

the journey to restore
America's
Everglades



Guidance Memoranda Pre-CERP Baseline

Task Force Meeting
January 13, 2005



STOLEN WATER

SAVING THE
EVERGLADES
FROM ITS
FRIENDS,
FOES, AND
FLORIDA



W. HODDING CARTER



Current Status

- Draft documents posted on web site on November 23
- Task Force briefed on December 1
- Consultation meeting held with Seminole Tribe December 14
- Meetings held with stakeholders
- Comment period closed January 10
- Consultation meeting with Miccosukee Tribe scheduled for February 16
- Comments will be posted on web

DRAFT

Draft November 2004

CENTRAL AND SOUTHERN FLORIDA PROJECT

COMPREHENSIVE EVERGLADES
RESTORATION PLAN



COMPREHENSIVE EVERGLADES
RESTORATION PLAN

Programmatic Regulations

Six Program-Wide Guidance Memoranda

DRAFT

Draft November 2004

CENTRAL AND SOUTHERN FLORIDA PROJECT

COMPREHENSIVE EVERGLADES
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Pre-CERP Baseline



U.S. Army Corps of Engineers
Jacksonville District



South Florida Water
Management District

Comments Received From...

- FI Farm Bureau Federation
- Seminole Tribe
- Lake Worth Drainage District
- Miami-Dade County
- DOI
- NPCA
- Broward Co. Environmental Protection Dept
- Miccosukee Tribe (preliminary comments)
- FDEP
- Audubon of Florida
- Palm Beach Co. Water Utilities
- Lee Co. Smart Growth
- Agricultural Coalition
- WRAC

General Comments

Department of the Interior

- GMs 1& 2 need more emphasis on improving benefits consistent with the Plan
- Any significant restructuring of benefits should be done through Plan reformulation, rather than PIR formulation

Lake Worth Drainage District/Seminole Tribe

- Does not provide necessary level of detail for project teams to formulate projects and resolve key policy issues
- Must continue to strike balance for all stakeholders

Miccosukee Tribe

- Contrary to Congressional direction, GMs are confusing, duplicative, and contain unnecessary detail
- Consultation should have occurred during drafting of GMs

General Comments (continued)

Miami-Dade County

- Procedure for expediting land acquisition needed
- Other legal protections besides Savings Clause should be specified

National Parks Conservation Association

- Should ensure that natural system gets all water needed to meet goals of Plan
- Concerned that baseline water will still be available at the time the PIR
- All beneficial water for natural system should be reserved
- Emphasize interim goals more as a means to justify project alternatives, rather than Next-Added Increment and cost-effectiveness

General Comments (continued)

Agricultural Coalition

- Goes beyond requirement for technical guidance and establishes policies that do not represent balanced purposes of CERP
- Infringes on state's authority to make water allocations and reservations under state law
- Complicated numerical strategies for identifying water not useful; should base water quantities on Project Operating Manuals
- Lack of resolution of issues such as model update hinders credibility; waste of resources to develop interim goals and targets at this time
- Restoration relies on NSM, not as restoration is defined in Programmatic Regulations

Guidance Memorandum #1

Format and Content of PIRs

- Confusing use of terms “goals and purposes”, “goals and objectives”, and “goals and targets”
- Reaffirmation limits formulation process
- Using actual costs for acquired lands biases evaluation and cost-effectiveness
- Less than fee acquisitions should be allowed
- Waiver of 25% policy on total land cost fosters unnecessary land acquisition
- Every PIR should be independently technically peer reviewed
- No credit for construction accomplished by state unless it is in compliance with NEPA and other Federal law
- Public input on meetings such as IPR, AFB, etc.
- Cost sharing for water quality features should not be team decision

Guidance Memorandum #2

Formulation and Evaluation

- Process and criteria for determining if project continues to meet goals and purposes should be specified
- No criteria for determining project justification
- Use of actual costs for lands acquired contrary to P&G and OMB guidance
- Next-Added Increment (NAI) analysis should be completed before decision made on selected plan
- Use of Acceler8 as a suite for NAI analysis
- Acceler8 should be analyzed in a SEIS to determine if it undermines CERP
- Project selection is a policy decision that should not be made by the project team

Guidance Memorandum #3

Identifying Eliminations or Transfers

- Need discussion of other protections available besides Savings Clause
- Concerns about application of intervening non-CERP projects to Savings Clause protections
- Definition of existing legal sources
- More specifics needed on determining eliminations or transfers; comparable quantity and quality; implementation plan for solving eliminations or transfers
- Changes in project operations should be included in analyses of eliminations or transfers
- Concern about application of level of service for flood protection
- Mischaracterization of the Miccosukee Reserved Areas Act and Tribe's land interests

Guidance Memorandum #4

Identifying Water

- Clarification of Modified Next-Added Increment and Next-Added Increment Methods
- Selection of method to identify water to be reserved
- Examples or modeling to clarify selection of method
- Defining water made available
- Procedures (Attachment 4-B) too complicated
- Inclusion of model language (Attachment 4-D)

Guidance Memorandum #5

Operating Manuals

- Language does not reflect adequately range of operations related to the natural system
- Clarify responsibility for updating Project Operating Manuals
- Operational flexibility and adaptive management must not circumvent NEPA and other Federal law

Guidance Memorandum #6

Assessment Activities

- Written for “full” restoration, not for benefits provided by the Plan
- Dispute resolution process beyond scope of GM
- Better explanation of “Box 3” of adaptive management process needed

Pre-CERP Baseline

- Concerns about accuracy of model assumptions for LWDD and Seminole Reservations
- Assumption concerning BMP makeup water is not appropriate
- Use of ISOP and Lake Okeechobee backpumping in assumptions
- Authorized operational changes or structures should be included in pre-CERP baseline
- Use of actual pumpages instead of permitted amounts not appropriate
- Need adequate time for public review if additional model runs are made
- Updating of models to re-compute pre-CERP baseline could cause problems
- Pre-CERP baseline should be basis for initial reservations by SFWMD

Next Steps

- Prepare revised Guidance Memoranda and Pre-CERP Baseline documents
- Conduct final approval process in accordance with programmatic regulations
 - Notice of availability in Federal Register
 - Public comment opportunity
 - Concurrence of Secretary of the Interior and Governor



Questions?