week. He said he was pleased to report that the President announced his budget the previous day that included \$145 million for Everglades restoration for the Corps of Engineers. Ms. Klee said the package also includes \$111 million for the Department of the Interior.

Mr. Mike Collins reported the Water Resources Advisory Commission (WRAC) completed its task to develop a protocol for environmental water releases for Lake Okeechobee. WRAC continues to hold Pre CERP baseline workshops and identified two remaining issues: selection of condition for water utilities as well as the selection of operational conditions for south Dade and ENP. A draw down for Lake Toho was called off a month ago and WRAC took up discussion of that issues. Three possible elements were proposed: long term management plan, possible incorporation of the EIS for the Kissimmee Chain of Lake or flexibility for Florida Fish and Wildlife Commission to get around annual budget constraints. A presentation will be made to the Governing Board in April.

Ms. Patty Power said the Seminole Tribe is looking forward to seeing the Cross Cut Budget prepared which has proven to be helpful. She said that there is a need to consider the Task Force's role in CERP implementation and noted the value in the Task Force being able to serve as a communications channel to its various member agencies.

Ms. Klee announced the Task Force would be coming up on its 10th Anniversary in September. She suggested it would be a good opportunity to have a special meeting in the fall and invite former members to come and share their views and experiences. She noted that this would be a good opportunity to discuss the vision for the Task Force for the next ten years. She asked for everyone to give some thought about how to balance and become more effective. **Follow-up: She tasked Rock Salt to put together a "straw man" proposal for consideration at the next Task Force meeting.**

Land Acquisition Strategy

Mr. Rick Smith provided a power point presentation (Encl. 2) noting the purpose and scope of the Strategy. He noted that at the October Task Force meeting it directed the Working Group to clarify the purpose statements, add a discussion of "less than fee acquisitions" and update the data in the project sheets which are included in Appendix C of the document. Mr. Smith noted that the draft Strategy reflects those changes requested by the Task Force and presented the revised strategy document for approval. He reported that the next iteration of the Land Acquisition Strategy will be updated as of September 2003.

Mr. Jim Murley suggested the team look at surplus of federal lands. He noted, for example GSA is in the process of selling surplus lands in the former Homestead Air Force Base, approximately 20 acres, with 17 of them being wetlands. Rick Smith said he would follow-up with this suggestion. Ms. Klee supported the "less than fee" language that was added to the document. Mr. Struhs agreed and added the state has used conservation easements more in the last four years than ever before in the history of the program. He asked the federal representatives to perhaps provide some guidance on what systems are employed to make sure there is an ongoing management responsibility. Ms. Klee noted she met with folks from the Public Land Trust and they have had far more experience and are working on a "how to book" based on their experience. Mr. Smith noted the language appears in page 8 of the Strategy.

Mr. Dean said there are misconceptions that conservation easements have a set value. He explained that when you purchase these easements, you are buying the development right and leaving the land in its current use. He provided the example of a parcel of land in the Jacksonville, which is under tremendous development pressures. The development right was valued at 85% of the fee simple, because that was where the vast majority of the value existed. In Alachua County, which is not under similar development pressure, the development right was valued at 30% of the fee simple value and the land remains as an ongoing timber operation.

Mr. Lehtinen asked for clarification on how to read the data sheet in appendix C. He noted for example the Biscayne National Park lands found on page 48 saying he was not sure of the authority for this project, whether it was the original enabling act or other. Mr. Don Jodrey explained that these are lands within the boundary of the park that have been identified to be acquired. The authority is there and if it were ranked higher than the Park would seek funding. Mr. Lehtinen said, referring to page 18, Modified Water Deliveries, noted the total size is 2,174 acres and he thought it was more. Mr. Salt said this is for the East Everglades acquisition, lands needed as part of the Corps Modified Water Deliveries project. Mr. Jim Muller explained that the Task Team identified the key projects, but each agency provided the specific data. Mr. Lehtinen said this is a useful stack of agency desires but questioned why the Task Force needed to vote or adopt it. He said he felt more comfortable simply receiving it. Ms. Klee said this reflects the broad views that these are land acquisitions worth acquiring and helps to start to prioritize. It does not make the decision of which ones will go forward and does not address the legal authority. She also added that it should not bind any individual member of the Task Force. The Working Group pulled this together as a collective list of priority land acquisitions. Mr. Jim Murley added that the WRAC, with a broad set of stakeholders also spent a lot of time on this and the list represents more than just a collection of information. Ms. Klee said this reflects the input and the hard work of both the Working Group and WRAC. Mr. Diaz asked whether this goes to Congress. Ms. Klee said it is shared with the member of Congress who requested it. Mr. Diaz said that as a representative of many people in this area, he was

concerned with the use of the word condemnation. Mr. Salt noted a clarifying statement appears on page 18 of the narrative. Ms. Klee suggested this statement be added to the cover letter as well. Mr. Smith made a motion for the statement to appear in the front of the document and Mr. Struhs seconded the motion, which was adopted without objection. Mr. Earl Stockdale suggested adding a paragraph in the Strategy document similar to language used in the Programmatic Regulations making it clear that they are not going to acquire all the real estate necessary to bring back the historic Everglades. Mr. Collins supported this statement noting many debates and belief by some that reestablishing the Everglades flow way is necessary for restoration. Mr. Stockdale said the Everglades that existed will not be recreated and suggested the addition of language already used in other documents that makes it clear that the restoration effort will result in a smaller Everglades that will serve and fulfill a similar function. Ms. Klee directed Mr. Salt to circulate two paragraphs, first on the Task Force's intent with the document and the second using the language proposed by Mr. Stockdale. If there are no concerns, Mr. Salt could move forward with publication, if not then this will be added to the next Task Force agenda. Ms. Klee thanked Mr. Smith and the Working Group for all their work. Mr. Smith recognized Mr. Muller, Ms. Theresa Woody and Mr. John Outland for all their hard work. **Action: Task Force received the strategy without objection noting it reflects the work of the Working Group and WRAC. Mr. Salt will revise the document and circulate the revised strategy for final review and publication as noted above.**

Public Comment

Capt. Ed Davison (Chairman, FL Keys Citizens Coalition) suggested the Task Force schedule public comment before adopting the subject at hand. He noted the concern of many folks and citizenry at large as well as environmental groups that while this discussion is taking place, the problem is being made worse. The land use decisions are being made too far down the chain where they have no grasps of the regional impacts or implications. Zoning changes impact lands that have already been identified in this process and the taxpayers end up paying an inflated value for lands that have been identified as needed for years. He encouraged the group to give this some thought.

Mr. Lehtinen said that as a factual matter, everything to be acquired falls under the Clean Water Act or a State Environmental Resource Permit and the WMD and the Corps have the ability to say no. He also said that it was interesting that the 404 permit criteria do not have the discretion that the local boards have. Mr. Murley said there are clear policies that state agencies have to review local land use plans and the Florida Everglades. He suggested it was a collective failure at the local and regional level.

Erin Deady (Audubon of Florida) said there is leeway within Chapter 373 based on a project that is inconsistent with the restoration. She pointed to the Lakes By the Bay where they are trying to look at the implications. She said she believed that there is an ability to deny permits under federal and state law based on its impact of CERP. Following the development of this land acquisition document, it is unfair to convey the Legislation was not passed this year, when in fact it is being challenged and will throw the District's budget off by \$100 million and they are not sure when the bonding authority will be utilized. She asked to see a linkage between the District's priority list and the budget adoption process as an appendix in this document as well as show how much money expediting acquisition will save. Mr. Struhs thanked her for her comments on the state's ability to use that bonding authority and encouraged her to translate her observation into action in encouraging the Sierra Club walk away from the lawsuit holding up \$800 million. Erin Deady said the problem exists now in fiscal year 2003.

Avian Ecology Workshop

Ms. Klee noted the importance of the proposed workshop and she said she feels strongly that it will be helpful and instrumental in how land management decisions for several key bird species are made. There is a frequent criticism that Interior manages solely for the Cape Sable Seaside Sparrow. The forum will provide an opportunity to explore that criticism and make sure Interior is not doing that. Mr. Jay Slack, Field Supervisor in Vero Beach briefly discussed the events planned for the Workshop in March 2003 at the Westin Key Largo. Dr. Debra Brosnan from the Sustainable Ecosystems Institute is helping to put together the workshop. All of the questions and science revolving around four avian species (Woodstork, Snailkite, Cape Sable Seaside Sparrow, Roseate Spoonbill) in south Florida, their ecology and hydrology will be put on the table for a peer review process. A panel of scientists from various layers of academia will synthesize those questions and answers in an open forum and present the current status. This will help

guide them in their thinking as they look at the management questions the Fish and Wildlife Service (FWS) is trying to address. Local scientists will provide presentations followed by an open discussion. Task Force members will have an opportunity to be involved in both the first as well as the follow-on workshop planned for May.

Ms. Klee said the follow-up meeting in May would be held after the information has been reviewed and synthesized and would be with members of the Task Force. She noted that SEI has been working with FWS out west on some of the endangered species issues and they have done a similar process with the Corps on salmon and dam issues. Mr. Slack noted they are looking for an ecosystem approach and not a single species approach. Ms. Klee said the first day of the March meeting is very important. It would be useful to ask questions, what are the trigger points for each of the members. This would help move in a new direction from the controversy and unsatisfactory approaches, which have been undertaken over the last few years. Mr. Collins asked if a process is established to move from one species to a larger ecosystem management and asked whether it would be discussed. Mr. Slack said that they hoped to reach a common understanding not just of the species but of the science as well.

Updates

- Aquifer Storage and Recovery (ASR) - Mr. Salt noted the Working Group has been directed by the Task Force to review the work of the Army and WMD and incorporating comments by the CROGEE. Analysis is still underway and an update will be provided at a later meeting.
- Independent Science Review – Mr. Salt reported the representatives from the Army, DOI and the State of Florida met and prepared a concept paper based on the initial discussion at the November 2002 Task Force meeting. Mr. Stockdale explained the paper attempts to memorialize the discussions from the prior Task Force meeting. The paper proposes to create a set of understandings so that this independent scientific review panel would be established to accomplish the objectives and fulfill requirements of section 601 j of WRDA. The panel will be convened by the National Academy of Sciences (NAS) to review plans and progress of the Plan and to prepare a biennial report that would be transmitted to Congress, the Secretary of the Interior, Army and the Governor. Mr. Stockdale said the concept paper would make it clear that this is a specific requirement of the law. Ms. Klee noted the contract with NAS will be to empanel a body and they will be encouraged to look beyond CROGEE. Mr. Struhs clarified that the panel is to “review and not determine”. Ms. Klee said that this discussion concludes the “consultation” duty of the three principal parties and that the Army would proceed to develop the appropriate agreement with the NAS.
- Modified Water Issue Team – Mr. Salt noted that COL May suggested at the last Working Group meeting that there could be value to have a group to allow for better communication for those issues related to the Modified Water Deliveries. He said he wanted to make sure the Task Force was aware the Working Group is considering this. COL May added this is a very complex issue and it is a way to make sure everyone is talking about the same issues. Mr. Lehtinen asked what the group would do. COL May said that the ability to get a group of people together from different backgrounds and agencies together to discuss. This is one of those instances where if there is a disagreement that at least there is disagreement over something with a common understanding. Mr. Salt noted the Working Group process is to prepare a draft written charter and distribute it among the members. Ms. Klee said this issue is in litigation and there is language in the omnibus appropriation bill and asked whether they should wait. If it gets to the point that the Working Group is considering a charter, then she asked it be brought to the Task Force. Mr. Lehtinen said this would be another group with no authority to do anything.
- Invasive Exotic Plant Detection Workshop – Mr. Salt reported is it scheduled for February 12 – 14, 2003 in the Miami area.

Public Comment

Brenda Chalifour (Save our Shoreline, Inc.) said she has been involved in this effort for over ten years and has seen the disconnect between “Everglades and ecosystem”. There is no enforcement and today, in her community a 39 story 250-unit building is going up on a 3-acre barrier island. She read an article in Coastal Living about the decline in the coral reefs and she asked for oceans, barrier islands and that portion of the ecosystem to appear on the agenda, noting she has been asking for ten years. While this group is

doing everything it is doing, agencies that have control through the permitting process are giving the residents in Broward County the beach dredge and fill project. The project is taking sand from northern Broward to the southern end of Broward. \$7 million of taxpayer money will be spent to sink Bahamian boulders to create a coral reef. She provided a copy of the petition to the State of Florida regarding the near shore coral reefs (Encl. 3). Ms. Klee said she would schedule this topic on the next Task Force agenda.

Madeleine Fortin (8.5 square mile area resident), provided demographic data (Encl. 4) and said the Corps can't count houses and she herself has counted 432 homes in 8.5 square mile area. Twenty of those have been bulldozed by the WMD. The Corps website says that the area has 602 homes. COL May clarified the information refers to residential tracts. Ms. Fortin added that 67 are willing sellers and 10 will be condemned using eminent domain. She said that alternative 6D would condemn 1,027 of the 1,526 properties and 138 of the 251 parcels with a residential land use code. She said that according to the Land Acquisition Strategy, 4,334 acres would be purchased for Modified Water Deliveries representing more than ¾ of the community. She said that federal and state agencies should follow the law. Decisions need to be made based on real data. Ms. Fortin said people in the area feel betrayed by Governor Bush. She asked the Corps to do what Congress directed.

April Gromnicki (Audubon of Florida) suggested the panel for the independent science review be established in a public process and for the Task Force to remain involved and receive updates.

Patrick Hayes (Loxahatchee River Restoration Coalition) "South Florida ecosystem restoration", to him the most fundamental outcome of this project is foundation on how the system is operating. He highlighted this year as a turning point in the operation of that system. Last month the Lake Toho drawdowns, which were scheduled a year or two in advance were stopped after feedback from the public. They were stopped because they were happening in a year that happened to be a wet year. One of the reports before this group today states that they have already lost 50% of the spatial extent of the Everglades system, "we are here to restore the flow regime" which enables as much of the ecosystem components to not only survive but to thrive and that will be the result of operating protocols. The WMD came out with the latest operating protocols, and refers to the Lake as the "heart of the system", however, under certain environmental releases they are subjected to positive and little or no impact on future agriculture and future water supply. He said the system must be operated for the benefit of the natural system as they continue to build the built system. That shift is starting to occur by the decision of the WMD to re-think the releases and he hoped they continue to operate the system for the benefit of the natural system.

Discussion on Task Force Priorities and 2003 Working Group Workplan

Ms. Klee noted the Working Group is completing its work on a number of issues and there is an opportunity to identify some priority action items for them. She suggested that one of the items for possible consideration could be implementation of the Multi Species Recovery Plan after completion of the Avian Ecology Workshop. Mr. Salt provided the Working Group's 2003 workplan and noted the sentiment of the Working Group that they are not sure they are focusing on the highest priority things that the Task Force has for them. Working Group has asked for an opportunity to join in the dialogue. A list of some of the teams and committees that exist was also provided. Mr. Salt noted that Mr. Shore noted the proliferation of committees at the last Task Force meeting and asked that as "we consider the work, also consider the workload". Mr. Smith said the Working Group has been the most productive when it has had concrete tasks and agreed it would be helpful for the Task Force to provide guidance. He also suggested that the most important thing is to implement CERP and possibly have a team to look at all the processes in place to help that effort. Mr. Dean said he supported this idea. Mr. Emrich suggested the Working Group provide their top 4 or 5 priorities and he also asked for a brief description of what the existing teams do. **Follow-up: Ms. Klee directed Mr. Salt and Mr. Smith to invite the Working Group to participate in that session as well.**

Mr. Salt also said it would be useful to think about how the Task Force carries out its statutory duty to coordinate science. Ms. Klee said that one of her concerns all along is that there are all these groups doing science, now criticized by GAO and NAS on how they are managing their science programs. Interior is developing a Science Plan for DOI programs and she will report back when progress has been made. She added that there is an opportunity to get a better handle on what each of the member agencies are doing and

she said she would like to explore this in greater detail. The House has scheduled a hearing on March 26 on science issues.

Meeting Adjourned at 4:10 PM.

Enclosures:

1. Readahead Booklet
 - a. Agenda
 - b. Draft Meeting Minutes, October 2002
 - c. Draft Land Acquisition Strategy (Feb. 4, 2003)
 - d. Proposed Design for Avian Ecology Workshop
 - e. WRDA 2000 excerpt on Independent Science Review
 - f. Proposed 2003 Working Group Workplan
 - g. List of Key Committees and Teams
 - h. Task Force Roster (Jan. 30, 2003)
2. Power Point presentation on Land Acquisition Strategy
3. Concept Paper on Independent Scientific Review
4. Petition to State of Florida (re: near shore coral reefs)