



Florida Department of Agriculture and Consumer Services
CHARLES H. BRONSON, Commissioner
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Please Respond to:

December 17, 2007

U.S. Army Corps of Engineers
Attention: Stu Applebaum
P.O. Box 4970
Jacksonville, FL 32232-0019

Dear Mr. Applebaum:

Thank you for the opportunity to comment on the proposed final Guidance Memoranda. As discussed at the December 5, 2007, Water Resources Advisory Commission meeting, we believe that a preferred alternative to adopting the Guidance Memoranda is to instead begin a review of the Programmatic Regulations for possible revision. We believe this approach to be more consistent with the requirements of WRDA 2000. Any additional action regarding the Guidance Memoranda should be delayed until that process has been completed.

WRDA 2000 did not require, nor envision, the guidance memoranda. Rather, the Corps was required to develop Programmatic Regulations for the purpose of providing procedural guidance to Project Delivery Teams for the development of Project Implementation Reports. The Corps was unable to resolve certain issues in those regulations, and instead deferred to a series of guidance memoranda that would be developed to address the unresolved issues, including plan formulation and evaluation, savings clause analysis, and identification of water made available by projects. These memoranda have been under development since adoption of the Programmatic Regulations in 2003. During the years that the guidance memoranda have been pending completion, several developments have occurred that significantly affect the Comprehensive Everglades Restoration Plan. Given these changes, efforts would be better spent reviewing the Programmatic Regulations as required by WRDA 2000, than attempting to finalize guidance memoranda that continue to generate considerable confusion and controversy.

Since development of the guidance memoranda began, the South Florida Water Management District initiated "Acceler8," a program intended to parallel CERP but to allow actual construction to begin sooner than would be the case with a "pure" CERP process. Projects are developed consistent with CERP requirements, but construction proceeds at the local sponsor's expense while the CERP planning process is completed. It is at best confusing that the proposed final Guidance Memoranda consider Acceler8 projects to be "Non-CERP intervening projects" whose benefits would not be maintained in the CERP "savings clause analysis."



Florida Agriculture and Forest Products
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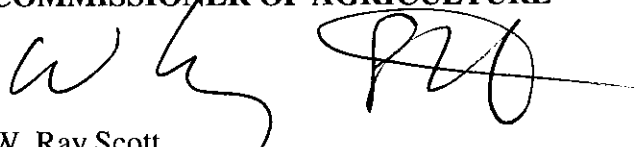
In August 2007, the Corps announced the new "Integrated Delivery Schedule," and discussed it in more detail at the December 6, 2007, meeting of the South Florida Ecosystem Restoration Task Force. While many details remain to be provided, it is apparent that this will alter the plan formulation process. Like Acceler8, it has the potential to alter the planning and sequencing of restoration projects in a manner not anticipated when CERP was authorized in WRDA 2000.

Most recently, WRDA 2007 has created new and revised project planning requirements that may be inconsistent with the proposed final Guidance Memoranda. Among these requirements are independent project reviews, cost-effectiveness analysis, and cost estimates based on a "risk analysis approach." These new requirements were discussed at the December 5, 2007, Water Resources Advisory Commission (WRAC) meeting, and we agree with the conclusion by some WRAC members that the WRDA 2007 project planning requirements raise issues in regard to the guidance memoranda proposed for adoption.

Given the very significant issues associated with WRDA 2000, Acceler8, and WRDA 2007, the proposed final Guidance Memoranda should not be adopted prior to a review of the Programmatic Regulations. That review should consider whether guidance memoranda need to be developed at all. At this point in time, it is more important to ensure that the Programmatic Regulations are consistent with current law and policy than to try and finalize these Guidance Memoranda. Thank you again for the opportunity to provide comments. If you have questions regarding our comments, please feel free to contact me at (850) 410-6714.

Sincerely,

CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE



W. Ray Scott
Conservation and Water Policy
Federal Program Coordinator