

NATIONAL PARKS CONSERVATION ASSOCIATION®

Protecting Parks for Future Generations®

January 10, 2004

Colonel Robert Carpenter
District Commander
Jacksonville District
U.S. Army Corps of Engineers
701 San Marco Boulevard
Jacksonville, Florida 32207

Dear Colonel Carpenter:

On behalf of National Parks Conservation Association (NPCA), I submit the attached comments on the Master Implementation Sequencing Plan (MISP), the Pre-CERP Baseline and the Guidance Memorandum (GM) for the Comprehensive Everglades Restoration Plan (CERP). Given that today is the deadline for both sets of comments, we took the liberty of combining our comments into one document. The analysis of the MISP is in section one and those of the Pre-CERP Baseline and GM is contained in section two.

NPCA supports the comments submitted by Audubon of Florida, Natural Resources Defense Council and World Wildlife Fund on January 10, 2005.

We offer a correction to the text of the introductions of the MISP and the Pre-CERP Baseline. Only Everglades National Park is technically a World Heritage Site, an International Biosphere Reserve and a Ramsar Wetland of International Importance, not the entire Everglades ecosystem, to which the first paragraph alludes. While not a critical error, we hope that you will include this correction.

We look forward to reviewing subsequent versions of these documents, with our concerns addressed. Thank you for the opportunity to express our support and concerns for the MISP, the Pre-CERP Baseline and this initial draft of the Guidance Memorandum.

Sincerely,

John Adornato, III
Everglades Restoration Program Manager

cc: Henry Dean, Executive Director, South Florida Water Management District



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Master Implementation Sequencing Plan

NPCA urges the U.S. Army Corps of Engineers (USACE) to provide detailed information regarding specific changes within the Master Implementation Sequencing Plan (MISP) for the Comprehensive Everglades Restoration Plan (CERP) and to expedite several projects to further protect and enhance the National Park units in South Florida. In addition to expediting certain CERP projects, we urge the USACE to continue to keep the Modified Water Delivery (MWD) Project for Everglades National Park and the modifications to the C-111 Project as top priorities and provide adequate resources to ensure their timely completion.

The current draft MISP lacks adequate clarity on why specific changes are being made to the schedule. The goal of the MISP should be to group and schedule projects in order to achieve the goals and objectives of the plan consistent with the intent of the Water Resources Development Act of 2000 (WRDA 2000), not just the programmatic regulations, as stated on page 2. The MISP should clearly explain all changes from the original plan and be re-released for comments in accordance with the National Environmental Policy Act (NEPA).

NPCA cannot effectively comment on the impact of the proposed MISP without reviewing how the modeling simulations achieve or surpass the restoration goals of the original CERP. We urge the USACE and the South Florida Water Management District (SFWMD) to provide the public with that information prior to finalizing the MISP. In addition, we urge the USACE to evaluate the Interim Goals based on the draft MISP and, if necessary, make further modifications to the schedule in order to ensure consistency with the restoration goals of the original plan, consistent with the intent of WRDA 2000 and in accordance with NEPA. While not directly related to the MISP, NPCA supports the development of the interim goals based on the original – D13R – model run. By using that modeling scenario, this MISP can be evaluated based on its consistency with the original, authorized plan.

With the recent actions by the State of Florida to expedite a set of projects through the Acceler8 initiative, there is an opportunity to revise the schedule of CERP projects to give similar benefits to other priority projects. NPCA supports the requests stated in the Department of Interior's letter dated October 20, 2004 (attached), which highlights specific CERP projects that should be expedited in light of Acceler8.

We understand the limitations with which the USACE and the SFWMD are currently working regarding inadequate resources to complete all projects as originally scheduled or in order to best provide restoration to the Everglades. However, we still think action is necessary to realize benefits to the ecosystem sooner. To that end, we support the recently proposed language to be added to the MISP, as approved by the SFWMD's Water Resources Advisory Commission on January 6:

“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 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 the both the natural system and project implementation.”

We certainly support that language and given a change in available resources we propose specific projects to be expedited to support the original goals of the plan to restore America’s Everglades. However, we remain committed to the need to expedite the projects that benefit the environment. Thus we hope that the schedule can be redesigned, even under existing resource constraints, to move our suggested projects to Band I. These projects include:

Everglades National Park Boundary Projects

In particular, the seepage management and water preserve area projects along the Miami-Dade County-Everglades boundary significantly enhance the ability to retain natural system water within the Everglades. These projects include the Miami-Dade Seepage Management projects in the L-30 Canal and L-31N and the Bird Drive Basin Recharge Area. In conjunction with the implementation of the MWD and C-111 projects, these CERP elements will provide significant restoration benefits to Everglades National Park, while providing flood protection in the agricultural and urban areas of southern Miami-Dade County.

Water Conservation Area 3 Decompartmentalization and Sheetflow Enhancement Project

Elements of the WCA 3 Decompartmentalization and Sheetflow Enhancement Project (Decomp) should be expedited in order to realize important restoration benefits originally to be completed by 2010. The Decomp Project will provide significant benefits to the largest section of the remaining Everglades and thereby deserves high priority. The draft MISP lists the Eastern Tamiami Trail portion of Decomp to be completed by 2009, however, Decomp cannot be constructed prior to the completion of MWD, which is now scheduled for 2009. We urge the USACE to appropriately place this feature of Decomp with the other features to ensure that no one gets the impression that the MWD project is considered “complete” without the modifications of the eastern portion of Tamiami Trail. NPCA supports the bridging of Tamiami Trail across the Everglades as the best means to restoring the River of Grass, whether it occurs through MWD or in concert with Decomp.

Biscayne Bay Coastal Wetlands Project

NPCA is excited about the potential benefits that Biscayne National Park will achieve by the State’s plan to expedite a portion of the Biscayne Bay Coastal Wetlands project (BBCW). As we understand Phase I of the plan, however, this is the northern section of the project footprint that does not contain significant areas of natural water storage. NPCA urges the USACE to further expedite the BBCW Phase II in order to ensure that adequate lands can be secured for the

purposes of increasing the spatial extent of restored wetlands and providing enough storage of water for rehydrating Biscayne Bay.

In addition, NPCA wants to ensure that Biscayne National Park receives an adequate supply of water to be restored. To this end, NPCA supports the idea that the BBCW project should be appropriately developed to include additional water sources and storage as highlighted in the letter submitted by Audubon of Florida on January 3, 2005 (attached). NPCA supports the continued exploration of the project Additional Water for Biscayne and Everglades National Parks or another contingency plan for providing enough water to restore the Bay. The latter project, we understand, requires that the Initial CERP Update conclude that more water is necessary to restore the Bay, which NPCA believes will be the case.

Tamiami Trail Culverts and Indian River Lagoon

Two additional projects should be included in Band 1 of the MISP, including the critical project of the Tamiami Trail culverts, which will provide early benefits for Big Cypress National Preserve, and the Indian River Lagoon-South natural areas components.

While MWD and the C-111 modifications are non-CERP projects, we urge the USACE to continue to expedite their planning and implementation. These projects provide critical benefits to Everglades National Park and should not be further delayed, particularly due to resources being shifted away to these expedited projects. Since both of these are non-CERP projects, development of the first few CERP projects may be skewed due to a lack of operating plans for MWD and C-111. Some of these accelerated CERP projects may have indirect effects on these operations and we urge the SFWMD and USACE to take appropriate steps to coordinate them.

In conclusion, NPCA appreciate the State's initiative to provide added resources to CERP, that will result in the ability to reestablish the original schedule and move even faster toward restoration. We urge the USACE to further expedite projects that will provide early benefits to the natural system, while achieving the interim and overarching goals of restoring and protecting the South Florida ecosystem. We look forward to reviewing the modeling results, which will allow us to assess the implications of this revised schedule in achieving the plan's goals of restoring America's Everglades

Pre-CERP Baseline and Guidance Memorandum for the CERP

NPCA urges the USACE to make further changes to the draft Guidance Memorandum (GM) of the Comprehensive Everglades Restoration Plan (CERP) to ensure that the restoration goals of the original plan are ensured. NPCA is particularly concerned with protecting the water supply for the south Florida National Parks and other natural areas of the Everglades.

Overall, NPCA believes that the guidance memorandum should provide a framework to ensure that all projects are consistent with the plan and its goals for restoring the Everglades. These documents should ensure that the natural system gets all of the water necessary to meet the original project goals. Two critical elements of the planning for CERP should be more clearly defined in this GM in order to adequately implement the requirements under the Water Resources Development Act of 2000 (WRDA 2000). The plan proposes a minimum level of performance; if that level is not met due to non-CERP actions, such as consumptive use permitting (CUP), then the water needs to be provided through some other action.

The first critical element is ensuring that the baseline amount of water still exists at the time of a specific Project Implementation Report (PIR). NPCA is concerned that non-CERP actions, specifically CUPs granted after the enactment of WRDA 2000, may have made water unavailable to restore the Everglades. Such water may have been anticipated to be for the environment as planned in the original Restudy. The current draft of the GM anticipates only using the Existing Condition PIR Baseline as a means to determine baseline water. The USACE and the SFWMD should provide an analysis between the expected amount of water to be delivered to the natural system based on the original plan and that amount proposed after the completion of a PIR. Such an analysis will allow a clear means of addressing and subsequently enforcing the President-Governor Agreement as well as the savings clause. Without the additional comparison, a true prediction of the project achieving the original plan's goals may not be available.

NPCA supports the current development of the Pre-CERP Baseline. This tool should be used to adequately implement the savings clause of the WRDA 2000, the President-Governor Agreement and the baseline amount of water to be reserved by the SFWMD. The use of the CUP process, minimum flows and levels and water shortage implementation are not adequate to protect that baseline amount of water.

Unanticipated non-CERP projects could potentially take vital water from the natural system that was originally planned to be beneficial to the environment through the implementation of CERP. If violations of the President-Governor agreement or the savings clause occur, this water needs to be replaced, in some manner.

The second critical aspect of ensuring that the overarching objective to restore, preserve and protect the South Florida ecosystem is to reserve all of the beneficial water that a project eventually delivers to the natural system. One suggestion for further protecting the water for the natural system is to make a change to the language in Section 4.5.2 "Categories of Water to be Identified for the Natural System." The sentence beginning on line 3, page 4-10 should read,

“For purposes of quantifying water made available for the natural system, this quantification includes the total project water that is beneficial for the natural system.”

Another suggestion is to remove the word “additional” from line 31 in Attachment 4-D. The entire section 2a should read, “Prior to the execution of the Project Cooperation Agreement, reserve 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.” It appears that the GMs will only reserve “additional” water, a concept that is not supported by either WRDA 2000 or the Programmatic Regulations.

NPCA remains unclear as to the use and implications of the Modified Next Added Increment (MNAI). While NPCA understands the objective of determining appropriate reservations of water within the limitations of projects that would not yet have a final operating plan, we are not sure if the MNAI is the best tool. There is a lack of clarity and comprehensiveness in the description of this tool within the current GM. The assumption within this analysis is that only some of the reservation would be made at the time of implementation with more water to be reserved in the future. This scenario raises two significant questions. The first question is what will the process and the authority be for adding to that early partial reservation when the supplementary water becomes available. A second question is whether the future water quantity will be the same as identified in the original plan. NPCA urges the USACE and the SFWMD to include clear language to address all of these concerns.

Another lingering concern about the MNAI is an unclear attempt to share adversity during the implementation of CERP. This analysis does not include future environmental projects, yet it presumes to meet future water supply demands. NPCA is convinced that there is more information regarding the former, particularly in the case of Modified Water Deliveries, than the latter. Without a clearer understanding of the use and application of this tool, one conclusion is that the natural system is bearing a greater portion of the risk than the water supply demands. This outcome would be an inappropriate result, given that CERP is a program to restore and protect the natural system.

Interim goals and original plan goals should be emphasized more as a means to justify project alternatives, rather than what appears to be a heavy reliance on cost effectiveness and the Next Added Increment analysis. While NPCA understands the need for the Plan to be cost effective, the current draft of the GM appears to place more emphasis on the need for the projects to evaluate cost effectiveness at the possible detriment of restoration project benefits. In addition, the project’s performance based on the Next Added Increment analysis does not address that project’s contribution to the Interim and final goals of the plan. The use of the Trade-Off Analysis and the Risk and Uncertainty Analysis (page 1-23) is not entirely clear, particularly as it may further influence alternative development compared to restoration goals. Achieving and improving upon interim goals and overall plan goals should be the top priority for each restoration project.

NPCA urges the USACE to further define and provide for public input to the In-Progress Reviews and other checkpoints discussed in GM 1.6. Due to the nature of these reviews, i.e. policy issue resolution, the public should be afforded the chance to comment on these pressing issues. In particular the Feasibility Scoping Meeting (FSM) and the Alternative Formulation Briefing (AFB) should be an open, accessible process.

In numerous places within the document, especially GM #1, there are references to USACE policies and procedures that are not clearly identified as being nationwide guidance or CERP-specific guidance. We urge the USACE to specifically refer within the text to where those policies and procedures generate, either from general USACE guidance, or specific to the CERP program. For instance, in GM 1.6 line #9 says “in accordance with ESACE policy and procedures” in reference to the FSM and the AFB, but GM 1.7.3 discusses fee simple acquisition and something about OMRR&R without a reference to its regulatory source.

With respect to Real Estate requirements for CERP, GM 1.7.3, NPCA supports the preference for obtaining land through fee simple acquisitions, however we also encourage the USACE to work with the SFWMD and South Florida counties to investigate all potential opportunities. Such opportunities include conservation or flowage easements, development rights or other conservation land purchase programs and partnerships to ensure that the land required for restoring the Everglades is protected.

NPCA urges the USACE to explain in more detail sections of GM #6. More guidance is needed for the teams to resolve conflicts regarding projects or the plan. In addition, the GM should be specific with respect to not just “initiating” adaptive management but actually overcoming deficiencies in both Section 6.3.2.2 Shortfalls in water made available by CERP projects and 6.3.2.3 Achievement of interim goals and interim targets.

NPCA recognizes the complexities of this document and the effort that was put into it. We understand that there have likely been minor errors, omission and other problems that have in part led to our inability to effectively comment on the entire document. We look forward to a chance to review a revised version of the GMs.