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To: Joseph Redican, US Army Corps  
From: Laura Hartt Date: 1/10/05  
Addressee's Fax#: 904-232-1084 Voice#: 904-232-1087

**Comments:**

Attached are NWF/WWF comments  
on the draft MISP.

Please call me if you have any questions.

Thanks! Laura

If problems occur with this transmission, please notify us at (404) 876-8733.

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**BY OVERNIGHT UPS & FACSIMILE TO COLONEL CARPENTER (904-232-1684) &  
BY EMAIL TO [joseph.h.redican@saj02.usace.army.mil](mailto:joseph.h.redican@saj02.usace.army.mil) & [jhdiaz@sfwmd.gov](mailto:jhdiaz@sfwmd.gov)**

January 10, 2005

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Juan H. Diaz-Carreras  
South Florida Water Management District  
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**RE: Draft Master Implementation Sequencing Plan (MISP) for the  
Comprehensive Everglades Restoration Plan (CERP)**

Dear Colonel Carpenter, Mr. Redican, & Mr. Diaz-Carreras:

I am writing on behalf of the National Wildlife Federation (NWF) and Florida Wildlife Federation (FWF) to comment on the Draft Master Implementation Sequencing Plan (MISP) for the Comprehensive Everglades Restoration Plan (CERP). We have two major concerns with the draft MISP: (1) the draft MISP reschedules projects to give priority to structural components over habitat restoration components, thereby setting a bad precedent and conflicting with CERP goals; and (2) this rescheduling will have a dramatic impact on the restorative qualities of the

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Indian River Lagoon-South (IRL-S) Project. In light of these as well as the following specific concerns, we strongly urge the CERP MISP Team to reconsider this course of action.

**The draft MISP must schedule projects to maximize achievement of CERP goals**

Support for CERP has been based on the assumption that CERP's primary focus is on environmental restoration. In fact, the primary role for the federal government in CERP is the protection of the natural system. If scheduling emphasizes only the construction of structural components that can provide water supply or pollution cleanup for private interests, then the corps actions will run contrary to its primary purpose under CERP. Indeed, the overarching objective of CERP is "*the restoration, preservation, and protection of the South Florida ecosystem.*" Water Resources Development Act of 2000 (WRDA 2000) § 601(h). CERP must be implemented "to ensure the protection of water quality in, the reduction of the loss of fresh water from, the improvement of the environment of the South Florida Ecosystem and to achieve and maintain the benefits to the natural system and human environment...." *Id.* One of CERP's system-wide goals is to enhance ecological value of the south Florida ecosystem by increasing the total spatial extent of natural areas, improving habitat and functional quality, and improving native plant and animal species abundance and diversity. Corps & SFWMD, C. & S. Florida Project Comprehensive Review Study, Final IFR & Programmatic EIS, 5-21 (Apr. 1999). According to the programmatic regulations, the MISP must sequence and schedule projects "to maximize the achievement of the goals and purposes of [CERP] at the earliest possible time and in the most cost-effective way...." 33 C.F.R. § 385.30(a)(1). Implementation of the entire IRL-S Project is a crucial step toward fulfilling these Congressional and administrative directives.

The IRL-S project sets a new standard for modern environmental restoration. By recognizing the hydrological and water quality benefits of restored natural areas, IRL-S makes it possible for the Corps to create and sponsor true environmental restoration. In fact, NWF and a number of other state and national environmental organizations strongly support the IRL-S project as an example of the vital new role the Corps can play. If the key environmental component is lost through the proposed backdoor scheduling strategy, the Corps, like CERP, will lose credibility and crucial support from all parties needed for success.

**The draft MISP's rescheduling erodes the restoration benefits of IRL-S**

The Natural Area component of the IRL-S involves purchasing and restoring more than 90,000 acres of wetland and upland habitat in Martin and St. Lucie Counties. The restored habitat would enhance recovery for several listed species, including bald eagle, Florida scrub-jay, Audubon's crested caracara, snail kite, wood stork, red-cockaded woodpecker, eastern indigo snake, and possibly in the future, whooping crane and Florida panther. All of this would be accomplished by blocking existing artificial drainage, exotic removal, reduced grazing, and fire management.

The Natural Area component would reduce the need for reservoirs by 30,000 acre-feet and remove 20,000 kilograms/year of phosphorous from runoff to the estuary. With the Natural Areas component intact, the IRL-S project would not require diesel-run levees or large pumps

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which are expensive to operate and manage. In other words, the Natural Area continuously would deliver hydrological benefits without outside energy inputs.

At best, the proposed MISP would postpone these restoration benefits—at worst, adopting this MISP would ensure that these benefits never come to fruition.

**The draft MISP delays land acquisition needed for restoration.**

The draft MISP reschedules IRL-S so that all structural components are done up front while the habitat-related Natural Area component is deferred until Band 4, i.e., year 2020-2025. Rising land prices and development pressure already make it hard for the water district to buy property. Current development pressures in Martin and St. Lucie counties mean that by 2020 the land either would not be available or would be too expensive. Thus, with the exception of those parcels already acquired under the state endangered lands program (Save Our Rivers), the rescheduling of Natural Areas in the MISP will effectively remove the Natural Area component from the project.

The Corps should insist that the state meet its responsibility for land acquisition for CERP projects in a timely manner. Allowing the state to dictate the schedule so that only land for structural projects is acquired in a timely manner destroys the unique state-federal partnership underlying CERP. The Corps, as the federal sponsor, must take an active role to ensure the large restoration benefits achieved by the Natural Area component, are achieved.

**The draft MISP improperly gives higher priority to projects without a complete PIR.**

Projects in band 1 that do not have a completed PIR should not come before scheduled completion of those projects with an approved PIR and existing timetable. Prior to CERP project implementation, even implementation of “initial” projects like the C-44 Basin Storage Reservoir component of the IRL-S Project, the PIR process must be complete. WRDA §§ 601(b)(2)(C)(i) (listing “initial” projects), (b)(2)(D)(i) (requirement that projects have an approved PIR prior to implementation), (f)(1) (requirement that the PIR undergo public comment prior to completion by the Secretary of the U.S. Army Corps of Engineers and that the PIR must be finalized before project implementation). Each PIR process must be consistent with CERP as well as comply with the National Environmental Policy Act. §§ 601(h)(4)(A)(iii)(I), (III). To date, the IRL-S Project is the only CERP project that has fulfilled these PIR requirements.

**The draft MISP amends IRL-S such that the Corps must reinitiate ESA consultation**

According to the U.S. Fish & Wildlife Service (USFWS), “if modifications are made to the Indian River Lagoon-South selected plan, or if new information involving potential impacts on listed species becomes available, reinitiation of consultation may be necessary.” Final IRL-South Project Implementation Report & EIS, E-127 (Mar. 2004). Clearly, USFWS recognizes the importance of the Natural Area component for conservation and enhancement of wildlife habitat, unequivocally stating that this area “should not be considered to be an ‘as funding allows’ supplemental feature of the project.” *Id.* at E-131. In fact, USFWS states that it can

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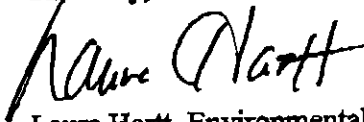
*"only support the selected plan if the full complement of natural storage and water quality treatment area components is included." Id. at E-223.*

Rescheduling the restorative components of IRL-S effectively modifies the project, so that the USFWS biological opinion determining that IRL-S would not adversely affect listed species is no longer valid. Accordingly, if this proposed MISP is finalized, the Corps and SFWMD will have to reinitiate consultation with the USFWS. See 50 C.F.R. §§ 402.16 (b) (reinitiation of consultation is required "if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered") & (c) (reinitiation is required "if the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion").

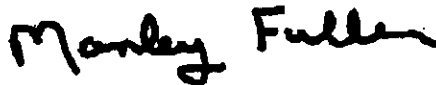
For the foregoing reasons, we strongly urge the CERP MISP Team to move the Natural Area component of the IRL-S Project from band 4 to band 1. Failing that, because the CERP MISP reschedules the IRL-S Project in such a way as to effectively "amend out" the restoration aspect of the project, the Corps must (1) revise the PIR/EIS for IRL-S to reflect this "amendment," (2) reinitiate consultation with USFWS on the amended IRL-S project, and (3) release the revised PIR/EIS to the public to allow for a meaningful opportunity to comment on the amended IRL-S project.

Thank you for carefully considering these comments. Please keep NWF & FWF apprised of the status of the rescheduling effort.

Sincerely,



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