



Audubon OF FLORIDA

January 10, 2005

Colonel Robert M. Carpenter
District Engineer, U.S. Army Corps of Engineers
P. O. Box 4970
Jacksonville, Florida 32207
Via email: robert.m.carpenter@saj02.usace.army.mil

444 Brickell Avenue
Suite 850
Miami, FL 33131
Tel: 305-371-6399
Fax: 305-371-6398
www.audubon.org
www.audubonofflorida.org

Subject: Comprehensive Everglades Restoration Project (CERP) Master Implementation Sequencing Plan (MISP) and Six Program-Wide Guidance Memoranda

Dear Colonel Carpenter:

Audubon of Florida appreciates this opportunity to comment on the Comprehensive Everglades Restoration Project (CERP) Master Implementation Sequencing Plan (MISP) and Six Program-Wide Guidance Memoranda. This letter and the attached pages reflect the comments of Audubon on the November 2004 drafts.

Audubon generally supports the framework developed for the MISP, however, it is essential that the MISP also take into account development pressure and rising land values in sequencing components. We are greatly concerned that delaying the Indian River Lagoon Natural Storage component to Band 4 (2020-25) will result in the component's termination, as sufficient lands will likely not be available to implement the component later than Band 2 (2010-2015).

For the project assurances provisions of WRDA 2000 and the President/Governor's Agreement to be effective, the total amount of water described in the Project Implementation Report (PIR) for the restoration of the natural system must be reserved, pursuant to §601(h)(2)(A) and the President/Governor Agreement. To begin to address this issue, Audubon strongly urges the State of Florida to execute an initial reservation of the Pre-CERP baseline water for the natural system by December 2005.

Audubon also supports the comments submitted by the Department of the Interior in the letter to you from Colonel Rock Salt dated October 20, 2004 and comments by the World Wildlife Fund dated January 10, 2005.

We appreciate the opportunity to provide these comments regarding the CERP Master Implementation Sequencing Plan (MISP) and Six Program-Wide Guidance Memoranda. Audubon of Florida looks forward to continuing to work with the U.S. Army Corps of Engineers (Corps) and South Florida Water Management District throughout the implementation of the CERP.

Sincerely,

April H. Gromnicki, Esq.

Enclosures (2)

C: Henry Dean, South Florida Water Management District, hdean@sfwmd.gov



Audubon OF FLORIDA

MASTER IMPLEMENTATION SEQUENCING PLAN (MISP)

Protecting Restoration Lands: Due to ever increasing development pressures, land acquisition must be reprioritized and sequenced at the earliest possible stage of project development.

Recommendation: The MISP must take into account development pressure and rising land values in sequencing components.

Recommendation: Funding for land acquisition should continue to be front-loaded, and made available throughout the entire implementation process to purchase land necessary to meet all restoration objectives, including increasing the spatial extent of wetlands and other habitat.

Recommendation: In addition to expeditious purchase of anticipated restoration lands, regulations, permitting practices, and management plans should be developed to prevent development that is inconsistent with restoration goals from occurring, either within or adjacent to project study areas and footprints.

Recommendation: The MISP should include the following language adopted by the Water Resources Advisory Committee, on January 6, 2005.

“Development of the MISP included consideration of a variety of factors including technical relationships, the status of scientific research in various disciplines, and resources available to implement projects. A change in any one of those factors could have a significant effect on the final sequencing and scheduling of projects. The factor most likely to change in the future is the availability of resources, which also includes assumptions about future funding and staff availability. These assumptions were used to determine how many projects could be developed simultaneously, after taking into account technical relationships among the projects. There are projects scheduled in later bands that face significant issues with future land availability, including IRL Natural Areas and Everglades National Park Seepage Management. These projects have demonstrable benefits for the natural system and have significant stakeholder support. Such projects could have been at least partially scheduled earlier if resource assumptions were different. As CERP implementation moves forward, all of the factors that influenced the final sequencing and scheduling, including resource availability, will be reviewed and, when significant changes occur the MISP, will be revised to reflect new realities. The MISP is only a snapshot in time and will need to be monitored, evaluated, and updated as the implementation of CERP progresses and more is known about both the natural system and project implementation.”

Recommendation: Page 9, **6.1.3.2 Affects of the SFWMD Acceler8 Initiative** - Edit the 2nd paragraph, 4th sentence as follows: “This approach allows those funds and resources to be utilized elsewhere, including non-Acceler8 projects, land acquisition, and required monitoring.”

Recommendation: Page 9, **6.1.4 MISP Phase 2 Evaluation with SFWMD Acceler8 Initiative** - Edit “2)” as follows: “2) Assume that all Lands, Easements, Rights-of-Way, Relocations and Disposal (LERRDs) would be in place, with the understanding that acquisition remains a SFWMD responsibility ~~and may be limited by the Acceler8 effort~~”



Audubon OF FLORIDA

SIX PROGRAM-WIDE GUIDANCE MEMORANDA (GM)

1.0 General Format and content of Project Implementation Reports

Recommendation: Per Programmatic Regulations §385.18(b)(1), In-Progress Reviews (IPRs), Feasibility Scoping Meetings (FSMs), Alternative Formulation Briefing (AFBs), and all other such review and decision processes should be transparent and publicly accessible.

Recommendation: Page 1-3, **1.4** - Edit “h” reference as follows: “. . . provisions in paragraphs (h)(4)(IV) an (V)”

Recommendation: Page 1-26, lines 33-34 should be edited as follows: “2) the amount of water to be reserved or allocated for restoration of the natural system,” pursuant to WRDA 2000, §601(h)(4)(A)(iii) (IV), (V), and (VI).

Recommendation: Page 1-31, ANNEX C, lines 8 –9 should be separate items and rewritten as follows:

“Identification of Appropriate Quantity, Timing, and Distribution of Water Dedicated and Managed for the Restoration of the Natural System

Water Made Available for Other Water-Related Needs”

2.0 Instructions for Formulation and Evaluation of Alternatives Developed for PIRs

Recommendation: Interim goals and original plan goals should be the primary means to justify project alternatives. Projects should be cost effective, but this alone will not ensure that the sum of benefits from all projects will produce the restoration benefits expected from the plan.

Recommendation: Performance measures should be able to demonstrate the “system-wide” ecological benefits of a local project even if it has limited effects on system-wide hydrology (such as the creation of foraging or nesting areas for birds). A performance measure for spatial extent of habitat would benefit this type of evaluation. The phrase “system-wide benefits” is not defined. Some parts of the text suggest a definition such as “significantly affecting hydrology throughout much or all of the system.” This definition reflects our ability to say something is “system-wide” given our current performance measures, but this is an undesirable definition.

Recommendation: The description of plan formulation and plan selection procedures should be written more clearly and include specific definitions of the terms used. The document refers to “system benefits” but these are not adequately defined. Section 2.6.1 states that projects can develop evaluation criteria and performance measures beyond those of RECOVER. Section 2.7.1.3, however, states that identification of the selected alternative plan will be based on the system benefits and that “system benefits should be a natural extension of the project benefits since the project specific objectives and performance measures will have been generated from the regional/system level purposes and objectives already designated.

3.0 Identifying if an Elimination of Transfer of Existing legal Sources of Water will Occur

Recommendation: Page 3-1, line 1, edit as follows: “In addition to the provision ~~of~~ ~~no~~ regarding elimination or transfer of existing legal sources, . . .”



Audubon OF FLORIDA

4.0 Identifying the Appropriate Quantity, Quality, Timing, and Distribution of Water

Recommendation: Page 4-10, lines 3-5, edit as follows: “For the purposes of quantifying water made available for the natural system, this quantification includes the total project water that is beneficial for the natural system and necessary for ecological restoration.”

Recommendation: Page 4-53, Attachment 4-D, lines 30-34: delete the word “additional” which does not appear anywhere else in the law or regulations. Revise the entire sentence to read:

“Prior to the execution of the Project Cooperation Agreement, reserve ~~from the additional water that will be made available by implementation of the Project~~ the water identified in this Project Implementation Report to be necessary to achieve the restoration goals and objectives for the [INSERT PROJECT NAME, LOCATION AND/OR/WATER BODY HERE] and the natural system.”

Recommendation: The GMs must require that the amount of water described in the PIR pursuant to §601 (4)(A)(iii)(IV) for the restoration of the natural system be reserved, pursuant to Section 601 (h)(2)(A) and the Agreement.

- WRDA 2000, §601(h)(2)(A) requires that the state and federal government enter into a binding agreement wherein the state of Florida shall:

“ensure by regulation or other appropriate means, that water made available by each protect in the Plan shall not be permitted for a consumptive use or otherwise made unavailable by the State until such time as **sufficient reservations of water for the restoration of the natural system are made under Sate law** in accordance with the project implementation report for the project and consistent with the Plan.” [Emphasis added.]

- In the Comprehensive Everglades Restoration Plan Assurance of Project Benefits Agreement, the President and Governor “affirm that:

“As required by the Water Resources Development Act of 2000, water made available by each protect in the [CERP] will not be permitted for a consumptive use or otherwise made unavailable by the State of Florida until such time as **sufficient reservations of water for the restoration of the natural system are made regulation or other appropriate means pursuant to Chapter 373, Florida Statures, and** in accordance with the project implementation report for the project and consistent with the [CERP].” [Emphasis added.]

6.0 – General Directions for the Conduct of the Assessment Activities of Restoration Coordination Verification (RECOVER)

Recommendation: Page 6-3 and 6-4, lines 1-8, and Figure 6-1: Box 3 “Management and Science Integration” should be should be transparent and publicly accessible.