

*Approved Minutes
South Florida Ecosystem Restoration
Working Group Meeting
Naples, FL
July 15, 2002*

Welcome and Introductions

COL May called the meeting to order at 1:15 PM and the agendas (Encl. 1a and 1b) were provided. He discussed the importance for the Task Force and Working Group to set the framework for restoration. He remarked that there are many other projects and programs outside of CERP that are important in the restoration effort and challenged the group to help the Corps come up with tools to provide that context for Everglades restoration. Wayne Daltry made a motion to approve minutes (Encl. 1c) and Rick Smith seconded. Minutes approved. Thaddeus Hamilton asked for clarification on page 8 and 9 of the minutes.

Working Group Members	July 15	Alternates
Ernie Barnett – FL Dept of Environmental Protection	√	
G. Ronnie Best – U.S.G.S.	√	
Brad Brown – NOAA, National Marine Fisheries Service	-	Essie Duffie
Billy Causey – NOAA, FL Keys Nat'l Marine Sanctuary	-	Brian Keller
Kurt Chandler – Bureau of Indian Affairs	-	
Kathy Copeland – South Florida Water Management District	√	
Wayne Daltry - Southwest FL Regional Planning Council	√	
Gene Duncan – Miccosukee Tribe of Indians of FL	√	
Maureen Finnerty – National Park Service	√	
Roman Gastesi, Jr. – Miami Dade County	-	
George Hadley – U.S. Dept of Transportation	-	
Thaddeus Hamilton - U.S. Department of Agriculture	√	
Richard Harvey – Environmental Protection Agency	√	
Ronald Jones – Southeast Environmental Research Center	-	
Barbara Junge – U.S. Attorney's Office	√	
COL Greg May - U.S. Army Corps of Engineers	√	
Peter B. Ortner – NOAA	-	Judy Gray
Donna Pope - FL Dept. of Transportation	-	Marjorie Bixby
Fred Rapach – Palm Beach County Water Utilities Dept	√	
Terry Rice – Miccosukee Tribe of Indians of Florida	-	
W. Ray Scott - FL Dept of Agriculture and Consumer Services	-	
Jay Slack – U.S. Fish and Wildlife Service	-	
Rick Smith - Office of the Governor of Florida	√	
Ron Smola – U.S. Department of Agriculture	-	
Steve Somerville - Broward County Department of Natural Resource Protection	√	Patti Webster
Craig Tepper - Seminole Tribe of Florida	√	
Henry E. "Sonny" Timmerman - Department of Community Affairs	√	
Kenneth S. Todd – Palm Beach County Water Resources Manager	√	
Joe Walsh - Florida Fish and Wildlife Conservation Commission	√	
Julio Fanjul, Special Advisor	√	
Rock Salt, Special Advisor	√	

Whiparound

COL May explained this is an opportunity for members to inform the group of key items as well as bring everyone up to speed on things that are going on.

Thaddeus Hamilton said that in doing environmental justice need to make sure to consider the best ways to achieve WRDA 2000 and the Presidential Executive Order 12-898.

Richard Harvey reported the South Florida Wetland Conservation Strategy (Encl. 2) has been completed and USGS just published the Inventory and Review of Aquifer Storage and Recovery in southern Florida. They went out and looked at existing ASR wells in south Florida and have found that recovery is

substantially less than 70%. He asked Ronnie Best to provide copies of this document to members of the Working Group.

Gene Duncan said he was pleased to see water quality on the agenda. He provided copies of the Magistrate recommendation (Encl. 3) that was adopted by the Judge. Significant ruling that the Corps lacks authority to spend money and condemn property rights. COL May said the Corps is assessing their options and could possibly ask the Department of Justice to file an appeal. As some read in Washington Post, there is language that is being worked on to clarify Congressional intent. He shared his concern and added he understood how important this is.

Fred Rapach asked whether this is the forum to discuss these types of issues. He noted his concern and asked the Working Group to address this. He would rather see it on the agenda and hear it first-hand rather than read it in the newspaper. COL May agreed that was a good comment and added that they all need to do a better job of breaking down the framework for Everglades restoration and that would go along way to address some of the things Mike Grunwald pointed out. He morphed the Strategic Plan with the CERP and a casual reader would get the impression that CERP was not addressing all the water quality and invasive exotic issues, which it is not intended to do.

Fred Rapach said balance put the plan together and it is balance that will implement and make sure all the goals are achieved. He asked for Working Group to keep these things on focus and this is the forum where issues with the plan need to be addressed.

Mark Musaus was sitting in for Jay Slack who was on a conference call had nothing to report.

Joseph Walsh said there have been some calendar conflicts, i.e., RECOVER and PDT meetings and asked for some ground rules similar in concept to the Governing Board meetings. Rock Salt reminded everyone that the sfrestore website also has links to the Corps and WMD meetings.

Maureen Finnerty had nothing to report.

Ronnie Best added there was a conflict with the Task Force and SCT meeting in July and encouraged trying to work around those. He provided the U.S.G.S. Florida District Science Plan (Encl. 4a), he announced Mike Grunwald is writing a book, and he also provided information on a proposed public television documentary series (Encl. 4b) that is being done in cooperation with PBS.

Marjorie Bixby, alternate to Donna Pope, said she appreciated being here and had nothing to report.

Barbara Junge had nothing new to report.

Rick Smith introduced the three new members to the Working Group: Ray Scott; Sonny Timmerman; and Kenneth Todd and provided the letters from the Governor (Encl 5). Denver Stutler has also been appointed to the Task Force replacing Frank Jimenez who accepted a position at the U.S. Housing and Urban Development. He stated that the State of Florida would hold the Corps accountable in terms of adaptive management with the record of decision. State wants a full partnership with the Corps and the federal government. He noted it is important to do CERP, which represents 85% of what is needed to restore the ecosystem. He urged everyone to do a better job communicating to the press and the public.

Essie Duffie sitting in for Brad Brown had nothing to report

Brian Keller sitting in for Billy Causey stated coral diseases are a serious problem IN THE keys, often not knowing the causes of these diseases. White pox has been identified as affecting elk horn coral only and a white paper has been published recently. He provided motions (Encl. 6) from the Sanctuary Advisory Council who is interested in PDT meetings being held in the Keys allowing residents to participate. He also provided a position statement (Encl. 7) with regards to the Florida Keys Carrying Capacity Study calling for an independent peer review of the final report.

Ernie Barnett reiterated the department's continued support of the Southern Golden Gate Estates project. This is a great example of regional impacts from one CERP project component. He was hopeful that it would be included in a WRDA package this year. State has acquired over 90% of the required land from over 26,000 individual owners.

Kathy Copeland, as a new member, thanked Linda Friar for her help with the Strategic Plan.

Steve Somerville said he was glad to be a part of this meeting.

Wayne Daltry said the newly formed RCT would be providing a presentation later in the day. He promised a small-scale presentation on the implementation of the three goals of the Strategic Plan in Lee County.

Beth Carlson sitting in for Craig Tepper had nothing to report.

Ken Todd looked forward to working with the group.

Sonny Timmerman noted this was his first meeting and he was glad to be here.

Terry Rice asked for discussion on the status of land within the CERP footprint to be on the next agenda.

Executive Director's Report

Rock Salt noted Ann Klee expressed disappointment with the Dispute Resolution (Encl. 8a) document. The Task Force received the document and has sent it back to the Working Group for revision. Task Force now has an active view of their role and the document does not reflect that. **Follow-up: Rock recommended a team be re-established to revise the document and he would also go back to the Task Force and clarify the guidance.** Fred Rapach said the issue was whether the Working Group facilitates rather than resolve issues or does it have some influence on the resolution of the dispute. Rock clarified it is the statutory authority of the Task Force to facilitate and the Working Group's authority cannot go any further than that. Rick Smith agreed for Rock to have some help. The NOAA Report Card was provided to the Task Force and substantial time will be scheduled on the September agenda to discuss the Coral Reef Protection Program. The Task Force deferred discussion on the SCT and has asked for substantial time on their September agenda to talk about flooding. The South Florida Ecosystem Restoration Council presented a proposed Cooperative Working Agreement and discussion was deferred. Workplan (Encl. 8b) and Tracking Charts (Encl. 8c and 8d) were provided without discussion. Roman Gastesi requested the flooding item be included on the September agenda. Rock Salt clarified that a major portion of the Working Group agenda will be dedicated to tee up items for the Task Force meeting.

Everglades Trail/Signs' Projects

Rock Salt gave a presentation on the various signs that are found throughout south Florida of varying shapes and sizes. The proposal is to show more connectivity through signage to tell the story. He suggested that a smaller technical group of the members get pulled together from those agencies that are interested in being involved. He noted Senator Graham is proposing to develop the Everglades Trail with the top 20 key places in the Everglades that would enable the agencies to provide the interpretation.

Gene Duncan said there are major problems with water quality, endangered species and Modified Water Deliveries and urged the group to talk about more productive things. COL May said there is more to it than signs and Senator Graham issued a challenge at the Everglades Coalition and did not want to diminish this as a tool in communication. Working Group does have a lot of important issues such as Modified Water Deliveries and IOP record of decision. Rock Salt agreed the Task Force and the Working Group should work on the highest priority needs and many believe that part of the problem is not being able to articulate what is being done very well. **Follow-up: Those members who were interested in linking their technical folks in this effort were asked to contact Brenda Brown for further information.**

Strategic Plan and Biennial Report

Rock Salt reviewed the changes made to the draft document (Encl. 9a, b and c) as directed by the Task Force in three key areas: Goal 3, conflicting goals and the preamble. He noted they are still awaiting OMB clearance and is scheduled for Task Force approval via a conference call. Rick Smith was directed to review Goal 3 for the purpose of making edits. A major portion of the new language deals with the recreational uses of these lands. Rick Smith noted it is important for DCA and local government representatives to be comfortable with the language that is included and link up those purchases with other ongoing purchases from CERP. Public should be able to use the land acquired with public dollars. There seems to be other measures that add value to this section. Wayne Daltry said reduction of open space fire hazards by improvement of the water table aquifer management could also be used as a measurement. Division of forestry has maps of each county with locations of drought season hazard areas that could be used as an indicator. Rock Salt noted those items that aren't included in this version because of not having someone sign up to provide the information for the indicators could be included in the next revision of this document. Richard Harvey asked about relocating the brownfields section in sub-goal 3A. Rock Salt said he was not aware of any controversial aspects of that.

Thaddeus Hamilton said this document states the Task Force shares the vision of restoring the ecosystem to support a diverse community of animals and people yet it will not do that. This document was destroyed when Goal 3d was taken out. Document states the "ecosystem must be managed as a whole" and he said he would be "ashamed to submit this document to Congress". Rock Salt said it was this very same issue of whether to put equity and environmental justice issues in a sub goal at the end or as part of the vision and guiding principles so that it permeates through all of the goals. It was the sense of the Task Force for this to be elevated to the front end. Thaddeus Hamilton said implementation of the goal has been taken out and have now gone backwards instead of forward. Rock Salt clarified it was the sense of the Task Force that implementation is the responsibility of the agencies in the implementation of their programs and projects. Thaddeus Hamilton said this eliminated an effective implementation including leaving out the public. Rick Smith referred to language in the report page referring to the team will solicit input about the effectiveness of outreach efforts and make recommendations on how outreach efforts can be better coordinated and made more effective in the future. Thaddeus Hamilton said this needs to be implemented and it is more than just words. COL May said this issue discussed by the Task Force and this language reflects their decision. Thaddeus Hamilton described said the magnitude of the changes reflect in his view "back door discussions".

COL May said the July 9th Task Force meeting has been viewed by many people as being particularly good because they focused on one subject, the Strategic Plan and it was not the first time they saw the document. The Task Force had the opportunity to review and discuss it and did not agree that this was done in via a back door process. The Working Group does work for the Task Force and this language reflects their decision. Thaddeus Hamilton suggested this issue be tabled until it could be presented to the Task Force. Rock Salt explained the Task Force has no role in implementing WRDA 2000 and it is the responsibility of the Corps of the Engineers and the SFWMD. It is the primary responsibility of the individual members to carry that out. It is the responsibility of the Task Force and Working Group to coordinate. Fred Rapach asked if the language could be included in both the guiding principles and Goal 3. Rock Salt noted the Task Force was concerned with it not being included in Goals 1 and 2 and directed it be taken out of Goal 3. Barbara Junge said that although this is an important goal, there is disagreement around the table on how to measure this specific goal. Thaddeus Hamilton made a motion to put sub goal 3d back in the way it was including the information submitted from the sub-committee as a recommendation from the Working Group to the Task Force. COL May suggested informing the Task Force of a concern with the language they directed. Richard Harvey seconded Thaddeus' motion. Barbara Junge said this group never adopted any measurable objectives under this sub goal and did not think it was appropriate to throw it back in as a sub goal after the Task Force's decision to move it. Rick Smith said the Task Force wanted each agency to be held accountable for the implementation of environmental equity and justice issues. Rick Smith supported Thaddeus make the presentation to the Task Force. **Action: Working Group voted 10 to 7 in favor of sending this back to the Task Force and for Thaddeus Hamilton to present this to the Task Force.**

Rock reviewed the editor's version (Encl. 10) reflecting Dexter Lehtinen's comments on conflicting restoration goals. This is an edited version of the document provided by the Micosukee Tribe. There is

agreement on the last full paragraph “Most agree ... restoration process” to rewrite to that section to frame it as the policy intent to pursue multi-species and the language will be rewritten in a more positive way. **Follow-up: Jay Slack, Rock Salt and Terry Rice to re-write.**

The third paragraph commencing with “lands upstream - dry forever” will be condensed to a single sentence factually describing the effect to the tribal lands. Terry Rice noted his concern with distinguishing the short-term and long-term goals. Working Group was asked for their approval on this and Craig Tepper asked to see the language first since he had general concerns over spatial extent of wetlands being increased which may be in conflict with Florida panther habitats. Jay Slack offered some language when referring to the nsm process, recognizing it establishes the best estimate of pre-drainage hydrological conditions in the Everglades but in many cases the projects will be looking at managing them in different manners. The nsm is a goal that is trying to be established and recognize it is more complex since half the Everglades is lost. Maureen Finnerty said she wanted the opportunity to provide comments on the third paragraph. Rock Salt proposed working on this either during the lunch break or following the meeting. **Follow-up: Maureen Finnerty, Terry Rice, Jay Slack and Rock Salt to rewrite.**

Rock Salt presented the preamble/preface (Encl. 11) that was requested by the Task Force and includes those comments that were received the prior Friday. The Task Force proposed the inclusion of the preamble to help clarify the confusion between CERP and this plan, particularly after the Grunwald articles.

Joseph Walsh asked why marine habitat was not included with upland habitats and said he did not agree with the change. Jay Slack agreed it was better to keep it broad. John Ogden said he suggested the change since there are other things going on besides CERP. Joseph Walsh said he understood but pointed out the CERP does not intend to do everything to the marine ecosystem that is intended. Rock Salt suggested “upland” and “marine”. Jay Slack added that there are many other habitats that are non-CERP. Thaddeus Hamilton said the non point source pollution problem is not addressed in the preamble and asked for it to be addressed. Rock Salt explained the purpose of the preamble was to clarify the confusion with the CERP and other projects not sure how this fits in the preamble. Rick Smith explained that “introduced pollutants” means point and non-point.

Fred Rapach suggested using the words “greater Everglades” rather than “south Florida ecosystem”. John Ogden explained he was trying not to use the “abundant and unique” and in hearing Rock’s explanation of the purpose of the preamble, agreed it would be better to go back to something like “natural ecosystem of south Florida not only supports. ”.

Fred Rapach also suggested striking the last sentence on the fourth paragraph “when the built – historically”. He also suggested striking the last two sentences on the second page “however, there is – in this strategy” and added that it was confusing the relationship of the interim goals that will be developed for CERP and the indicators that will be developed for this strategy.

Thaddeus Hamilton asked for the opportunity to provide language to reflect the tremendous population growth and its contribution to an increase in non point source pollution. He stated that the word “unique” in the first sentence should remain.

RECOVER Update

John Ogden provided an update (Encl. 12) on the Monitoring and Assessment Plan as well as an overview of the organization and content of the plan. It is an extremely important document and attention has to be paid to its contents and how it will be used. It is the view of RECOVER that the system-wide monitoring plan as described in the document will be the approach that will be taken throughout the coming years to evaluate how well CERP is meeting its objectives. A substantially revised version of the plan went out to the members of RECOVER as well as CERP Project Managers on July 1st for review. All comments, including technical and scientific are due back by the end of July. All comments will be incorporated by the end of August. Sixty-day formal public and agency review period will be from Sept. 1 – Oct 30, 2002. New on the schedule is the proposal to begin a focused effort to figure out how this will be implemented. The Corps and the SFWMD each has five million dollars but it is not enough money to carry out everything in the plan. Proposing to have one or more workshops beginning in the fall to bring resource agencies to work out a strategy for implementing the plan. Will look at the parts of the plan that are currently funded, parts of the plan that are being done by agencies as part of their monitoring programs. Formal approved document is planned for December 1st. Workshop(s) in the fall may involve Working Group participation. Gene Duncan asked if the \$10 million was for new monitoring or for ongoing and if the intention of the money was for new monitoring, he asked what RECOVER would do to prevent agencies from using the money for monitoring they are already doing. John Ogden explained the assumption is made that existing monitoring will continue as well as the funding. **Follow-up: Agnes Mclean to provide the RECOVER link to Working Group members.**

Water Projects and Initiatives

Chuck Thomas, who is in charge of the Program Management Consulting Team provided the update on behalf of Dennis Duke who was unable to attend. He provided a power point presentation (Encl. 13).

- Interim Operation Plan – record of decision signed on July 2nd approving alternative 7R and currently operating under the ISOP rules while applying for the water quality certification. Key feature includes operational flexibility that will avoid adverse impacts to flooding. Emergency construction project has been completed with key features including: new pump station at S356; L67 degraded southern 4 miles; S-332B detention area; S-332B/C connector, new S-332D approximately 810 acres and degradation of 2000 foot section of L-31W).
- Combined Structural and Operational Plan being developed for operations with Modified Water Deliveries and C-111 projects. Continuing to use the facilitative process through the Institute for Environmental Conflict Resolution with the objective to obtain a record of decision in December 2005.
- Potential WRDA 2002 Projects:
 - Indian River Lagoon Feasibility Study still on track for WRDA 2002.
 - Water Preserve Areas Feasibility Study has been terminated. Instead there are a series of PIRs that are being prepared. Five of the first ten authorized projects were part of the Water Preserve Study and can continue. Will continue to work to maintain the schedule for the PIRs.
 - Southern Golden Gates Estates – currently reformulating alternatives to address potential flooding north of I-75 and completion of the PIR has been delayed. There is every intent not to adversely impact north of I-75. There will be an authorization document ready for WRDA 2004 with appropriation in 2005 leading to construction completion in 2008.
 - Critical Projects Program has a funding cap and there is action underway to find a way to increase the cap above \$150 million. There was no provision for inflation.
 - WRDA 1999 Pilot Projects (Lake Okeechobee and Hillsboro ASR), language will be cleaned up to include a 50/50 cost share similar to the other projects.
- CERP – 14 PMPs have been completed with 10 underway. Master schedule update is underway, it is not a re-sequencing, but an update of the approved documents that are on the Internet. Initial CERP update process underway and will lead to a decision whether to continue on current path or whether to change the implementation schedule. Feasibility Study for Florida Bay and the Florida Keys to look at the impacts of quality, quantity, timing and distribution of fresh water coming into the bay. Comprehensive water quality feasibility study underway to take a global look at the water quality as well as a reconnaissance study to look at the 245,000-acre foot of water issue.

- Critical Projects:
 - C4 (S-380) nearing completion
 - C-11 construction underway
 - Lake Trafford bids came in too high and the Corps and the WMD are looking at alternatives
 - Florida Keys Carrying Capacity Study comments are being incorporated
 - Lake Okeechobee – contract will be awarded this fall
 - Ten Mile Creek – award scheduled for later in the year with a cultural resource issue that is currently being dealt with in the footprint of the reservoir
 - Tamiami Trail culverts– design underway with award scheduled for June 03
 - Southern Crew – structure complete with land acquisition continuing
 - Seminole Big Cypress - construction underway for Phase I
 - Kissimmee Restoration – Governing Board approved the purchase of Rolling Meadows
 - Modified Water Deliveries - dealing with the federal judge’s ruling and there is a \$5.5 million plan to work on exotic plants for FY03
 - Miami Dade Flood Control Study – approved by headquarters to begin

Water Quality Update

Ernie Barnett provided a Power Point presentation on the water quality program in Florida with a detailed discussion on how it relates to CERP to be provided at the September meeting as it relates to the Everglades Protection area. All have been guilty of not having taken much action until the 1980’s. Some policies made to protect water quality in one part of the system actually made other parts of the system subject to water quality degradation. Saw a dramatic increase of indicators of water quality problems in the Everglades Protection Area. At the federal level there is the anti-degradation policy (recognition that a framework has to be in place to prevent things from getting any worse) in 1975 and the designation of uses (recognize all water bodies are not alike and some require a higher level of protection) are the fundamental parts of implementing clean water in the country. There are water quality standards in Florida that include the designation of use, level of protection, specific criterion and the anti degradation policy. He explained that the criterion itself is “purely science driven” and provides the ability to have relief mechanisms.

Gene Duncan asked if it was true that EPA disapproved Florida’s anti-degradation policy. Richard Harvey said that as far as he knew, it was approved, but would check on it. Ernie Barnett added that recognizing the natural system does not always meet the criterion, the Clean Water Act and State Law has relief mechanisms, which have been built into the framework. These could include among other things, re-designation of use or site specific alternative criterion. He reviewed the history of the 1988 lawsuit and which resulted in a settlement as a result of the work of then Governor Chiles. Settlement Agreement entered into in 1992 and based on highly negotiated meetings and was later superceded by the Everglades Forever Act and Modified Settlement Agreement in 1994. He reviewed the definition under federal law. The designated use of the water body (wetlands, estuaries, Lake, aquifer, etc) allows for balancing with different use (five classes in Florida) no longer have a Class 5. Everglades designated as a Class III. Anti degradation based on year prior to its designation, which becomes the baseline. Water quality criterion can be expressed in many ways representing the quality of that water. Now trying to establish a numeric criterion to ensure there isn’t an imbalance. Parts of the Everglades are not meeting its designated use and some parts have an imbalance of flora and fauna. Now establishing the level where there is not an imbalance. EPA must review DEP’s standards and ensure they are doing their rulemaking under state law. Currently in the rulemaking process and Ernie said he was confident they would be in compliance by 2006. Formal rulemaking proposes 10 ppb since there is a dramatic change point in analysis at 10 ppb or there will be an altered ecosystem, constituting an imbalance. The Clean Water Act recognizes that even though everyone is doing what is required, there may be water bodies that are not meeting their designated use and there are other provisions in the Act. DEP submits the 305d report every two years to EPA with a summary of the water quality. Richard Harvey asked if any water body was ever brought back as a result of state action. Ernie responded that since have not gone through a full TMDL implementation, cannot attribute anyone going into compliance. Richard Harvey added that in spite of the WMDs efforts he did not know of any water body in south Florida that was brought into compliance. Richard Harvey noted that CERP assumes the water delivered to the CERP components will be in compliance and he urged for them to be more realistic. Ernie Barnett Corps has to get certification to operate structures therefore, as projects are being designed, meet one test that it is essential and is it permit-able. Terry Rice agreed.

Richard Harvey said the PDT were not spending adequate time and have not had adequate guidance and as a result DEP has drafted some guidance to make sure everyone is collectively comfortable. This is a step in the right direction and appreciated the participation from the Corps, WMD and DEP. Terry Rice expressed his concern with anti-degradation piece and asked how it plays out. Ernie Barnett said that when DEP issues a relief mechanism, it is part of the standard and, he said there is broad consensus from the regulating community and the stakeholders to have the best and environmentally sensitive technology.

Gene Duncan added that the phosphorus levels in the Everglades have increased despite all of these efforts and water quality is worse despite the BMPs. The consolidated report acknowledges a decrease in water quality and the report also states water levels are higher despite the drought. Ernie Barnett said the load reductions as laid out in the settlement agreement are being met. **Follow-up: Richard Harvey requested the question of “What happens when the water delivered is not in full compliance?” be raised at the September meeting. Ernie Barnett suggested scheduling the STA Optimization Briefing on a future agenda.**

Land Acquisition Strategy

Rick Smith presented the draft strategy along with the project profiles and maps (Encl. 14a, b, c) for Working Group endorsement. Rock Salt explained that once the draft is endorsed it would be provided to the WRAC on the following day for their comments.

Craig Tepper said the Seminole Tribe does own property not currently in the name of the USA in trust that is adjacent to the reservations. Some of these acquisitions are looking at those properties i.e., panther refuge expansions. He noted the footprints appear to contain overlap in certain areas and it would be hard for him to vote on this document without additional information.

Public Comment

Jack Moeller suggested changes to Biennial Report specifically on page 5 in-holdings protected and suggested the language be revised, on page 6 wildlife management areas were left out, on page 7 – total amount of acres be verified and noted there are projects not listed, page 9 important to stress the conservation and recreation element since it is a key component. Page 13 states the NPS only deals with “willing sellers” when they actually condemns lands, he suggested removing quotes.

Ronnie Best made a motion to accept this draft and present it to the Task Force. Rock Salt clarified the Task Force is already slated to receive this document at their September meeting and the Working Group would have another opportunity to review this document. Joe Walsh said he would provide comments on page 5 on the uses of those lands. **Action: Working Group approved the draft as a coordination draft that will be shared with WRAC, none opposed.**

Biscayne Bay Report

Essie Duffie reported the Legislature approved \$11.5 million for the projects and Rep. Diaz Balart, Sen. Rudy Garcia and Carlos Locasa were instrumental. Signing ceremony held the prior week. Rick Smith added that the Governor’s veto of the language was not intended to veto the money but to give the WMD the ability to make decisions on Biscayne Bay projects. Rock Salt explained the Biscayne Bay team has been asked to make recommendations based on funds the WMD has received.

Public Comment

Joette Lorion (Miccosukee Tribe) said the IOP for the Cape Sable Seaside Sparrow violates environmental laws. An alternative was out for public comment and then an alternative was developed through closed door meetings have gone forward with a final EIS rather than releasing another supplemental. She is concerned that the temporary 356 pump will be used adverse to the project purpose. IOP will destroy 88,300 acres of snail kite critical habitat that contains 90% of the snail kites in the U.S. FWS says it will not modify critical habitat, which she said would be arbitrary. Interim modeling shows an increase flooding risk to agricultural and urban areas in south Dade County and have water higher on tribal lands. She urged this group look at the plan. This is serious to restoration because if people are flooded, they will tie it to the plan and there will never be restoration. This plan will also hurt the culture and way of life of

the Miccosukee tribe. Since the deviations, the sparrow numbers have dropped with there being more sparrows under Test 7. It will also decrease flows to Florida Bay and she urged the Working Group to take this up as an issue and establish a sub committee.

Jack Moeller noted his concerned that the Working Group has seen the Strategic Plan five times yet the WRAC has yet to see it. He asked for the WRAC to be provided with the document. Goal 3 needs to be enhanced and strengthened and it is important for everyone to be at the table. Preface should show who the author is. The goals and objectives should show the name of a person to allow for accountability. There is confusion between CERP and greater ecosystem projects that needs to be clarified.

Patrick Hayes reiterated his request to include the Loxahatchee River in the Executive Summary of the Strategic Plan.

Southwest Florida Regional Restoration Coordination Team Update

Bruce Boler and Jim Beever provided an update (Encl. 15a) noting the team has been split into two sub regional teams (Big Cypress Basin and Estero Bay and Charlotte Harbor/Caloosahatchee River). The team accomplishments were reviewed and the Working Group was provided with a list of restoration projects (Encl.15b) that are needed as well as the Estero Bay Science Plan Projects (Encl. 15c) with those projects that are completed as well as those projects still needed. Membership lists (Encl. 15d and e) also provided. The team requested the approval of a prioritization procedure, immediate support of one critical science project and immediate support of a number of critical restoration projects. The prioritization procedure would define two priority categories highest or high. The team endorsed the contingent authorization under WRDA 2002 for Southern Golden Gate Estates, the allocation of additional funding project allowing the Lake Trafford project to proceed as well as the acquisition of the remaining CREW lands beyond the southern CREW.

Rick Smith said it had always been the intent to restore the hydrology to Faka Union and Pumpkin Bay to show those estuaries are very much affected by fresh water. This will improve the biological productivity and there are many who are concerned about the ultimate use of that land. Terry Rice asked for clarification on the problem with the Lake Trafford project. Jim Beever stated the dredging bid came in much higher than had been estimated. The team is proposing that the Corps proceed with the project with the funds available. COL May clarified the Corps is trying to see if it can secure more funds or revise the scope of the project if enough funds cannot be secured. Rock Salt explained that the intent was to receive input from the teams and include those in future strategic plans. Ernie Barnett clarified that natural systems do not need consumptive use permits and should be protected by MFLs and reservations. Wayne Daltry made a motion to accept the report and forward the recommendations to the appropriate agencies for action. Thaddeus Hamilton seconded. **Action: Working Group agreed.**

Outreach Environmental and Economic Equity Coordination Team

Thaddeus Hamilton reported the Task Force agreed environmental justice be an overarching theme throughout ecosystem restoration. He provided the team report (Encl. 16). COL May asked whether this report was from the team's or his and he replied that it was a combination of both. Thaddeus Hamilton presented two motions: 1) authorize the team to allow for the inclusion of non Working Group member participation on the team and 2) accept the timeline to develop the strategy for Working Group consideration. Team is proposing to have the draft strategy by October with final approval for January 2003. COL May commented that the team's July 2nd meeting was very productive and asked for a copy of the draft minutes. COL May explained that the OEEECT is an issue team and by definition is comprised of agency representatives only. Thaddeus Hamilton then made a motion to make the team an advisory body. Wayne Daltry explained that if this team were to be made an advisory group, then there would still be a need to have a separate body that they advise. He also added that he liked the idea of the broader group. Rock Salt also added the task of inventorying the agencies is that of an Issue Team and input from the public is welcome and important, but it is a different task. Gene Duncan asked about the FACA implications. Rock Salt explained the Task Force has the authority to designate advisors and they are exempt from FACA. COL May stated it is premature to vote at this time. Wayne Daltry said it would be useful to change the timeline and then discuss expanding the team since this would prove invaluable to help develop the goals. Rick Smith said he would rather have the public talk to him directly and noted the Corps

and WMD's ongoing outreach efforts and added this would be creating more structure and agreed this should be voted on at the next meeting. Thaddeus Hamilton stated the "public is not here" and pointed to the 7 million people in the sixteen county area that needs to be involved and educated in this restoration effort. **Action: Wayne Daltry made a motion to approve motion #2 to change the timeline and Rick Smith seconded. Working Group approved. Follow-up: COL May asked for the Working Group to be provided with the team's July minutes. Wayne Daltry made a motion to table motion one until the next meeting and this should be scheduled as the first item on the agenda. Rick Smith and Ronnie Best seconded. Working Group agreed to table the second motion until the Sept meeting where it will be scheduled first thing.**

Requests/Follow-up:

Mini Working Group meeting will be scheduled in August for the purpose of approving the Strategic Plan. Terry Rice requested the minutes include those items that are in the queue.

Three Items to be included on the September WG agenda

1. Discussion of those issues associated with lands in the CERP foot print
2. Flooding Issues
3. Modified Water Deliveries Project Update
4. OEEECT motion #1 tabled for further discussion

Rock Salt stated the Task Force conference will be postponed until August in order to coordinate those items for the Strategic Plan and he said he was reluctant to get into those items already blessed by the Task Force. Comments on the Strategic Plan are due on July 26.

DEP has offered to put together an STA optimization briefing for a future meeting agenda.

Meeting adjourned at 7:30 PM.



Revised: Sept. 3, 2002

MEETING SUMMARY

WATER RESOURCES ADVISORY COMMISSION and
SOUTH FLORIDA ECOSYSTEM RESTORATION WORKING GROUP

**Location: Naples Hotel
Naples, Florida
Tuesday, July 16, 2002**

ATTENDEES:

Members of the Water Resources Advisory Commission

Mike Bauer
Scott Benyon
Doug Bournique
Bill Brant
Al Calloway
Rick Coleman
Michael Collins

Harry Cronin
Shannon Estenoz
Beverly Grady
Kevin Henderson
James Humble
Barbara Miedema
Jack Moller

Mary Munson
Jorge Perez
Michelle Thomas
Malcolm "Bubba" Wade
Terrence Rock Salt
Libbey Webb

Alternates

Ernie Barnett
Kelly Brooks
Walter Carson

Allyn Childress
Joanne Davis
Manny Echezarreta
Bertha Goldenberg

Mark Kraus
Kim Love
Ken Todd

Members of the South Florida Ecosystem Restoration Working Group

Ernie Barnett
G. Ronnie Best
Marjorie Bixby for Donna Pope
Kathy Copeland
Wayne Daltry
Essie Duffie for Brad Brown
Gene Duncan

Thaddeus Hamilton
Richard Harvey
Barbara Junge
Brian Keller for Billy Causey
Colonel Greg May
Fred Rapach
Terry Rice

Rick Smith
Ron Smola
Craig Tepper
Henry E. "Sonny" Timmerman
Kenneth S. Todd
Joe Walsh
Patti Webster for Steve
Somerville
Julio Fanjul
Rock Salt

Jim Ferro for Roman Gastesi, Jr.
Maureen Finnerty

W. Ray Scott
Jay Slack

Welcome: Col. May, Chairman of the Working Group, welcomed the group and asked everyone attending the meeting and sitting around the table to introduce themselves. Michael Collins, Chairman of WRAC also welcomed everyone to the meeting and said that public comments will be taken following each presentation.

Presentation:

Chairman Collins introduced the first speaker, Ken Ammon, Director of the Water Supply Department at South Florida Water Management District. Chairman Collins said this presentation is just a "draft" on reservations of waters. The topic of this presentation is "Reservations of Water for the Environment and Assurances for Existing Legal Sources Consistent with Federal and State Law".

Mr. Ammon said the purpose of this "white paper" (included on the SFWMD web page at www.sfwmd.gov at District Clerk's Office, WRAC) is to use it as a starting point for public input in

identifying key policy, technical and process issues associated with the implementation of the Comprehensive Everglades Restoration Program (CERP). The presentation is the proposed framework for implementing water reservations and existing legal sources.

Cecile Ross, Office of Counsel, SFWMD, presented information on the State and Federal mandates concerning reservations - Federal – WRDA 2000, and State – Chapter 373. Ms. Ross gave a summary of relevant legal directives, state laws regarding implementation of CERP, and water resource protection tools under state law. The upcoming presentation will include information on identifying water made available by CERP.

- Q. Any protection of fish and wildlife and a quantity of water for protection of wildlife?
A. Protection of the water is by reservation.

Mr. Ammon continued with information on the primary policy issues, including how to define and protect existing legal sources of water for natural systems and other related needs. The reservations of water for the natural system will be made by the SFWMD pursuant to state law and the District will accomplish this through the rule making authority of the Governing Board. Information on consumptive use permitting, minimum flows and levels, water shortage, and regional water supply planning requirements were presented. The important concepts in identifying the “Pre-CERP Baseline” conditions and guiding principles were discussed. Included in this presentation were information on the general system-wide regional conditions; hydrologic conditions; physical conditions; operational conditions; supply/source conditions; and demand conditions. The definition of existing legal sources was explained along with the spatial identification of existing legal source user basins. Mr. Ammon further elaborated upon the Pre-CERP Baseline. A chart on the volume-probability curve was shown. The development of the regional water availability rule was discussed. The method for quantifying existing legal sources through the Pre-CERP baseline was reviewed by Mr. Ammon. The proposed procedure for identifying impacts to existing legal sources through the PIR development was reviewed, along with the key concepts in protecting water for natural systems and human uses made available by CERP. The subject of rainfall driven reservations was presented. Mr. Ammon presented the conceptual process for protecting existing legal sources.

The second part of the presentation included the primary policy issues on how to protect water made available to CERP for natural systems and other water related needs. Regional environmental deliveries from a project were demonstrated. The development of linkages to water shortages and operations, and the operational linkages were also included in the presentation.

Public Comment:

- ✓ John Adornato, National Parks Conservation Association, from Hollywood, Florida. He thanked Mr. Ammon for his good presentation. He spoke on regulatory releases and he thinks they need to be defined more fully. Mr. Adornato asked questions and made comments on C-111 and Mod Waters projects.
- ✓ Patrick Hayes, Loxahatchee River Coalition, also thanked Mr. Ammon for the excellent presentation. He spoke on the reservations of water in the baseline and asked how the baseline was determined. He asked questions on how is the baseline for the environment was established and Mr. Ammon provided answers.

Presentation Cont.

Mr. Ammon concluded his presentation and said he would go around the room and take questions from the members and he would try and provide answers.

[Note: A verbatim Question and Answer sheet is attached at the end of this Summary.]

Presentation:

USGS Informational Workshops and Department of Interior (DOI) Science Plan by Ronnie Best, Ph.D., Coordinator, Greater Everglades Science Program, U.S.G.S.

Dr. Best presented a set of five (5) fact sheets and he will provide a copy for all members attending today's meeting. The Workshop's series purpose is to inform Everglades partners and stakeholders of U.S.G.S.'s accomplishments and ongoing activities. The ecosystem history – paleoecology listed the “identified research needs”. Ecological modeling and landscape mapping and topography were presented. The next steps on information needs are being incorporated into the *DOI Greater Everglades Science Plan*. A copy of Dr. Best's presentation will be posted on the SFWMD web page and will be sent to the members of the Working Group.

A question and answer session was held.

Announcement:

Col. May welcomed Henry Dean, Executive Director, SFWMD to the meeting.

Public Comment:

- ✓ David Friedrichs, Dade County Farm Bureau. He spoke on IOP and ESOP. He thanked Henry Dean at SFWMD for his assistance in Miami-Dade County. The water table in a problem, and he urged the reevaluation of the area in the 8.5 Square Mile and to make changes.

Presentation:

Task Force Land Acquisition Directive by Mike Collins, Chairman for WRAC. Ann Klee, Chairperson of the Task Force asked for recommendations from the WRAC on the land acquisition strategy developed by the Working Group. He would like to set up some “break out” groups to work together to provide input at the September 5th WRAC meeting and then those recommendations will be forwarded to the Governing Board members at their next meeting in September 2002. He asked the members to try to review what we are doing in terms of land acquisition strategy and get the conservancy members to speak to us on why their work in the Kissimmee area is working. Mr. Collins asked for a show of hands on who would be interested in being on the committee for the “break out” group. The following WRAC members volunteered to serve on the Committee: Jack Moller, Mike Bauer, Allyn Childress, Kevin Henderson, Scott Benyon, Mark Kraus, and Malcolm Wade. Others are urged to contact Julio Fanjul, Lead Planner for WRAC and volunteer to be on this important committee. July 22nd will be the first meeting at SFWMD Headquarters, 3301 Gun Club Road, West Palm Beach, Florida.

Comments made by members on this issue.

Presentation:

CERP Master Schedule Update by Alex Perez, Director, Program Control Department, SFWMD. Mr. Perez said the topics for today include a brief chronology of the past year's achievements, a summary of schedule refinements, scheduling assumptions, and managing changes to the master schedule. The chronology from July 2001-2002 was presented. The schedule refinements and assumptions and the changes to the master schedule completed the presentation. He gave the website at SFWMD (www.evergladesplan.org) (click on programs and projects) if any further information and continuous updates were needed by the members.

A question and answer session was held among the members and Mr. Perez. Mr. Wade asked for this topic to be an agenda item on an upcoming WRAC meeting in order to discuss this subject further.

Announcement:

Mr. Collins thanked everyone for attending this meeting and said the joint meeting is over and the WRAC portion of the meeting would continue.

WATER RESOURCES ADVISORY COMMISSION
And
SOUTH FLORIDA ECOSYSTEM RESTORATION WORKING GROUP
Naples, FL, July 16, 2002

***QUESTION AND ANSWER SESSION AFTER WATER RESERVATION
UPDATE HOSTED BY KEN AMMON, DIRECTOR, WATER SUPPLY
DEPARTMENT, SFWMD***

- Q This question really deals with alternative water supplies. If water that is sent to tide is captured either for water supply purposes or environmental purposes, the agency that did the construction of the reservoir and the re-plumbing, would that water be considered their water for that use since water to tide, I believe, is considered new water?
- A Well, water to tide from the regional system we're saying is not included as an existing legal source and will be most of the water that's going to be reserved in the future when CERP projects capture it. Does that answer your question?
- Q Does CERP, is it planned to capture all, it is not capturing all of our goals and tides?
- A That's a good point. That's a very good point and one that I thought about bringing up in presentation but we need more work on it, but I'll say it now since you brought it up. Initially, the concept was absolutely no water that came out from the regional systems from a regulatory discharge would be available as an existing legal source. I think what we need to do in this CERP update through these five-year incremental runs, is to take a look, and I am not even sure what time frame yet, it could be five years, we might want to go out to the 50-year time horizon, see what the total amount of water in fact is anticipated to be captured by CERP is. Is it 75% of that regulatory water? Is it 80%. And in my mind, it seems like we could make provisions to have that other 20% in fact considered as, or available for, maybe it doesn't need to be considered as an existing legal source, but certainly available for capture by urban communities or utilities.
- Q So basically, the answer is yes there is a possibility?
- A Yes.
- Q Second question. You mentioned earlier that the existing legal sources were being done in some basin-by-basin basis. Is it possible that a specific permitted user may be impacted, possibly through re-allocation and if so, what recourse do they have if they are impacted?

A Impacted by a CERP project?

Q Correct.

A Yes, I think it is very possible that an individual consumptive user will be impacted by a CERP project and again I bring up Site 1 as a typical example of that, where most of Lake Worth Drainage District relies currently on Water Conservation Area 1 for deliveries and has one of the largest diversion impoundment permits that the District has issued through time. The plan in CERP is to make them much more “self sufficient” and retain that water in the water conservation area by shifting their source to Site 1 and Site 1 would be a combination of surface storage and aquifer storage and recovery to provide most of those needed demands.

Q Will reservations be made when the CERP designs are completed or will they all be done before that?

A The only reservation that we’re anticipating now to be developed prior to CERP is the rainfall-driven reservation for the water conservation areas in Everglades National Park. The remaining reservations would build on to that initial reservation as each CERP project is designed and prior to it being constructed.

Q When will the sensitivity runs be completed? I know you said you would like to see it by the end of the year, and will they be made available as a report or on the Web or what?

A I think it will be a combination. Actually, we do have, we were anticipating maybe even bringing some of the sensitivity runs into today’s meeting but with the limited time we have, we knew we couldn’t get through them. We’ve got, I think, two or, I think we have three of the sensitivity runs done now. We’ve got two to go and what we anticipate doing is completing those probably by mid-August, I’m throwing numbers out that’ll probably come back and bite me, or dates, but by mid-August and hopefully be able to go out in the public in the September time frame and hopefully have an agreement by the December time frame.

Q One last question, this actually is for Cecile. You talked about the model runs would be made to show impacts on the existing legal users and if there were some impacts, staff would have to come up with new water, or maybe I misunderstood you, or the governing board could decide? Is that true?

A When establishing a reservation, talking about that piece? Right. When we establish a reservation the statute says that we protect the existing users insofar as they’re not contrary to the public interest. So if we did

develop a reservation, we did the model run, not sensitivity run, under the PIR, we found that there was some adverse impact on an existing legal user, the governing board would be presented with this issue of whether we allow the impact or we try and offset it and it gets complicated because some of those users will have been protected under the savings clause. If they're protected under the savings clause, then we have to have a replacement source. But if they're not protected under the savings clause, then we would have that opportunity. My point I was trying to make was that under State law and under the Regional Water Supply Plan, we're supposed to resolve potential competition issues and I think it would be the Governing Board who would consider the need to provide a replacement source or help with some water resource development and water supply development if we did have that potential competition. That was the point I tried to make.

Q In reference to the issue on page 13 as to whether or not to include C-111 and Mod Waters in the pre-base, pre-CERP baseline. After your discussion, I agree that those should not be in the baseline. It seems that the baseline and the existing legal source definitions are inextricably tied together. I guess my question is how do we consider those projects once they are up and running, similar to the public comment we had.

A Well, remember that the existing legal source protection only applies to a CERP project. So, there could be a couple of ways to do this. I mean, one is to exclude them up front as far as existing legal source identification. But we can't tie the entire region's hands by things like that. We are considering now, adapted protocols, projects that aren't constructed yet, that aren't CERP. I don't think that we can tie the District's hands by trying to tie all that in to an existing legal source question. So my proposal is that we simply consider those as designed, we provide the water that is currently available to provide it but it is not included in the existing legal source protection.

Q Ken, I apologize for this. Your definition of domestic use is? How do you define domestic use of the water.

A Primarily, those are single-family homes that have self-supplied 2" well in the backyard that provides both irrigation water and/or drinking water for that household. Kind of a well and septic scenario. Those are domestic uses which are exempt under our permitting rules. Private source.

Q The private source for an individual use is exempt under the system now and being exempt, that could be expanded as needed?

A Expanded meaning.....

Q Well, for instance, under State statute for on-site usage systems, you can, on two acres and an acre parcel of land, you can put a well in and particularly if you have offsite sewage disposal, it is very easy to put the well in. If you have two acres of land, you can probably put the well, or even on some acre parcels, you can put the well and a septic tank on there so that as you're driving the land use criteria into large estate parcels, is that a possibility that you're going to privately supply all of these new homes with water.

A Well we don't "supply water".....

Q I understand that but it's part of the regional system. I'm just asking the question.

A The assumptions of domestic wells and irrigation is in our regional models. That assumption is in there. It's an estimate of, depending on the area you're in, of how much those self-supplied irrigation and/or potable water systems affect the water table aquifer, or whatever, depending on the county. So that assumption's in there and those demands are, in fact, accounted for. As far as the land-use controls and driving those, I don't believe that is under our District purview. That is up to a local government decision as far as what and when and where they're going to allow those types of withdrawals and for what land uses.

Q I fully agree with you. I'm just suggesting that under, you know, laws of unintended consequences, you're doing things that affect policies down the road that you are not participating in or looking at and I would suggest that if you are going to add several thousand homes in rural parts of Palm Beach County that are, in essence, going to be disconnected from your natural system, and they don't have to get a consumptive use permit to operate and develop, that, and yet you want to do a redevelopment or you want to do a concentrated housing project that is going to come in to play because you want to do it for transportation reasons or something like that, that you want to concentrate, if they've got to go get a consumptive use permit and under the new scenario they may not be able to get that consumptive use permit because of other water allocations so I'm just, I was glad to clarify that but I don't know whether I'm helping the folks in my industry or not by pointing that out. But, I think the larger issue is that I think you need to look at all the planned uses in developing new allocations for your water use and I think all players probably equally ought to be a part of that. Thank you.

A This may tie directly also into the Governor's initiative on land and water linkage and getting a better connection between local land use controls and District water supply planning.

We still have to clarify, work all those issues out but we have direction to do that.

Yes, and I think the new growth management bill in fact, while I think that folks are fairly vague on that yet, I think the interlocal agreements, I don't think that you're going to be able to avoid the required development of water resources. A lot of folks think that that can happen. That we can say ok we're going to build this water resource but we're not going to build this water resource and therefore we're going to ignore these users and I think that the growth management bill does not allow that. You must...

A Walter, I think we're very clear on that.

Q Exactly, and you must look at the ten-year horizon on that and must develop the water resources so I think it has to go hand-in-hand as we aggressively look at developing the other natural systems of water availability.

Q Ken, in talking about the pre-CERP baseline, from your perspective, what are the advantages/ disadvantages of including things like Mod Water and C-111 in that baseline versus dealing with it in another way like the reservations or something like that. You obviously have had some discussion about that.

A I think that the disadvantage at this point is too many of those currently ongoing projects aren't yet defined. As far as operational or distribution of water or even in some cases the storage reservoirs involved and how big they are, water levels on each side for flood control. All those things are ongoing debates that may take years, literally, to resolve. I hope not. I hope they're much quicker than that. But if you look at the past history, they have taken years, let me maybe put it that way. We have PIRs currently under design or beginning design so these issues are critically important to get our hands on now and an understanding of now and to identify what those existing legal source comparison is so that these PIRs can be completed and, in fact, a reservation can happen as soon as possible prior to the project cooperation agreement. So, I think that's the biggest disadvantage of including some of those projects that are authorized but not designed or constructed fully yet at this point in time.

Q Ken, I have several questions and comments. The first one is I believe you're going to define the conservation areas as discreet units. Is that correct? Hydrologic units?

A Currently, we have combined the water conservation areas into one environmental unit and Everglades National Park into one environmental unit. That's the current proposal.

Q OK. With that in mind, I would suggest... You have several models that are being developed in the District that actually define much smaller rainfall basins than the conservation areas are and I know that within the conservation areas there are very drastically different demands depending on where you're located. I would suggest that the reservations be defined at those sub-rainfall basin levels within the conservation areas and that maybe... well so that's one suggestion I would make. The other is, I'd like to know how you're going to deal with new information that will come from the regional simulation model when that comes on line to replace the 2 x 2, if you find inadequacies or inaccuracies in the demand that was defined in the 2 x 2 how will you deal with that later.

A The regional simulation model versus South Florida Water Management model?

Q Correct.

A For those of you that may not be familiar, the regional simulation model is what we're calling the next generation South Florida Management model. South Florida Management model is extremely time intensive. There's only very few people know how to change the code and what those code changes, how that might affect another piece of code. It's very archaic and yet it's the best tool we have available and is a very good tool. Regional simulation model is going to be object oriented, basically, in a smaller grid size you can look at much smaller scale projects as they come online versus a 2 x 2 mile grid system that might include a half a mile reservoir in it, you know 1 mile x 1 mile reservoir. So it's going to be able to simulate much more accurately than we have now. It's been ongoing development for about three years, expected to be, presuming we get appropriate budgeted funds this year; and expected to be completed in about two years. When that comes online, there's no two models that are going to give you the same results and we're anticipating this model to be much more accurate than the South Florida Water Management model. But it's going to take probably a year or two after it's developed and available for use to run these two models side by side to see what those differences are and to see if maybe even the South Florida Management model might be simulating one piece of the system a little better than the regional simulation model. So, long story short, I think once that model comes online, that will be the major tool and it's friendly enough that probably anybody in this room could essentially run it, if you had a big enough computer, for the entire south Florida ecosystem.

Q So again, how will you deal with changes in identified demands if you've already made a water reservation and a PIR before the RSM came online.

A Well, I would anticipate that we're going to have several, and there's other things that could change as part of this model. Topography could change

through time. Recover could have modified performance goals. So, I look at this as kind of a moving, living, breathing modeling effort and even performance effort, through time, that's going to change. I think that what we need to have is a regular, and I think they're talking about five-year minimum, incremental CERP updates that's going to start truing everything up every five years with new land uses and with new population estimates and new topography, and even new performance measures that are developed by recover and maybe new goals in certain areas. So, I don't look at that as a serious problem at all. I just think we need to, through the initial and further CERP updates through time, we need to make those considerations and do it in a public form and everybody knows the assumptions going into it.

Q Could you tell me, are the estuaries such as Florida Bay and Biscayne Bay, would they be considered existing legal users?

A Currently they are not. Currently none of the estuaries are included as existing legal sources. The primary reason for that is that we have had, far as I know, no ecological restoration goals that have been agreed upon for any of the major estuarine systems. That's not to say that there won't be in the future. We do know that CERP, with the new water made available and how it's going to deliver that water, is going to address the needs of the estuaries, we know that. But there are preliminary performance measures and I would hope, and there's ongoing modeling studies on Biscayne Bay, Florida Bay including two minimal flow and level projects under State law that are currently happening, that are going to give us better information on that. But I think right now, to say that any water going to Biscayne Bay or any water going to Florida Bay, or any water going to St. Lucie is a good thing; should it be reduced -- should it be increased? I'm not sure we have the answer. We have some assumptions but we don't have any answers and that's the primary reason that those were left off the existing legal source definitions.

Q This is a great job, great start starting out with reservations and I am sure there's going to be a lot of issues we are going to have to resolve in the future. A couple of comments. I want to make sure that we all signed on to this plan, this project, for the benefits that we see in it. None of us agreed that as we agreed to this plan we'd be cut off at the knees and that's all we're going to get until the projects come online. I don't think any user group felt that. We all participated because we are looking to the future and reservations, as we perceive, all we want to make sure is when we implement reservations, that there is equity in the implementation of those reservations. As I mentioned earlier, if you're going to offer protection to different users, then offer that protection in an equal basis. For example, I looked at your presentation. You're protecting and reserving water for the natural systems and the other related water users. I think we're more than just the "other" group. There's urban interest,

there's agriculture interest, and other users and I think we need...we also should be afforded same protection. The same thing that's when everybody is under the assumption that when we implement the plan we set the reservations first, that's for the natural system. The rest of the pot is what's left over. That's...sometimes I'm reading that in the presentation. That's not so. There is a savings clause and assurance provisions to make sure existing legal users and uses are protected. And again, we did not sign on just because this is what we have existing in the baseline is all we're going to get. I'm concerned about the interim period when the projects come online and we're developing the reservations and we're looking at the water availability on a project by project basis, we're going to take cumulative benefits that we appreciate that's fine. What's concerning me as a user, categorical user, is the interim period. What are we doing at the pre-base CERP line in the ten, twelve or thirteen or fourteen years before these projects come online. At this time I don't think I can support setting initial reservations. It's going to have an impact on the other related water users in this interim period. It's a critical time period for us and I have a major concern about setting initial reservations at this time.

A I'm hoping that the CERP update with these five-year incremental modeling runs are going to show us if that issue is a huge concern or if it's a moderate concern or a very low concern, but I understand it's a concern. But that's going to give us a lot more clarity, I think, I know, when we get this pre-CERP baseline done and the initial CERP update as to are there any gaps in the interim here that we need to address and then we have to figure out how we're going to address them.

A Well just look at an example the volume/probability curves, looking into the differences of those baselines versus the projected volumes that you're planning on setting reservations for. That's a significant amount of water.

Q Just a general comment Ken. One of the things that is kind of worrisome is to talk about the model that will be used to make some pretty important decisions and I think it's important for everyone to understand, it's probably important for yourself and your staff, to qualify the abilities of that model. It's a predictive tool that doesn't really have a hundred percent certainty of accuracy and reliability and whenever you use the term modeling and the results of the modeling, you state it as if this is certainty and it is not. I think it is very important as we move forward to always be looking at calibrating and doing further work with new models but certainly even getting new models to be always calibrating and trying to reach a higher degree of reliability and predictability with these tools.

A Totally agree and I think that's why we've committed to the regional simulation models and next generation. But you're right, the model really is good for a relative change, or relative difference. Absolute numbers are

very difficult until we have a lot of confidence in a model and yet it's the best tool we have available to estimate these things at the current time (inaudible).

Q Ken, I don't think I purport to understand all this. But, one of the themes that keeps coming through to me I guess is something where Fred was going and that it seems to me that if a CERP project comes on board that makes additional water available and that water is my word "allocated" if you will according to the fish and wildlife protection and legal uses and the legal uses are defined as whatever they were at 2000, if that CERP project doesn't come on for fifteen years, I guess the issue that I'm struggling with, among many, is I'm presuming that there is going to be my term "quasi-legal use" that is taking place above the 2000 level during that 15-year time frame, and that may not be an insignificant amount of use such that when a CERP project comes on board it may have ten units available of water, perhaps eight of those units would be ideally beneficial to fish and wildlife protection, two of those units might be covered by legal uses as they were defined in 2000, but because it is now 2015, there is still another one or two units that have come in to play during that period of time and what, how do you deal with that one or two units that may have come in to play either during that fifteen years or at that 15-year time frame because this appears to not give them standing.

A. Well, the pre-CERP baseline and the result in existing legal sources are meant to consider the existing legal users as of December, 2000. So, the anticipation there is, is that those existing legal users have been getting that water in the past and will continue to get it from the system. So when additional water comes available from CERP, those two units you referenced, those really should be slated to new uses, not existing uses, but any new uses that may have come online between the December, 2000 period and 2010 would potentially have access to those two units depending on where the delivery and the effect of those two units were in the system.

Q I think I see what you're saying. There is going to be, could be a gap there but I think we need to recognize too that the State law, not the savings clause Federal piece, but the State law requires in order to receive approval from the DEP to go forth with the project the District has to give reasonable assurances that existing legal users, and that's people who have permit at the time whether it's 2005, 2010, at the time we're doing the PIR, that they're water supplies not diminished and they are not adversely impacted by the project. So we, even though we may not have that protection beyond 2000 under the Federal we do have it under the State and I think that's kind of what I was saying to Ken is that in that instance the State would need to figure out how we were going to resolve that potential issue, resolve that competition. That's going to happen. Whenever the Federal savings clause has a date certain, there is going to

be, unless we don't allow any additional growth. We're in that conundrum but I'm hoping that we can figure out how to reasonably deal with it.

A Yes, and there is a very related issue and that is, under our regional water supply plan authority which we're mandated to update every five years the lower east coast plan included CERP but it included a lot of other stuff in there too, water resource development projects and directed some of the areas for water supply development projects. So, we're going to be continually updating that also, comparing it with the CERP updates. If there is a gap, it is our responsibility to address it in some way.

Q First of all I would like to apologize because I had to go to a national teleconference and I had to go and let my director know that I was in this meeting, that's why I could not stay on my conference with him. But one question that I do have is that once we complete the process that we're going through and everything is in place, will we, do we know if we at the end, the final end product, will we be in the same situation as we are now. To give an example like with the school systems, once they build the school it is overcrowded. Are we having any way of preventing that getting back to the situation that we are now and in 2030 or 2050 we have to start this whole process over again.

A I would like to say no. I mean, we are not going to be in that position. I feel fairly confident in that the only wild card being money, take that out of the equation a second. But if you take the process, the process is that we will continue to update the CERP projects through time as each new project comes on line we'll take a look at what's the existing land use today, what's the existing population today, and we'll be addressing those issues and then they'll have new comp-plan projections and we'll use those in there for the out years that are more true-up through time also from the local governments. So I would like to say that we continue just to zero in on the real life growth issues that are facing us in the future in south Florida and as we do that every five years or so, that we're going to be able to true-up the demand numbers and we're going to have to true-up the projects. You know, if projects aren't providing everything we need then we need to take another look at the projects. Now that would be done under WRDA and of the State and Federal process or it could be done under 373 just the State process and water supply planning but between the two, I'm very confident that we'll get there.

Q My question is back to the State law which provides protection for existing legal users for their full permit use but your pre-CERP baseline takes into consideration the existing use as of December, 2000. How are you going to comply with the State law.

A Cecile, does it...is it the permitted use when it says in the State law the 373 existing legal user... in your mind that is permitted or not.

I think it's permitted. I think it's up to the level of certainty in the permit. I think that's the same kind of question Mr. Boyer asked. How are we going to reconcile the different standards that the one is in the Federal and one in the State law and that's definitely something that we need to figure out.

Q I was just curious why the pre-CERP baseline didn't go ahead and just take into consideration the full permitted use instead of looking at existing.

A That is still on the table. Those are some of the sensitivity runs we're going to do. We're going to put the permitted in versus the actual and see what that discrepancy is. Is there a big difference at all on the regional system or maybe on a certain sector of the region, agriculture for instance in a certain area might have a bigger effect than others and what consequences will that have on the whole big picture of existing legal sources. In many of these cases we might find there is a very little difference, in which case there's really no use in setting up walls and fighting about it you know, it's just put in there as an assumption.

Q You discussed, under the regional water availability rule development, accumulative analysis of existing permits plus new applications. Can you elaborate a little bit on that because I think that gets back to what Mr. Hamilton was talking about and some others. We've never really looked

(END AUDIO TAPE 2)

(BEGIN AUDIO TAPE 3)

...present revenues to be sure that you can pay back the money that you borrow to install the infrastructure and their expectation is that you can use the infrastructure to its fullest extent. I think that's where Lorraine was going was the installed capacity of our system. We consider that to be our existing system. We have pledged the revenues from it and Wall Street expects to get the money back. So I think you need to factor in the financial ramifications to utilities for anything less than that. We'll provide your written comments too. My third and last comment deals with the issue of water quality. It's been brought up before but from our perspective as a water supply utility, the idea of the savings clause providing equal water, I just want to make you aware in Dade County we're currently undergoing an improvement to one of our major water treatment plants, it's about \$50,000,000.00 project. We're well into it, most of the way through it in fact, and the purpose of it is to upgrade the treatment to be consistent with the requirements of the safe drinking water act for disinfecting by-products. That treatment process that we're upgrading to called lime-softening process was done after pilot studies and it was done to match the water quality that we have historically received. So any change in the water quality, and we're not just talking about nitrogen or phosphorus here we're talking about things like total organic

carbon, those types of things that aren't normally perhaps considered in a water quality analysis, need to be included in any water quality consideration or it would, it could negate this expansion, not expansion this improvement that we're doing to the water treatment plant right now. Again, we'll give you our written comments.

Q This is a really outstanding job that you've accomplished and appreciate it. You've got my three pages of issues and concerns.

A I thank you for your detailed review and comment.

Q When I get something I read it and I'm supposed to respond and I did and basically the things that I want to bring forth are some of the major items I have concern but not total. Should has no value in regulation. All the shoulds, shall be or must. Should tells me you can do whatever you want to do. Take them all out. I am very concerned that there is no minimum flows for Big Cypress National Preserve and you have it disconnected from the water conversation areas and we know that that's hydrologically not true. I would like a written definition of rain-driven model with operational examples and for the folks who are new here, I share with you the '71, '81 floods, '81 when it was a big fiasco and it was all over the news and the District said yes we put thirty-six inches of water in the WCAs because we had thirty-six inches of rain. So we had six feet of water in there instead of thirty-six inches. I'm still under the conception that that's what rain-driven model means because nobody has put in writing anything different. If that's what it is, we have a serious problem. Also, you bring up consumptive use permits that are used and those that are outstanding but not used. Loxahatchee River, folks who are watching that know that may not see sitting in the closet how many consumptive use permits volumes of water are not even being pulled out yet. Can we get a simple spreadsheet basin by basin, system by system, that shows consumptive use permits used, consumptive use permits that are allocated but not used. Because according to what you said, you plugged in the non-used consumptive use permits already issued so the people who are watching these systems may not know it, but half of that water may already be gone. You see what I'm saying?

A We'd be happy to get you a spread sheet on that.

Q It's also my understanding that 80 percent of the water created by CERP projects is for the natural systems. Is that not still the policy or the position?

A I'm not sure that was ever a policy, certainly by the District. I do know that those numbers were derived, I believe, by Richard Punnet, and went into the Corps report or, what's it called, the Chief's Report. However, remembering that that 80 percent was based also on, it was not based

D13R, it was based on D13R4 that had the additional 245,000 acre feet delivered to Everglades National Park as an assumption that went into the 80 percent. In fact, that was not in the approved D13R so it's close however, it's probably 75 percent, something like that if you excluded that 245. It's probably 75 percent.

Q Did we lie to Congress and say that 80 percent was for water? Is that what we're going to go back and tell the people in WRDA this year, we lied to you? Somebody did.

A Answer by Mike Collins --- Jack, I think what was said was that our best estimate at this time is 80 percent of the water would be for the natural system and 20 percent would be for other users and the bottom line is even at that, CERP was based on a win/win situation.

Q I understand what you're saying and there's a lot of shoulds in front of what you said. Best estimate at this time....

A That's exactly right because that's where we are at this time.

Q Those are my concerns here, new ones, and whenever you get around to responding to my concerns appreciate it.

A We will respond sir. Thank you.

Q Ken, I would like add us to the list of the parties expressing concern over the issue of release, water releases to tide, specifically as it relates to Biscayne Bay. I am glad to see you sort of recognize that its problematic and..

A That's still an outstanding issue.

Q Something that we need to work on. I mean, that's something we absolutely would like to be able to participate in. It makes me think of the question, and I don't know if this overly simplimatic or whatnot but as a project like Coastal Wetlands proceeds, as we discussed this here and (inaudible) reservation for any release to tide. In my mind I'm sort of seeing as that team starting from sort of what they're looking at zero discharge to the Bay in addition to whatever other future water they may be looking for. (Inaudible) starting from zero there's nothing going into..

A I think what they're really, we're trying to say so far is that a CERP project, because a CERP projects are really there primarily designed to restore the Everglades, restore the estuarine areas, that the reservation is going to come during the development of the PIR for those CERP projects and that water will be slated to go to Biscayne Bay or Florida Bay or Water Conservation Area 1 or the Caloosahatchee, and at that point in time is

where those significant environmental areas will get their guaranteed water supply through a reservation. It's very strong, you know, considering what they have now which is basically nothing and even the targets are yet to be defined. So, that's what we're really saying.

Q And then thoughts on the inclusion of mod waters in C-111 comes to mind probably from the County perspective would be potential flooding benefits that could be (inaudible) to come out of those projects for the County and it makes me wonder is something similar slated down the road? Is this for coming up with flooding levels and I don't want to start a whole conversation on that but is an envisioned in terms of establishing as this is being established for water reservations.

A Yes, and then there is a provision in WRDA, and I believe in State law Cecile, that talks about maintaining the existing flood protection that you have so those issues will certainly have to be addressed in each project implementation report, we're not only going to have to have a model that looks at impacts on existing legal sources, impacts on water quality, but also impacts on flooding. Flood protection.

Q My question is to the speakers as well as to the Chairpersons. Before I ask the question I have to give you a bit of information which will qualify my question and that information is that this is my second WRAC meeting that I have attended, both meetings I found to be very informative and highly educational. In fact, it made me look at water from a different point of view. Typically, I pay a lot of money to attend seminars, continuing education courses and workshops to get this kind of information. I'm, being put up very comfortably to be educated. I know my job is as a WRAC Board Member is to advise the Board and for this to serve as a public forum and I see the public forum in interchange of idea. But my question is, and its probably mainly to the chairpersons, how we advise the Board. I feel I haven't participated yet. I'm leaving with all this wealth of knowledge and comfortable rooms and nice coffee but I, how can I advise the Board, how can we help.

A When we get close to the end, when this is coming up in front of the Board, we'll take it up for comment with the WRAC. Right now we're just getting briefings. You're going to get in the actual WRAC requests for input. You know, specific ones. So, you know, I think the Board, the staff needs to respond to you and then when it comes to the Board, if the issues have not been dealt with, that you dealt with the staff, then we respond, then you have the right, I guess the leverage to go talk to the Board directly.

Q I have a question about the definition of existing legal sources. The first part of the definition states that existing legal sources are the quantity of water available of which there was a dependence consistent with Federal and State law, and my concern is with the word dependence and how

that's defined. It seems the way that it's used, it's adding another layer of discretion on top of the already existing Federal and State definitions of legal users, and secondly, for the tribe specifically, does dependence for the tribe contemplate the tribe's dependence on their not being excessive water levels in WCA-3A.

A First off, the word dependence is meant to modify the word locations not quantities. So it's dependence on a location's quantities that were available but dependence on the locations and probably I'm going to re-write that to make it a little clearer. Your second issue on high water table sounds very similar because we really didn't look internally specifically when, on our overheads regarding regulatory discharges but it sounds like the areas that are too deep, the areas that exceed even a natural systems model-type target for the rainfall conditions, it sounds like they should not be considered to me as an existing legal source, if that was your question, but they would fall in the same category as regulatory discharges that are going to be captured by CERP in the future and stored and delivered differently.

Q My first issue is on the difference between rights and reservations. I understand that existing use (inaudible) defined (inaudible) to defined as an existing user and Cecile said that is not a property right (inaudible) three-pronged test and all that but reservations are different all over the country, especially out west where their water laws a little different than ours, there's a concept known as a winter doctrine and clearly the tribe has water rights and if an existing use is not a property right, it's a license as it's being described here, then the question is what is the tribe's water rights and we have always advocated that we wanted natural system levels water rights but that's really difficult when they keep changing the model every five years. The model, of course, is based on the assumptions and the assumptions keep changing every five years so we have a constantly moving target. We'll never know what the water rights are and I'm a little concerned about this constantly moving target. The proponents would say that we've, we're doing adaptive management but, you know, this was a very delicate balance when we went to (inaudible) with this plan between urban and ag and the environment and if we change that balance, we're very likely going to disenfranchise one group or the other. There's only a limited quantity of water to be divided up. Constantly changing how that division is made by changing assumptions and thereby changing the models, seems to me to be a very dangerous proposal. So I guess the first question is how in this document do you recognize tribal rights to water as opposed to just define us as an existing user and the second is, and maybe you could address this constant moving target by changing the model every five years.

A Well let me talk about the second one first. The models are changing and sometimes they're not every five years, sometimes they're every year, but

it's based on better, more refined, more accurate information almost every time. A lot of it's topography, especially Everglades topography. I think we just incorporated a new survey for 2A, Water Conservation Area 2A that we got in place. So, there's subsidence issues that we have to take into account. This is natural systems model and South Florida Water Management model. We have to, you know, consider those issues and those changes. I look at modeling change and you're right. I'm probably one of those who can't just say adaptive management but certainly adaptive management, in light of all interested parties having input, is this the right information we should be putting in here? Does this make sense to everybody? Do you agree with the data? I mean, all those things need to be done in a public forum before we just carte blanche change a model. With that said, I think that also ties in very nicely with recover. I mean, if conditions change in the future, not because of hydrology but because of a model changing and the predictions changing, everyone's got to buy into that and understand that and say yes, this makes sense, this is better information and this first target probably was not appropriate and we need to revise it now to this target. I don't see that as a bad thing but you key that also into the word balance and I don't think any of the modeling changes we're making are causing a significant change in balance, i.e., water flows to one area or another, than was so far originally envisioned in the re-study, the Lower East Coast plan or others. I think they are much better accurate primarily, accurate estimates, primarily in the environmental areas of appropriate hydropattern depths and real world conditions as they exist today. So I think I look at it as a good thing, positive thing. And the only comment I have on Miccosukee water issues, if you will, are in relation to existing legal sources that you all have had a dependence on a source of water as far north as Lake Okeechobee in some cases, maybe even further if we wanted to take it up that far, and those hydropatterns have been reflective of historic operations and water management facilities that have been in place and that's the part of the existing legal source for 3A and other areas that we need to identify, and 3B.

Q The other concern I have is that almost all of this document seems to key on low water and we talked about Regional Water Supply planning and water shortage planning, and then lows in levels planning, consumptive use, all of this is about low water conditions..

A Except reservation.

Q Well, historically, conservation areas where the tribe's lands are located, have been used to stack water and we're equally concerned about high water conditions out in the conservation area. I think maybe elaborating on fish and wildlife aspects, you know, habitat for fish and wildlife could be used to prevent those high-water-type conditions. So, for us, we're not focused just with drought conditions, but also with what do you do with

the excess water? We don't want to be an equalization base and just to supply water to the park, for example, and we don't think that's an appropriate type of, not that it hasn't existed in the past, but we're looking not just at the low water conditions but high water. So, we'd appreciate if you would elaborate in this document on the other end of the spectrum as well.

Q Just to follow-up to what Gene's talking about. It seems that most people think when you talk about natural restoration they think about not having enough water and we need more water but in this case it's really the opposite situation, in most situations, not all situations. But the question is that when you start looking at natural system, or natural reservations, it's not just having a bottom limit but it's also got to have a top limit. Too much reservation is also a bad thing. I don't know if you've thought through that or not but I think that's something that's very important here and to go to the natural system. It may not apply in the existing situation because if you're going to tell the tribe that you need, you're legally authorized, they're going to say are we going to want all this water. OK. But, I mean, that's something to think about. How you deal with that kind of situation and I'm still concerned, as a talked to you before about, and I'm not sure, as this evolves I'm sure it will become clearer and clearer, but the pragmatic side of going out and making this reservation using all the things you've put in the report so far, which basically gives a amount of water based on some probability over that 36-year-period of record. How do you go out and make sure that's what's happening I don't clearly see the link, especially from the standpoint of the way it's designed at the present time, at least as you've explained it and I've understood it, that you can really only check to see if you're doing what you need to do after the time is already over, and then you may have made a big mistake and it may not balance out. How do you reconcile those two things.

A In the first design of the operation manual, obviously is going to be based on historical 36-year-period of record, may or may not happen in the future and probably won't in that exact same distribution.

Q Right because it's all going to be based on the hydrologic and physical conditions that exist.

A Right. So you're going to presume that there's so much water potentially available to come in to a system that's going to have so much storage and it's going to have a structure discharging out with so much capacity. When those conditions are right, the myriad of things can happen, obviously. It could be full, reservoir could be full, you can't bring in water, reservoir could be empty, you can bring in water, or, hopefully under most conditions, the reservoir can deliver water per downstream targets, environmental targets, probably stage based, which is why I talked about that stage-based-type of WSE-type schedule decision package, that

- hopefully can cover enough gambits in those 36 years of historical rainfall to handle most of those situations of inflow and outflow and meeting stage-based targets. That's, I think, the best we can do in the design of a facility, and we're going to operate it real-time and maybe we could make some..
- Q (inaudible) operate it based on those rules it you develop (inaudible).
- A Initially, and then we're going to test it and we're going to operate it and before it's certified or whatever mechanism we use where the reservations is actually delivered..
- Q That operations manual create, then that creates a reservation.
- A I think it implements a reservation, I don't think it creates a reservation. It's reflective though of the operations that were in the PIR which came up with that curve which is what we're talking about reserving so it's reflective..
- Q Well, how do you know what's reserved unless you've gone through that process?
- A Because, conceptually, on the historical rainfall you're saying, we're assuming, that that's going to cover 99 percent of the situations you're going to run into hydrologically in a field. The testing and operations will probably enhance that. May have to change and tweak the operations manual based on that testing and operations and therefore, may have to revise the reservation to reflect that. Then, through time, you operate it based on that.
- Q The reservation and the operation is inextricably linked.
- A That's true. That's true. I agree with that. As far as delivering it, the way and the time distribution is assumed in that PIR and/or the real world operations. I think the operational manual is inextricably linked and needs to be referenced in the reservation rule.
- OK. Good.
- A Now, how that facility actually operates is kind of a "hindcast" as far as how well did we do. It's a kind of report card.
- Q I understand all that. But, I mean, it just, ok. So basically, when you operate you are implementing the reservation.
- A Yes.

Q Thirty-six, you said something about, you know, obviously there's going to be times outside of the 36-year-period where we have droughts that go the 100-year drought or whatever we maybe we didn't have, I don't know, and you said in those cases we've got to take into account measures to balance the adversity and that led me to believe when you said that that when you're within that 36-year-envelope of whatever happens in that 36 years, you've taken care of everything your operations schedules and you really shouldn't ever have an emergency if you have those kinds of situations.

A If you look at it on a yearly basis, that's probably true but if you look on it more of a short-term basis, let's take a week slice in this yearly amount of rainfall, in that period of record the highest weekly amount of rainfall might be five inches in some area. Now the whole year may have forty or fifty inches. OK. But that one slice of one week in the middle of July or a hurricane comes through, it could be a five-inch rainfall. In reality, you could have seven inches, you could have ten inches from here on out. You don't know what's going to happen. That's not that much of a deviation. Could be caused by tropical storm, a hurricane or simply a distribution that's different than historically happened in the regional system. Under those cases, there still may be short-term or potentially long-term, in the case of a hurricane, impacts on how you operate and where that water needs to go to protect the system, protect the fish and wildlife, protect the public interest.

Q But essentially what you're saying is, and it's (inaudible) by what you've said about the 36-year-period of record, it we're within that envelope we're basically taken care of as we go through this process with the operations schedule, that you've got a situation where you are really lessening, greatly, the amounts of times you have to deal with water supply emergencies and those kinds of emergencies in the Everglades.

A I believe so.

Q Ken, forgive me for one minute. The chairs asked me to note we're getting jammed up here just a little bit and it might help a little bit if you have issues that you want to discuss, raise the issues so Ken's got them on his radar and so we can do a follow-up. Otherwise, I don't think we're going to get to lunch. I apologize for a little bit of a double standard but, you know, we can't get all the explanations here but I think if you raise the issues to where, you know, Ken and staff are aware of them we can do some follow-up later. And I apologize but we're just going to get to lunch. Thank you.

Q A couple of times land use came up and I really want to emphasize that the District has the authority and, we believe, an obligation to make comment on land use decisions within the District's range. A couple of years ago the district co-partnered with Palm Beach County in developing an AG

Reserve Master Plan which addressed open space, agriculture and water resource issues and, for your information, a surprise to a lot of us, there is a (inaudible) plan amendment coming through on the 24th. It didn't come through the normal process, it just kind of came slipping right in, that will affect 1,500 acres in the AG Reserve. What I would like to request and urge the District do is become increasingly involved, provide meaningful comments and even at times when necessary take the position of intervention in some of these land-use decisions. The AG Reserve is, as you know, 20,000 acres and it can go 1,500 acres at a time, 500 acres at a time. You're losing valuable water resource opportunities by these land-use decisions. Also, keep an eye on the sector plan. We've said that several times. You've got to watch this one. It's a moving target. You've got to watch it and you have to be prepared to make comments.

Q Ken, let me join the ranks of people congratulating you and Cecile and your staffs for, I think, a job very well done. An important milestone reached, I think, with the release of this paper. I'm going to be very succinct because my colleagues have raised so many good issues. A couple that I want to raise. I want to raise an issue that, I think, and I certainly intend that should underscore an issue that the tribe raised but from a slightly different direction. This issue of high water in the conservation areas. One of the things that concerns me about the savings clause and the way we're sort of talking about it now. What happens.. Because consumptive use permits are tied, as I understand it, in part to the hydrologic conditions in the compartmentalized Everglades so you have a consumptive use permit, take water out of 3A until it reaches a certain level and then you take it from your secondary source. What happens when there is a conflict. What happens when a consumptive use permit is, this is going to be an important point, what happens when a consumptive use permit relies in part, or there is a dependence on, too much water in 3A. So for example, if we have a CERP project that attempts to move water out of 3A or mod waters for example, I can see us teeing up a savings clause problem because someone might argue if you move water out of 3A you're affecting my source and you're switching me to my secondary source sooner than I otherwise would expect it and that seems contrary certainly to the overall intent that we're trying to, I don't, you know, I don't, I know it can't be answered here. I want it to go down on the record an issue that we have to deal with. Decompartmentalization and that kind of stuff. Projects that don't make new water available but that move water from one basin to another and whether or not those present savings clause issues. The other issue I wanted to raise, and I think somebody else raised it, I think Lorraine might have raised it, and I just wanted just to make sure I got it clear Cecile. The regional water availability, which incidentally I'm so excited that after three years I actually now understand regional water availability, will that, to what extent does that carry with it, will that rule carry with it a presumption of the public interest test being met or will it not? In other words, you know, you identify this pot of

water, a new permit comes in, competes for that water. Will that permit still have to demonstrate that it's consistent with the public interest (inaudible).

A Yes. I haven't really thought through whether it's a one-for-one trade off. I'm sure there are other public interests' factor that we'll want to look at but I think that is definitely going to be a significant piece of it. I don't have a good answer.

OK. So just log as maybe an issue and then finally, Ray, you touched on an issue that we're, I'm struggling with too and that is, but I actually, I think, have an, my initial opinion is different than yours which is that I think that it's actually impossible for water to be both under the savings clause and regional water, included in the regional water availability pot. Because under the savings clause what you're talking about, certainly the intent of the savings clause is to protect existing folks', December, 2000, sources. Regional water availability, when we define it, any excess that pie wedge that I think somebody about, Barbara was talking about, that's water that people aren't using and that can be used (inaudible). So in other words, you can't be water that's both being used in December, 2000, and is not being used now. You see what I'm saying? It's sort of .. They seem mutually exclusive but it could be that I just don't understand it. So, anyway, I just need to understand that better.

OK.

That is all. Thank you.

Thank you.

Q My issue is something I brought up before and that's with the upper St. Johns, the speed bump for that, for us and agriculture, was once the project was done and in the ground and they created such a great habitat, endangered species moved in and all bets were off in the upper St. Johns for who gets what water because the endangered species that moved in dictated..

A They took precedence.

Q They took precedent over the (inaudible) citrus and we lost a lot of crop and the snail case moved up and there were a lot of them, there were tons of them, there were more there than at Lake Okeechobee in that basin because the habitat was so superior and that's going to happen throughout this project. You're going to create a lot of great habitat all over south Florida and a lot of users around this table and for environmental reasons and for agriculture reasons are going to be relying on the reservations of water and something that I think we all know that the Endangered Species Act takes precedent over that but maybe there's some way we can talk or

figure that out working with the Federal government because it'll create a problem. We lost hundreds of millions of dollars that year. One specific year when we couldn't get to the water and had a very expensive crop fall to grounds and there were tons of snail (inaudible). There wasn't any of them found dead or harmed or injured but because the project required that, we could not touch the water and there are ton of nail (inaudible). So, just something for us all to consider because all bets are off when endangered species move in. So, (inaudible).

A Work with the Federals.

A Let me just real quick say that you're right, that's an issue that we've got to work on and my boss has said this is something we have to figure out sort of a more progressive way of working on endangered species issues and that's not the answer to your question but at least it's acknowledged that that's an issue and that's a problem that we have to work on harder than we have.

Q I'll be short. You've been under pressure for a long time Ken, done a great job. Just want to really point one thing I really like what you have in this relative to the regional water availability and that is the water conservation part of it, something that's been dear to my heart for some time and recognizing that in particular urban water conservation there is a lot of things we can do with that and when we save water through that process we don't have to do anything else, we're already producing that water. It's water made available for something else. So I'd like to say it's just add a little more stuff to the water conservation side of that and do as much as we can in that arena.

Q Thank you Ken. I have a question. Well first of all, I think this has been so helpful the question/answer. I would really appreciate it if there were detailed minutes prepared of the question and answer session. I think that would help, at least with me, because it's so complex and going back and reviewing and having a better understanding of the document your presented so I would really appreciate that. I have a question though regarding the legal existing source and legal existing user, what natural system qualifies as either in addition to Everglades National Park. When I look at that definition outside the Park, I'm very unclear what natural systems are protected, the Loxahatchee, the Caloosahatchee, Big Cypress Basin, the Faxahatchee Strand, Seven Golden Gate Estates, are those part of the environment that's protected by this, any of those?

A From an existing legal source perspective? I must admit, and I think it was may have been you, Jack, that brought up the fact that some of the areas on the west coast were not included in our graphics which is an omission. We were so focused on the Regional Everglades piece of this we, and their potential tie-in to regional water availability and other things, we

neglected to put in some of these other environmental areas so let me just take a look at all that issue and see how many we need to put in there and I'll identify those and revise the graph.

Q I thought it would be helpful to have some maps so we're clear. Like a map of when you calculate the regional water availability pie, what is the map of those boundaries for you to calculate that number or when you calculate the pot of water available and then you're going to calculate the actual permitted, actual use vs. actual permitted, what's the boundary of that area that you're plugging into the model and is the west coast of Florida going to be included because Caloosahatchee Basin was cut off and I was going to ask you..

A Certainly the Caloosahatchee will be included.

Q But I think it would be helpful to have an understanding of what boundaries you're using on those calculation.

OK.

Thank you.

Q Sometime ago Lorraine basically dealt in large part with my issue and that's on consumptive use permitting where we say the permit applicant must provide reasonable assurances that, among other things, the use must be consistent with the public interest and I thought I heard you say that there is no definition of what the public interest is yet and that 373 does not provide any guidelines. Well I want to go a little further and ask whether or not are there any conceptual policy considerations afoot and if so could you share with us where you're going with that at this particular time.

A We already have a rule in our conditions for permit issuance on public interest that references a couple of the intent sections in Chapter 373 like the intent to provide (inaudible) reasonable beneficial uses of water intend to protect fish and wildlife. They're very general. What we had proposed to do was add a specific link in our public interests rule to CERP referencing the CERP, the State Statutes on CERP in our public interests rule and also include in our public interests rule a consideration of consistency of a project with the Regional Water Supply Plan and have a link there. So we're really getting into territory that can be very controversial but we think it's time that, that in order to look beyond just the potential impacts of a project itself, we need to look at it cumulatively with all the other potential future projects, more of a public interest consideration. So we're moving towards expanding it basically beyond what we've done in the past. Really hasn't had a lot of meat on the bones in the past. We've concentrated on whether use is reasonable, beneficial

and whether interferes with other uses. So, and we have on our web site a draft of that public interest rule that we've drafted. It's in the water use regulation web site web page so you could see a copy of where we're going and we think we'll be expanding that once we get into the C-list rules and to CERP, more specific CERP-related issues. Does that help?

That helps. Thank you.

Q Good afternoon again.

Hi Wayne. Thank you for the comments.

Q First usual editorial comment about the lost of tide you've got to get every time. Just because it went to tide doesn't mean, doesn't contribute to the environment nor does it lost to the Florida economy.

A Didn't I take lost out of this draft?

(Inaudible)

A I thought I used excess this time.

Q You used excess sometimes. I hereby concur you using excess all the time. Appendix C, you have blanks for the Caloosahatchee line, the Western Basin lines on the assumptions and this is a work task I'm probably going to ask you to assign to us of the (inaudible) Florida feasibility study Janet. Could we be assigned to try and fill in those blanks for you at our next meeting or two so you can have some area representation?

A Sure.

Q You wouldn't mind?

A If you'd like to help on that we'd certainly appreciate it.

Q OK. Because yes, the assumptions there, particularly on existing uses and existing sources. A technical question, help me understand, is C43/S79 a/k/a (inaudible) a use or a source under this document?

A Source.

Q Thank you. Can we get a... I got an answer and the rest of you didn't get one. I'll mark that down. This is a draft from the staff, can we get the statement in the draft report, roughly page 21, to establish a pre-CERP reservation for Charlotte Harbor Caloosahatchee River estuary, national estuary?

A If we can have a restoration target for the river and then run a model that shows the hydro period for the river and what, how much goes to the estuary that is not currently being used by consumptive uses, we'd be happy to reserve what's left over.

Q OK. Can the minimum flow level (inaudible) be part of the year 2000 baseline?

A No.

Q OK. Can we change the definition of the baseline?

A If you, probably need to go to WRDA and change the date of enactment.

OK. Possible.

A None of the other (inaudible) included as you know.

Q No. You know, you've raised the issue, I mean this is not (inaudible) you've raised the issue how to perhaps to identify estuary needs, this may be the way to do it for a baseline.

A But understand, we are still attempting to deliver that when it's available.

I understand.

A So we're not affecting the fact that it's there in law and it's in recovery.

But you know, this is now getting down to the basic conflict I see for the overall base for us which is the difference between use that's a use and use that's a permit because our concern is that you (inaudible) we have permits out there not in use and if we then have made these permits use and we go build these structures, the water goes to them...

A I understand.

Q ..and nothing goes out. So, I guess my summary statement is until I get to know this better, you're the expert. You've worked hard on this, you've lived this, and the rest of us try understand it, I'm trying to avoid a (inaudible) where we've created a definition system that a permit that is not in use is for this purpose and use and a flow that occurred to the estuary in here does not occur.

A And I think the sensitivity modeling runs that we talked about running will help get a better handle on that. Hope you're involved in it.

Q I too want to thank you very much Ken. You've done a great job.

A Everybody please. It's not just me.

Q Sincerely, and Cecile. And also the questions have, that have been raised have been really good questions and you only said no once and that's really amazing. Anticipating these discussions and where we are today, Broward County has put together a sort of consensus with Lorraine's department and our department and also the Broward County Water Supply Technical Advisory Committee so I would like to not read it to you today but pass this out so it's a matter of public record and we get to share our position on this issue with you. That's one thing. The concern that we have, and I have spoken to you about this before, but it's of course on page 19 and Broward County has relates to regional water availability. As you know, Broward County has a IWRP, an Integrated Water Resource Plan, and we want to maximize the available water not just for consumptive use but for our resources, for instance, the Pond Apple Slough and our \$400,000,000.00 bond issue to buy public lands. So we want to be sure that once you set the baseline, whatever x-amount of water is, we want to be able to utilize our IWRP to manage the water on the urban side. You know, passing the three-prong test then, and you know, with consideration certainly with CERP, how can we be assured that we will have that flexibility or that authority and is there a chance that this could be some mechanism for a county that might be a willing county that wants to have their own IWRP to be able to do this?

A Well, I think the actual mechanism for assuring that it's going to work is probably going to fall in the consumptive use permitting realm eventually. However, I think you're going to get a lot of insight, again on this pre-CERP baseline and the subsequent existing legal source identification and then plug that into your local integrated water resource plan model and see what the effects are. You know. So the issues may be premature to worry about them. I'm not sure how much additional "regional water" you were anticipating as part of this plan. I know it was moving a lot of water that you had in the county around to be used more efficiently and I personally don't see this as being a huge issue from the plans that I have seen for Broward County. But again, the pre-CERP baseline and subsequent existing legal source is going to help identify if it's a problem or not and we'll be working with you together to try to resolve any issues that come up.

I would like to state that I think it's really important that we all work together with the same modeling interests so that they don't develop any conflicts.

A Agree.

Thank you.

Q I just have a brief comment about Florida Bay and the downstream end of the system. Recently, members of the Florida Bay Program Management Committee met and actually developed draft performance measures in support of the Florida Bay and Florida Keys feasibility study. It has taken a long time to get to this stage. We hope that these will go out for review and revision and finalization and that they'll help define the fresh-water needs of Florida Bay and the downstream part of the system.

A Great. Do you know what the timing might be on the completion of that review?

(END AUDIO TAPE #3)

(BEGIN AUDIO TAPE #4)

(Inaudible) The document that you have, the draft document, was requested of the task force by the Congress based on a recommendation of the general accounting office and they're working on this. This is a coordinating draft we're, as Mike said, we're seeking your input. Farther along in the process, is the current proposed revision to the task force strategy document and this is the coordinating (inaudible) document that Jack is referring to. I would suggest, Mr. Chair, if it was alright, that we also provide the copy of this draft because both of these documents have project sheets. These are just the land acquisition projects but these land acquisition projects become folded into the various other projects that are part of this document and a lot of times, as Jack is pointing out, the devils in the details as we try and fit all these things together and I think we very much would appreciate any kind of input from the folks on this group on both of these documents as we're trying to get them so that they reflect that. Jack.

Q It will be short, but I was going to bring this up under member issues, but since we're talking about coordinating (inaudible) document, if you were a WRAC member and you did attend the task force meeting and you were a WRAC member and you (inaudible) attend the working group meeting yesterday, WRAC members are not getting the same documents that those other two organizations are and we are supposed to be the official advisory arm to the task force. So, I'm going to make a recommendation to Chairman and to (inaudible) that WRAC members receive all the documents that the task force gets and all the documents that the working group gets and we have to do more reading and the other groups will get the same documents we have. Otherwise, we wind up not all saying the same thing on the same page. Mr. (inaudible) said yesterday he had thirty-day extension on coordinating for success. We don't meet in August, so this body won't have time to address it by the time he has his document out. I'm submitting my recommendations individually as an organization.

A OK.

Q Jack, I will not be able to mail to you the hard copies in time for the Monday meeting but I will, on Thursday morning, send an e-mail out with all the links where the documents are so that you can read them on the web.

I think other questions or issues that we need to deal with prior to having these breakout meetings.

Obviously, everyone's welcome to attend. If there are other organizations or people you feel have issues, you're welcome to invite them to sit in and listen. Mike?

Yes sir. I will plan, in addition to providing the links, working with Julio (inaudible) the links about the links that he had talked about for both of these documents, I will plan to bring paper copies of these to the meeting on Monday so that people who are really wanting to get into it, we'll have those written copies and we can do that.

Alright. Jack.

Q (Inaudible) with land acquisition. I understand Senator Graham has a bill he is working on in Washington, D.C. Perhaps somebody could provide us a working draft copy of that bill. Because I understand it addresses some land issues in Florida and if we're going to be talking about CERP and land acquisition issues, we should know what Senator Graham's thinking.

A Yes. If we get our hands on one we'll definitely, if one's available we'll have it. Rick.

Q We're just making a few updates to land acquisition strategy draft that, especially those that Jack pointed out yesterday to us in the working group meeting and there may be a couple of other changes but we'll try to get you the latest, will get you the latest version by your meeting that we have.

END OF Q&A

Enclosures

1. Administrative Items
 - a. Agenda (July 15)
 - b. Joint Agenda (July 16)
 - c. May meeting minutes
 - d. PMT Agenda
2. South Florida Wetland Conservation Strategy
3. Magistrate recommendation

4. Ronnie Best's handouts
 - a. U.S.G.S. Florida District Science Plan (Open File Report 01-180)
 - b. Proposed public television documentary series
5. Working Group appointment letters from the Governor
6. Sanctuary Advisory Council motions
7. Position Statement on the Florida Keys Carrying Capacity
8. Executive Director's Report
 - a. Dispute Resolution
 - b. Working Group Workplan
 - c. Action/Issue Tracking Chart
 - d. Issue Team Tracking Chart
9. Strategic Plan
 - a. Draft Report (July 15, 2002)
 - b. Volume 2
 - c. Appendices
10. Editor's Version for the Strategic Plan
11. Draft Preface for the Strategic Plan
12. RECOVER Update
13. Corps Update
14. Land Acquisition Strategy (Draft)
 - a. Draft Strategy
 - b. Project Profiles
 - c. Maps
15. Southwest Florida RRCT Update
 - a. Power Point Presentation
 - b. List of Restoration Project Needs in Big Cypress Basin
 - c. Big Cypress Basin – Projects Completed
 - d. Charlotte Harbor/Caloosahatchee River RCT Membership
 - e. Big Cypress Basin RCT Membership
16. OEEECT Report
17. Joint Meeting Handouts
 - a. Water Reservations Draft White Paper
 - b. Water Reservations Power Point Presentation
 - c. CERP Master Implementation Schedule Update
 - d. Broward County Position Paper

Follow-up Items:

1. Ronnie Best asked to provide Inventory and Review of Aquifer Storage and Recovery in southern Florida
2. Terry Rice asked for discussion on the status of land within the CERP footprint to be on the next agenda
3. Rock recommended a team be re-established to revise the document and he would also go back to the Task Force and clarify the guidance