

Sugar Cane Growers Cooperative of Florida

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U.S. Army Corps of Engineers
Attn: Mr. Stu Appelbaum
P.O. Box 4970
Jacksonville, Fl 32232-0019

Dear Mr. Appelbaum:

On behalf of the 47 grower-members of Sugar Cane Growers Cooperative of Florida, we thank you for providing the public with the opportunity to comment on the review of Programmatic Regulations for the Comprehensive Everglades Restoration Plan (CERP). We have been actively engaged in Everglades' restoration activities over the last two decades, including lobbying for support of CERP as part of the Water Resource Development Act (WRDA) of 2000.

Although at that time, we argued against the need for Programmatic Regulations, our position did not prevail. Programmatic Regulations were required to provide procedural guidance to the Project Delivery Teams (PDTs) on how to analyze benefits, provide assurances to the natural and built systems, and spell out a process for developing water reservations under state law associated with the various components in CERP. The end product was incomplete and resulted in the lack of operational guidance for field planners who are attempting to complete Project Implementation Reports (PIRs) that address the requirements of WRDA 2000 and applicable executive branch guidance including the U.S. Water Resource Council's Principles and Guidelines. How to handle some of the more difficult issues, including the Savings Clause and water reservations, were to be dealt with in subsequent Guidance Memorandums (GMs) that have never been finalized.

The mandatory five-year review of the Regulations provides the Corps an opportunity to incorporate the more specific direction that was to be contained in the GMs into the regulations and to provide a more streamlined approach for completing PIRs. There have been numerous complaints that the current Programmatic Regulations and draft GMs are too burdensome. The fundamental problem with the existing regulations is that they provide no operationally meaningful guidance regarding formulation of individual project components. Specifically the concept of an "optimal" multi-objective project is given no operational meaning in the current GMs. Consequently planners are using ad hoc study-specific criteria to formulate alternatives and to develop a recommended plan. In the case of the State's Acceler8 program, CERP components have been designed and partially constructed before any of the process in WRDA 2000 has been completed. After-the-fact PIRs are being produced with no meaningful analysis of alternatives. The new Programmatic Regulations must provide clear formulation guidance that allows the plan formulation process to be replicated by reviewers and the public, and re-establish the process for project planning through to construction as envisioned and approved by Congress in 2000.

The recent announcement by the Governor of Florida that the State will acquire the U.S. Sugar Corporation lands and other assets may dramatically change the shape of future restoration and water management projects in South Florida. The acquisition, if consummated, could be an initial step in

planning and implementing a new array of projects in the Everglades Agricultural Area (EAA) and southwest of Lake Okeechobee intended to achieve the restoration objectives of CERP in ways that are fundamentally different from what the Plan authorized in WRDA 2000. This substitution of an as yet unspecified mix of storage and treatment areas in a "flow way" as a substitute for some Aquifer Storage and Recovery (ASR) projects and other CERP components will dramatically impact many of the conceptual projects in CERP as approved in WRDA 2000. The CERP as now described will have no meaning once the state investment in the U.S. Sugar property is made. The acquisition will affect everything from the design and performance of almost every other CERP component to the SFWMD's ability to provide continuing financial support to the planning, monitoring, and implementation that will be necessary. The new Programmatic Regulations must be able to provide guidance to planners as to how projects will be formulated in this new context since the framework provided in CERP appears to be no longer applicable.

One of the long standing criticisms of CERP has been the lack of federal funding for project components. However, critics have failed to realize that the lack of funding is tied to the lack of completed PIRs that are able to compete in the federal authorizing and appropriations processes. The revised Programmatic Regulations must ensure that PIRs contain the information necessary for them to complete the executive branch review process leading to project authorization and to successfully compete for funding in the annual budgeting and appropriations process. Projects must be the result of a valid, objective formulation process, and the PIRs must realistically document the benefits that will be provided for the large expenditures that will be requested of Congress.

We believe that the Programmatic Regulations need extensive and complex changes in order for them to provide meaningful guidance to project planners consistent with the requirements of the Principles and Guidelines as applied to all Corps projects nationwide as well as comply with the requirements of WRDA 2000. If the U.S. Sugar transaction goes through it would also be appropriate to produce a comprehensive CERP update, as envisioned in WRDA 2000, that re-defines the complete package of components that will be included under the CERP umbrella, and documents the regional environmental benefits that a more realistic plan could produce.

We respectfully request that the public be provided with an opportunity to review the Army Corps of Engineers proposed draft and to be able to provide the Secretary with input prior to issuance of the final regulations. We believe this will be most helpful in streamlining the CERP project process while still being able to compete with other water resource projects nationwide.

Sincerely,



Barbara J. Miedema
Vice President, Public Affairs & Communications

BJM:swd

cc: Ms. Carol Whele, South Florida Water Management District