

Programmatic Regulations
Draft of Six Program Guidance Memoranda

Comments from Ken Todd, Palm Beach County Water Resources Manager
January 10, 2005

PREFACE SECTION

1. Page 2- Are the words dedicated, reserved, and allocated interchangeable?
2. Page 2- What do sub clauses IV and VI say about the subject of reservations?
3. Page 3- Is there a definition for sufficient in regards to reservations?
4. Page 8- Purpose discusses assumed operations for the C&SF Project, where are actual operations factored in?
5. Page 9- Are these requirements or guidelines?
6. Page 9- Consideration will be given to land use, land cover, physical conditions operational rules, regulations, and schedules for simulation of the C&SF Project system model. What about existing permits?
7. Page 9- It says water supply for urban needs will be based on actual wellfield pumpage data. How will future needs be addressed?
8. Page 10- Pre-CERP baseline assumptions are stated to be not updatable. It is stated that model input data can be updated. Where will projects that have already been approved, but not yet built fit into the plan? Or where will future infill projects fit in, if no future needs are accounted for?
9. Page 11- Will the model account for operational deviations?
10. Page 12- How will the irrigation, agriculture, municipal and industrial water supply demands be determined?
11. Page 12- Why are estimated rainfall amounts listed for input data and not actual?
12. Page 15- How realistic is the assumption of a minimum 6' depth in the STA's during periods of drought?
13. Page 16- I know this goes against the philosophical concept of CERP, but public water supply and irrigation should account for some future needs, because they are going to happen. For example, everyone agrees infill is a good way for development to occur and yet not accounting for any future growth will act to discourage even this effort. In fact, many projects have occurred since the beginning of the CERP that are not accounted for in the 2000 Baseline.
14. Page 19- It is stated that initial modeling indicates most of the water will go to the natural system in order to attain restoration goals, and the remainder will go for human needs. Philosophically, this sets the stage for either a statewide moratorium or all utilities will be looking for alternative water supplies. It is hoped that the modeling takes into account the fact that a lot of natural areas adjacent to development will never be able to be fully restored, only enhanced. This would obviously change assumptions on water needs for the natural system.
15. Page 21- It states that the sponsor shall consider opportunities to provide additional flood protection. How does one decide when to move forward with these opportunities?

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GM#3

16. Pages 3-15, 3-16 & 3-17- It states that the Savings clause does not prohibit the Plan from reducing benefits that were increased by intervening non-CERP projects or conditions, it only prohibits reducing benefits below those in place in 2000. Why would anyone want to make any improvements to their system knowing this? I'm not sure many Agencies are aware this is in the Plan. Reactions to this clause should be interesting, especially from those affected.
17. Page 3-19 & 3-20- It says that a Proposed Plan component could reduce the level of service of flood protection below that of a non-CERP project that was constructed. I don't think this will be very popular with Agencies that have tried to respond to citizen complaints by constructing a project to improve flood protection. Many projects will not be included in CERP (probably due to timing) and the Agency may find out that all or some of their the effort and money was wasted because the results were undone by CERP.
I hope there is excellent coordination between local Agencies and the CERP staff. Again, why would anyone spend money on a project that could potentially be undone by another program/project?
18. Page 3-21- It states that the intent of CERP is to provide restoration benefits for the natural environment. If I understand correctly what is written on Page 1 of the document under Goals and Purposes, this is a goal and not the sole intent of CERP. Is my understanding correct?
19. Page 3-22- This whole section concerning the evaluation and protection process for non CERP projects seems to be a bit of a double standard for the environmental restoration aspects as opposed to the other goals of CERP.
See above comments (#16 &17).
20. Page 3-23- The discussion on flood protection under 33 CFR Section 385.37(c) talks about opportunities to provide additional flood protection beyond the savings clause. How does this mesh with the ability to diminish flood protection from non -CERP projects as discussed on pages 3-19 & 3-20?

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GM#4

21. Page 4-2- It states that this Guidance Memorandum requires identification of all water necessary to achieve the natural system benefits and water for other water-related needs. It seems that there is still a philosophical difference in the definition of success of achieving goals. One view point is that success is defined as having the same standard applied to the natural system and to the human environment. Another view point defines success as having different standards applied to the environmental system and the human environment. If we are ever to have harmony between the two groups in implementing the CERP plan then this philosophical difference needs to be discussed and some agreement reached on how the standards will be applied.

22. Page 4-7- Steps are provided for identification of other water related needs on this page. Does this include potential beneficial uses as described in Chapter 373, F.S. ?

23. Page 4-8- Since water that is both beneficial and harmful to the natural system is being quantified, what happens to the water volume that is deemed harmful to the natural system if it is not used by the natural system? It is not discussed here or on page 4-10.

24. Page 4-11- The last paragraph discusses how technically difficult it is to ensure water made available by the CERP project that will not be required for either the natural system or other water related needs. As mentioned previously, future growth (which will occur) needs to be factored into the equation somehow. It should at least be considered to determine what the ramifications will be if it is not planned to be addressed, so the human environment will know what to expect.

25. Pages 4-33 & 4-34- These pages discuss identification of other water for other water related needs. It includes reasonable beneficial uses and one would assume this is only for uses that existed on December 2000. As mentioned previously, there should be some recognition in the process of potential beneficial uses due to future growth.

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GM#5

26. Page 5-17- Will the operating manual discuss the probability of the system being operated outside the normal criteria that is spelled out in the manual? For example, how often stages in a lake must be violated due to abnormal rains or how often flows must be increased into an estuary? The operating manual includes a discussion on several possible items that could occur, but does not give any indication as to how often some of these emergencies could occur. It would be helpful to know in order to manage expectations.

GM#6

27. Page 6-17- How is the external peer review using journal articles relevant to flood protection? If an area hasn't flooded before and then floods after construction of a project, you won't need a study to determine that. Why not have a team of local engineers familiar with the operation of a particular system be in contact with the RECOVER team evaluating the performance of that system for the purpose of establishing trends?

28. Page 6-21- What is the basis for selecting independent experts for a peer review? Would this group include local engineers familiar with the operations of a particular system?