

*Approved Summary of the South Florida Ecosystem Restoration
Task Force conference call on the
Strategic Plan/Biennial Report
August 6, 2004*

Ms. Allbright called the conference call to order at 1:00 PM. Mr. May stated this was a continuation of Tuesday's call to discuss the third draft of the Strategic Plan and Biennial Report. He thanked DEP for providing the conference call capability. He said the agenda and the summary of remaining issues had been distributed via e-mail. He reviewed the ground rules and provided the call-in number for those wishing to provide public comment. The meeting was recessed until 1:45 PM due to technical difficulties with the emailed distribution of the materials. Ms. Lorion noted they had asked at the prior conference call that the Comprehensive Integrated Water Quality Feasibility Study and threatened and endangered species, Cape Sable seaside sparrow as specific agenda items.

*Marti Allbright, Chair, U.S. Department of the Interior
Colleen Castille, Vice-Chair, Secretary, Department of Environmental Protection
Henry Dean, Executive Director, South Florida Water Management District
Roman Gastesi for Commissioner Jose Diaz, Commissioner, Miami Dade County
Richard Harvey for Benjamin Grumbles, Acting Assistant Administrator for Water, U.S. Environmental Protection Agency
Joette Lorion for Dexter Lehtinen, Special Assistant to the Miccosukee Tribe of Indians
Judy Gray for Timothy Keeney, Deputy Assistant Secretary for Oceans and Atmosphere, U. S. Department of Commerce
Patty Power for Jim Shore, General Counsel, Seminole Tribe of Florida
Keith Saxe for Andrew Emrich, Counselor to the Assistant Attorney General, U.S. Department of Justice
Earl Stockdale for John Paul Woodley, U.S. Department of the Army*

Indicators of Success

Mr. May noted two issues for this item. The first issue is a recommended assignment for the Science Coordination Group (SCG) and the second issue is the revised text. Based on discussion during the previous conference call, he recommended that the Task Force immediately direct the SCG to develop an open process to establish a peer-reviewed set of system-wide indicators. Once the process is approved by the Task Force, the SCG would use the process to develop a comprehensive set of indicators for use in the Strategic Plan and Biennial Report. Ms. Lorion said she would be concerned with the overlap with RECOVER. Mr. May clarified the new indicators would be used in the next report. Ms. Allbright added that the indicators from the 2002 report would included as an appendix to the current report so that it would be clear that the Task Force had not given up on indicators, but was simply in the process of revising them. Mr. May said that if the Task Force approved the recommendation to task the SCG, then the next item would be to review the revised text. Ms. Lorion said this is a big issue and asked to hear from the SCG at the September Task Force meeting. Mr. May noted that the SCG is always on the Task Force meeting agendas and asked if she would not support the SCG tasking until then. Ms. Lorion said she had asked whether the SCG had reviewed the indicators and was told at the prior conference call that they had not. She understood that the SCG will now be tasked with developing the performance indicators not only for CERP but the entire restoration effort and this was a big issue. Mr. Rice added that it was a major undertaking and agreed it would be controversial. Mr. Dean said he was very supportive of the recommendation and made the motion. Mr. May restated the motion to task the SCG to develop an open and inclusive process for developing a peer-reviewed set of system-wide indicators for use in the Strategic Plan and the Biennial Report. Ms. Castille seconded the motion. Ms. Allbright asked if the SCG would consult and work with RECOVER during their review. Mr. May said that the SCG would review all of the work that RECOVER was doing for CERP and in addition they would review other work outside of CERP. He noted that CERP and RECOVER would provide good information, but that the SCG might need to go beyond that. **Motion passed with nine members in favor, none against and Miccosukee Tribe abstained.**

Mr. May then reviewed the revised indicator text. The introductory paragraph in the Vision and the Indicators was slightly modified, the Vision text was not modified and the indicators of success text was revised (page 3 of the remaining issues test). It now reads that in 2002 the Task Force reported on preliminary indicators because at the time they were believed to be based on the best available information. The 2002 indicators would be placed in an appendix for 2004. The revised text also noted the indicator tasking to the SCG. Similar language would be used in the remaining portions of the document referring to indicators for consistency. Mr. Dean made a motion to accept the revised text recommendation. Mr. Earl Stockdale seconded. Ms. Lorion requested time to review this. Mr. May clarified the motion would be for the staff to re-draft the language so that the indicators approved in 2002 would be placed in the appendix for 2004. In the body of the document the indicators would be described as being revised using the principle of adaptive management (page 3 of the remaining issues text). The staff would use a similar approach for re-drafting the text in the Biennial Report. Mr. May said that this revised text would be distributed for everyone's review. Ms. Power said this would be a good way to address the concerns expressed on Tuesday's conference call. She said we needed to be careful about giving the perception that something just disappeared when in fact it was being adaptively managed and added it was a great approach. **Motion passed nine members in favor and the Micosukee tribe voted against.** Ms. Lorion asked whether it was possible to change the language in that section. Ms. Allbright suggested that Ms. Lorion provide Mr. May with proposed language.

Land Acquisition Text

Mr. May noted the discussion on Tuesday's conference regarding the focus on fee simple acquisition. The revised language (on page 4 of the remaining issues text) was taken from the Land Acquisition Strategy and indicates the strong desire to use the most efficient means of acquiring the necessary level of interests in land to achieve restoration. Mr. Stockdale made a motion to approve which was seconded by Ms. Power. **Motion passed with ten members voting in favor and none against.**

Subgoal 3B – flood protection

Mr. May noted the prior discussion was to keep the heading but move up the text referring to the savings clause and emphasizing the fact that flood protection would not be jeopardized by restoration efforts (on page 5 of the remaining issues text). Mr. Dean made a motion to approve and Mr. Roman Gastesi seconded. **Motion passed with ten members voting in favor and none against.**

STA 3/4 discussion

Mr. May noted the approved text on Tuesday's conference call was reflected in the third paragraph and further discussion was tabled (on page 7 of the remaining issues text). Ms. Allbright reiterated that "of construction" was added to the text and the issue was whether anyone was going to propose different language for the balance of that paragraph to make it more acceptable to everyone. Mr. May said the Micosukee Tribe provided additional language. Ms. Lorion noted the tribe had two motions. Ms. Lorion made a motion to insert the words, "It is the position of the SFMWD that..." at the beginning of the first sentence stating that the tribe does not believe the construction is complete. They have reviewed design documents and consulted with an engineer. None of the Task Force members have been out to the STA or looked at the design documents and the tribe is concerned the facts are being misstated. Ms. Lorion asked to add, "On the other hand, it is the position of the tribe that the STA 3/4 deadline was not met." Likewise the special master in the judicial proceedings recommended that the deadline be changed by the judge because it was not met. Mr. Richard Harvey seconded the motion. Mr. Ernie Barnett pointed out that no where in the language as amended and approved at the last conference call does it say anything about deadlines being met or make any determination that would be contrary to what is being considered by the court. He said it was not appropriate or prudent to say whether a deadline was or was not met. Ms. Lorion also added to her motion to change the title to construct and operate 68,000 acres of STAs by 2036. Mr. Harvey agreed to the addition. Mr. Dean concurred with Mr. Barnett's comments and added that Mr. Duke from the Department of the Army had been at the site and concurred that the project was completed in October 2003. He urged his colleagues to vote against the motion. Ms. Lorion asked Mr. Duke if he has reviewed the design documents for STA 3/4. Mr. Duke replied that he had not reviewed the original design documents. Mr. Harvey asked whether the SFWMD had formally accepted STA 3/4 from the contractor and concluded that the contractor satisfied all of its obligations so that final payment can be made. Mr. Dean responded yes. Ms. Power said she was uncomfortable with this discussion and added that it did not

serve the Task Force or the tribe to “duke out” issues that are in litigation. She urged the group to consider the value of this paragraph to the report. Congress is looking for a snapshot of what is happening. They should be able to say what is built without dispute. There aren’t enough resources for the Task Force to review design agreements or sites all over south Florida. Ms. Castille said that this is an opportunity to tell the public what they have accomplished. She said they are at 15 ppb, and she remembers when 15 ppb was just a “pipedream.” It is important to tell the public that they have been making strides. It did not seem an efficient use of tax payers’ dollars to be arguing over minute details like this. Ms. Lorion said that STA 3/4 will hopefully cleanse the water that goes onto tribal lands, but it is not coming into tribal lands at 15 ppb and it is important to them that deadlines be met. STA 3/4 was to be operational by October 1, 2003 and it is not and it is important to tell that to Congress. Mr. Stockdale said he read the paragraph as a statement about what they have accomplished. He noted that they are getting into a discussion of whether things were built in accordance with design documents or have been delivered today, or are they going to deliver things required by the Consent Decree by certain timelines, some of which are not here yet. He asked whether it was possible to replace the word “completion of” with “construction of.” He said he did not deny this was a big issue, and that it was in litigation. He added that if they don’t all agree on what is delivered, the courts will sort it out during the course of litigation and he saw no merit in trying to do this here. Mr. Saxe said he would support that change. **Ms. Lorion’s motion did not pass. Eight members voted against it, EPA abstained and the Miccosukee tribe voted in favor of it.** Mr. Stockdale made a motion to replace “completion of” with “construction of.” Mr. Saxe seconded the motion. **Ten members voted in favor and none against.** Ms. Lorion clarified that when her motion failed, part of the motion also concerned the title of the paragraph, the tribe wanted to add “and operate” to objective 1-B.1.

Additional Miccosukee Comments and Motions

Ms. Lorion said the Miccosukee tribe agrees with the concept that restoration will take a long time but are concerned that the paragraph on page 20 of the draft that supports things like IOP, which have been environmentally destructive. She made a motion to remove the highlighted portion of the paragraph. Ms. Power seconded the motion for discussion purposes. Ms. Lorion added that some of the actions taken go against long-term restoration goals. People should consider that tree islands have been destroyed and the sparrow has not been helped. Mr. Stockdale noted the when such conflicts occur strategic goals should prevail whenever possible. Ms. Gray was concerned that they could have goals that are mutually exclusive and that it was important to allow groups like RECOVER to address these conflicts and suggested softening the language. Mr. Dean concurred and added that the SFWMD needs some flexibility to apply adaptive management and shared some of Ms. Lorion’s concerns that they did not want to do things that are inconsistent with their overall goals. There have been some short-term management decisions and specific actions that have taken place, but to remove this entire sentence would be “overkill” and he would vote no on the motion. Ms. Allbright added that the Miccosukee tribe’s concerns are over specific decisions that have been made. The sentence does not in any way ratify any decision but is simple a statement of general policy. **Ms. Lorion’s motion failed with nine members (DOI, DEP, SFWMD, Miami-Dade, DOJ, EPA, Commerce, Seminole tribe and the Army) voting against it and one (Miccosukee tribe) voting in favor of it.**

Mr. Stockdale moved to revise the language, “The Task Force recognizes that on occasion it may be appropriate to take ...” and pick up the rest verbatim. Mr. Dean seconded the motion. Ms. Power asked if there are other examples besides ISOP and IOP where this would apply. Mr. Chip Merriam said there are some pilot projects that they are proposing. **Mr. Stockdale’s motion passed with nine members (Interior, DEP, SFWMD, Miami-Dade, DOJ, EPA, Commerce, Seminole tribe and the Army) voting in favor and the Miccosukee tribe voting against it.**

Ms. Lorion made a motion to add language on page 87 of the draft, “On the other hand, it is the position of the Tribe that the STA 3/4 deadline was not met. Likewise, a Special Master in judicial proceedings recommended that the deadline be changed by the Judge, because it was not met.” **The motion failed for lack of second.**

Ms. Lorion made a motion to add the word comprehensive back in the title and to add the line at the end of the paragraph on page 37 of the draft, “The Miccosukee Tribe believes that this delay is indicative of the overall failure to address water quality on a priority basis. Water quality is an essential component of

restoration and such a delay is unwarranted in the Tribe's view." She added that the tribe was completely unaware this was happening and is very concerned with water quality being put on the back burner. Mr. Harvey seconded the motion. Mr. Dean said he strongly objected to this motion and pointed to the fact that the WMD has spent over 600 million dollars over the last ten years addressing water quality and he urged everyone to vote against the motion. Ms. Lorion said that the RESTUDY document assumes water quality will be met by December 31, 2006 and it is actually the state's responsibility. The tribe is concerned that they are now going to tell Congress water quality will be delayed. Mr. Harvey said he believed this relates to the Comprehensive Integrated Water Quality Feasibility Study (CIWQFS). He added that he has some language from Mr. Peter Ortner stating that the CIWQFS was intended to serve as a framework for integrating water quality restoration targets. He said that everyone felt that the CIWQFS was going to help integrate everything the WMD was doing through the Everglades Construction Project and things that DEP was doing through water quality standards programs and TMDLs. It would also help Agriculture as part of their BMP program. He said he believed that they did not need to delay the development of the CIWQFS. Mr. Dean clarified that he did not disagree that they shouldn't delay but disagreed with the language. Mr. Barnett said an important part of the CIWQFS was to identify the targets to be integrated into the CERP process. The target for the Everglades Protection Area is 10 ppb and the criterion is now being reviewed by EPA. He agreed that the language is not indicative of the progress that has been made.

Ms. Allbright noted that the currently proposed language appears to be a statement of fact. The Corps and DEP have decided to postpone doing the study and if that is a factually accurate statement then she said she saw it as simply reporting a fact. The fact that the Department has decided not to move forward at this time is taking other Task Force members by surprise. Mr. Stockdale asked whether they intended to do the CIWQFS. Mr. Duke said they do intend to it but have not completed the negotiations. They are also looking at the timing of the study since they are proceeding with implementation of CERP. Mr. Harvey suggested changing the language to reflect what Mr. Duke stated. Ms. Allbright said a substantive discussion as to the merits of the CIWQFS should be put on the September agenda and they need to deal with it in the context of this report. **Motion failed with ten members (Interior, DEP, SFWMD, Miami-Dade, DOJ, Agriculture, EPA, Commerce, Seminole tribe and the Army) voting against and one member (Miccosukee Tribe) voting in favor of it.** Ms. Judy Gray made a motion to provide substitute language to staff. Mr. Harvey seconded. Ms. Power asked that they include the authority for the study as well as the folks that are involved. Follow-up: Language will come back to the Task Force for review and discussion and the topic will be on the September Task Force agenda to discuss the substance of what is going on with this study. **Members were in favor and motion passed to redraft and circulate.**

Cape Sable Seaside Sparrow (CSSS)

Ms. Lorion said she believed the language in the paragraph on page 100 of the draft was misleading and should be removed. Jeopardy was declared on the sparrow based on the sub population A. The 2004 report shows that sub population A is down to one and she said if any figures are going to be used then the figures for 2002 should be used. Mr. May noted this is part of the earlier discussion on indicators and it will revert to the 2002 approved language and be included and referred to in the appendix. Follow-up: Ms. Lorion requested that the FWS do a status update at the September Task Force meeting on the CSSS and specifically address sub population A. Mr. Dexter Lehtinen asked whether objectionable language would be removed. Mr. May clarified the Task Force voted to use the 2002 language, put it in the appendix and talk about the process to revise the indicators for the future.

Ms. Allbright said the new language will be circulated for review. Ms. Castille thanked Ms. Allbright and Mr. May for handling the call in an efficient manner. Mr. May thanked Ms. Linda Friar and Ms. Marsha Bansee-Lee who worked long hours along with Ms. Joni Warner, Mr. John Outland and others.

Meeting adjourned at 2:55 PM.

Enclosures:

1. Agenda
2. Summary of remaining issues (working draft)
3. Draft Strategic Plan