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U. S. ARMY CORPS OF ENGINEERS
JACKSONVILLE DISTRICT

- - -

PROPOSED RULE ON PROGRAMMATIC REGULATIONS
for the
COMPREHENSIVE EVERGLADES RESTORATION PLAN
PUBLIC MEETING

- - -

DATE: September 19, 2002
TIME: 7:07 p. m. - 8:45 p. m.
PLACE: South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida

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1 MIKE POWERS: Okay. Good evening. First I will say
2 this in English, then in Spanish. Is there anyone here
3 who requires translation in Spanish?

4 (Translation in Spanish.)

5 Okay. Thank you very much.

6 COLONEL MAY: Good evening, everyone. I think we'll
7 just go ahead and get started now. I'd like to welcome
8 everybody to the public meeting on the draft Proposed
9 Rules for the Programmatic Regulations. I really can't
10 thank you enough for coming out tonight and joining us.
11 I know that everybody's discretionary time is very, very
12 precious to them, and I really appreciate the fact that
13 you're spending your discretionary time with us to help
14 make these rules even better.

15 I'm Colonel Greg May. I'm the commander of the
16 Jacksonville District, U.S. Army Corps of Engineers.
17 I'd like to point out two folks that I have with me
18 tonight. First is Stu Appelbaum, who is the chief of
19 our RECOVER division. And then I've got Nanciann
20 Regalado in the back. Nanciann. She's our team leader
21 for Outreach Group.

22 You know, so we can better tailor our remarks
23 tonight, how many of you have had an opportunity to read
24 the Programmatic Regulations? Okay. Become familiar
25 with the Programmatic Regulations?

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1 ROSA DURANDO: Trying.

2 UNIDENTIFIED MALE: Not easy.

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3 COLONEL MAY: Okay. That's good. This is a good
4 amount of involvement. Let me provide a little bit of
5 background. You know, the Water Resources Development
6 Act of 2000, which actually approved the Comprehensive
7 Everglades Restoration Plan, or CERP, is a conceptual
8 framework for guiding the restoration efforts over the
9 next thirty-plus years, required the Secretary of the
10 Army to develop and approve Programmatic Regulations
11 that would serve as the guide or the framework for
12 guiding that process of restoration over the next thirty
13 something years. And that process included the
14 provisions for public comment. And that's why we're
15 here tonight. This is the second of formal public
16 meetings that we're conducting to get your comments on
17 these draft Programmatic Regulations. It's my job as
18 the commander to listen very carefully to what you have
19 to say tonight and then to convey that information to
20 the Secretary of the Army.

21 Now, some of you may not be comfortable with
22 providing your comments orally. And that's okay. We've
23 also made provisions for you to provide your comments in
24 writing. You can send them to this address. You can
25 email them to this web address. And the bottom line is

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1 we've got a recorder here tonight and a transcript of
2 your remarks, along with your written comments and your
3 email comments, they will all become part of the public
4 record and they will be used to develop this process.

5 Any questions on that? One of the things you had an

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6 opportunity to do when you came in tonight was fill out
7 a card. And if you'd like to make public comments --
8 and again, I think we've had seven or eight people
9 indicate that they would like to make comments -- please
10 raise your hand if you haven't filled out one of those
11 cards so that we can ensure that everybody gets an
12 opportunity to speak tonight who would like to.

13 Little history of the Programmatic Regulations. In
14 December of 2001, we released a very preliminary draft
15 of the Other Regulation. And that was designed to do
16 basically one thing, and that was to stimulate a more-
17 focussed dialogue. Prior to that time, we had had a lot
18 of conversation about people talking about things that
19 they thought should be included and things that they
20 thought should be excluded from the regulations, but we
21 really weren't getting very specific comments. And when
22 we released this very preliminary draft, again in
23 December 2001, that really acted as a catalyst and
24 started a lot of very good, specific comments and
25 feedback from all the stakeholders and all the agencies

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1 that we're dealing with in this process.

2 And I gotta tell you, Stu and Nanciann have met
3 multiple times with all of the agencies and with all of
4 the stakeholders involved in this process. And when we
5 released the updated draft version in the Federal
6 Register in August of this year, I think there was
7 universal agreement that the regulations were much, much

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8 improved over the initial draft. And I gotta tell you,
9 the reason they were much improved was because of the
10 public comment that we received from December to August.
11 And that's why, again, we're so appreciative of your
12 being here tonight because we fully intend to take your
13 comments, both oral and written, and again incorporate
14 those comments as best we can into the final version of
15 the regulations.

16 We've got a sixty-day public comment period that
17 began on the 2nd of August and it will run through
18 August -- or October the 1st. And, again, we'll take
19 any comments that you have during that time.

20 Now, after my opening remarks, Stu is actually going
21 to give a very short presentation on the Programmatic
22 Regulations that I think will help give everybody kind
23 of a framework with what we've got. And then in the
24 second part of the meeting you'll actually have an
25 opportunity to make your public comments. Based on the

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1 feedback that we've received so far, we're going to give
2 everybody about three minutes to make your comments.
3 And, again, all we're interested in doing is making sure
4 that everybody who wants to speak has an opportunity to
5 speak. We'll go through the folks who have filled out a
6 card. And at the end of that time, I'll ask if anybody
7 who, you know, maybe you didn't think you wanted to make
8 a comment when you came in, but you changed your mind
9 halfway through the process and you'd like to make a
10 comment, we'll let you come up and make your comments.

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11 And then after that, after we're through with the
12 process, my staff and I will be glad to stay as long as
13 you'd like after the meeting to talk about Programmatic
14 Regulations, to talk about Everglades restoration or
15 anything that we're doing in the south Florida area.

16 UNIDENTIFIED MALE: I got a quick question, please.
17 What is the deadline for submitting written comments on
18 this?

19 COLONEL MAY: The public comment ends 1 October this
20 year.

21 UNIDENTIFIED MALE: Thank you.

22 COLONEL MAY: You bet. Okay. Do we have any other
23 questions or comments before Stu gives his overview of
24 the Programmatic Regulations? Okay. Stu.

25 MR. APPELBAUM Thank you, Colonel. Thank you,

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1 Colonel. I wanted to do two things tonight. First I
2 want to talk a little bit about the plan, the Everglades
3 Restoration Plan. And use that as a prelude to talking
4 about the Programmatic Regulations, which obviously go
5 in tandem with the Plan. The Plan really is about where
6 we want to end up in thirty-plus years as we implement
7 it. And the Programmatic Regulations to me are kind of
8 the rules of the road to tell us how we're going to get
9 there.

10 The water management system in south Florida that's
11 been developed over a great number of years has
12 fundamentally altered the ecosystem in south Florida.

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13 What you see on the left is kind of the historic
14 Kissimmee, Okeechobee, Everglades system. And on the
15 right you see the system that exists today, which is a
16 highly-compartmentalized, highly-managed system,
17 provides a variety of functions, flood protection and
18 water supply as well as deliveries to natural areas.
19 And the goal of the Plan obviously is to go back and try
20 to restore, to the extent possible, those essential
21 characteristics that made up the Everglades. So this is
22 kind of a before, the way it used to be, and this is
23 where we are today. And the goal is to try to make the
24 system look more like the historic system did than it
25 does today.

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1 So back in July of 1999 we presented a plan to
2 Congress called the Comprehensive Everglades Restoration
3 Plan. And it was an outline of a plan that would take
4 thirty-plus years to implement to revamp that water
5 management system in south Florida. Fundamentally what
6 the Plan does -- and there is 68 components and I'll go
7 over the Plan to some degree in a moment -- what the
8 Plan fundamentally does is to try to get the water
9 right. It does that through a series of projects that
10 deal with the quantity, the quality, the timing and
11 distribution of flows. And every one of the projects
12 that make up the Comprehensive Everglades Restoration
13 Plan, or CERP for short, are designed to do one or more
14 of those things, to deal with the quantity, the quality,
15 the timing or distribution.

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16 Let me go very quickly through the Plan. Again, I'm
17 not going to try to go through all 68 components, but
18 thematically let me tell you what's in the Plan. There
19 is a number of water storage areas that are part of the
20 Plan, about a hundred and eighty thousand acres are
21 slated to be water storage areas, designed to capture
22 water that is currently being lost to tide and needs to
23 be recaptured and used for ecosystem restoration as well
24 as providing for other water-related needs. We have
25 underground storage called aquifer storage and recovery.

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1 There is 333 wells that are scheduled, 200 of which are
2 in the Lake Okeechobee area, but also spread out in the
3 Caloosahatchee Basin as well as the lower east coast.

4 To make sure the water quality is appropriate before
5 water is discharged in the natural areas, we have
6 stormwater treatment areas. There is about 36,000 acres
7 of stormwater treatment areas. That's the same
8 technology that's being used as part of the Everglades
9 Construction Project. About 40,000 acres are currently
10 under construction by the South Florida Water Management
11 District.

12 There are two waste water reuse plants down in the
13 Miami-Dade area.

14 There are a number of seepage management features
15 designed to when water is -- further flows are put into
16 the Everglades that we don't lose all that water out
17 through the underground strata and then out through the

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18 canal system So if you put more water in the
19 Everglades, we want to make sure it winds up being of
20 beneficial use for the Everglades.

21 And then we're removing about 240 miles of levees
22 and canals and structures that impede flow within the
23 Everglades. Those are kind of the red X's that you see
24 here.

25 STEVEN BELL: Can we ask a question as you go along?

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1 MR. APPELBAUM: I'll take -- I'll take -- I really
2 want to continue kind of going through this, but if you
3 have a quick question, I'll take it.

4 STEVEN BELL: Okay. Well, you're showing an attempt
5 to restore natural flow. Now you're digging wells that
6 have never been there naturally and talking about
7 reserving water in areas that never naturally reserved
8 it. That doesn't seem to me to meet what you're
9 speaking here about. This 5,000 acres of holes that are
10 supposed to hold billions of water in place in a system
11 that flows. That's not restoring a historic flow.

12 MR. APPELBAUM: The system today is very different
13 than it was historically.

14 STEVEN BELL: But you're attempting to restore it.

15 MR. APPELBAUM: And I understand. And if you have
16 concerns about the Plan, then certainly you ought to
17 comment on that, and you ought to comment during the
18 public comment period.

19 My point is that we are trying to restore a system
20 that's been fundamentally altered over a period of a

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21 hundred-plus years. And, frankly, you can't -- we don't
22 believe it can be put back the way it was back in the
23 1800's. The Plan attempts to recreate those essential
24 characteristics that made up the predrainage Everglades.

25 And lastly when we get done with all of those

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1 structural changes, then we can operate the system very
2 differently. So if you think of the structural changes
3 as kind of the hardware, then the operational changes
4 are kind of the software that will allow us to operate
5 the system to more -- to better move water through the
6 natural system as well as meet our other needs.

7 The Plan was estimated when the report went to
8 Congress in 1999 at 7.8 billion dollars, of which in
9 addition about 172 million dollars a year to operate and
10 maintain that system. Plan went to Congress, as I said,
11 on July 1st of 1999. The Congress developed a Water
12 Resource Development Act of 2000. That was enacted into
13 law on December 11th of 2000. The Water Resource
14 Development Act the centerpiece of that was the
15 Everglades Plan and the authorizing legislation
16 associated with that.

17 A number of provisions relating specifically to
18 Title 6 of that Act, which is the Everglades Restoration
19 Plan. The Plan was approved as a framework for
20 modifications to the existing water management system.
21 Four pilot projects were specifically authorized. Two
22 other pilot projects had been authorized in 1999. So

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23 there is a total of six pilot projects that will be
24 implemented. Ten additional projects, including
25 adaptive management, were authorized at a total cost of

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1 1.2 billion.

2 A programmatic authority, which allows us to
3 implement projects that are approved by the Secretary of
4 the Army without further Congressional authorization
5 were also approved. The stipulation is those projects
6 cannot exceed a total of 25 million dollars. So, in
7 other words, if the project cost is under 25 million
8 dollars and it's part of the Plan, it can be implemented
9 without further Congressional authorization.

10 And the remaining projects of the Plan, which are
11 really the bulk of the projects of the Plan, are subject
12 to further reports being submitted to Congress and
13 authorizations that will happen over the next fourteen
14 years.

15 One of the key things I want to begin to focus on
16 now as we talk about the Programmatic Regulations is
17 Section 601(h), which is called the Assurances of
18 Project Benefits Provisions. What I've highlighted on
19 the screen is the language out of the Act, which really
20 is kind of a preamble. It makes very clear what the
21 goal and the purpose of the Plan is. The overarching
22 purpose is the restoration, preservation and protection
23 of the south Florida ecosystem, while providing for
24 other water-related needs of the region.

25 Those assurances are very complicated. There is

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1 four pieces that make up this Assurance of Project
2 Benefits Provisions. The first piece is an agreement
3 that's required between the President and the Governor.
4 That was in fact signed on the 9th of January of this
5 year. There is a lot of words I realize on the slide,
6 but it really gets at the State pledging that they will
7 not permit away or otherwise make water unavailable for
8 consumptive use before that water needed for the natural
9 system has in fact been reserved for the natural system.

10 The second piece is the Programmatic Regulations,
11 which is the draft document that you received. That was
12 published in the Federal Register on the 2nd of August.
13 Again, the requirements are that it be promulgated by
14 the Secretary of the Army. The purpose of these
15 regulations are to ensure that the goals and the
16 purposes of the Plan are achieved. We have a statutory
17 limitation of two years. December 11th of 2002 is our
18 deadline for completing those Programmatic Regulations.
19 They will be done in consultation with other Federal,
20 State, Tribal and local agencies. And, lastly, they
21 require the concurrence of both the Secretary of the
22 Interior and the Governor.

23 The law goes on the third part deals with what's
24 called Project Specific Assurances. And it deals with
25 how we put together the various project documents that

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1 will get us from the somewhat conceptual plan that
2 Congress approved back in 1999 to more detailed design
3 and ultimately construction. The way these are linked
4 together is the next stage of planning is to develop
5 these Project Implementation Reports, which are
6 submitted to Congress for authorization. What's
7 important to note is that those reports are required to
8 identify the amount of water that needs to be reserved
9 for the natural system. The reservation itself is done
10 under State law.

11 We cannot sign the Project Cooperation Agreement,
12 which is the legal contract between the Corps of
13 Engineers and a non-federal sponsor, which must be
14 signed before we can construct the project, we're not
15 allowed to sign that until the reservation that was
16 outlined in the Project Implementation Report has, in
17 fact, been executed under State law.

18 And then, lastly, the operating manuals, which is
19 how the rules for operating the project once it's
20 completed, must be consistent with the water reservation
21 that's described in the Project Cooperation Agreement
22 and the Project Implementation Report. What Congress
23 has done is linked together the various project
24 documents.

25 And the last piece of the four parts is the Savings

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1 Clause, which deals with protecting existing legal
2 sources of water. So there are stipulations about there
3 can be no elimination or transfer of those existing
4 legal sources of water until a new source of comparable
5 quantity and quality is available.

6 The second piece of the Savings Clause deals with
7 protecting flood protection in that we're not allowed to
8 reduce levels of service that are in existence on the
9 date of enactment and in accordance with applicable law.

10 And the third piece of the Savings Clause deals with
11 the Tribal rights that the Seminole Tribe enjoys under
12 the water compact among the Seminole Tribe, the Federal
13 government and the State government.

14 This is the process that we've gone through to
15 develop the Proposed Rule. We've talked to many, many
16 people along the way. Back last summer we developed a
17 draft outline based on discussions and we presented that
18 out to the public and received comment. We used that to
19 develop the initial draft of the regulation that Colonel
20 May talked about. We put that out in December of last
21 year. We used the public comment that we received after
22 the initial draft was put out to develop the Proposed
23 Rule, which was the beginning of the rulemaking process.
24 And, again, that was put out in the Federal Register on
25 the 2nd of August of this year.

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1 We're now in a sixty-day public comment period that
2 ends on the 1st of October. When that public comment
3 period is over, we'll then use the public comment as a

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4 way of developing the final rule. The concurrence
5 process that was described in the statute will then kick
6 in. And then when those both are complete, we will
7 publish the final rule in the Federal Register as a
8 final rule.

9 Law stipulates what the content of the regulations
10 need to be. The law says that it needs to establish a
11 process in three major goals. One, that the processes
12 will lay out for project implementation ensure that the
13 goals and the objectives of the Plan are achieved. The
14 second deals with how we incorporate new information
15 over this thirty-plus-year implementation period is
16 incorporated into the Plan's implementation, including
17 the information that we've learned from adaptive
18 management. And the last piece deals with establishing
19 interim goals to provide benchmarks along the way for
20 measuring progress over that thirty-plus-year period.

21 The Regulation that you've received from the Federal
22 Register as a preamble -- I need to point out a preamble
23 is not officially part of the rule. It is part of the
24 administrative record. It provides a lot of background
25 information. It explains how we got to where we are,

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1 but it's not part of the Regulation itself. The rest of
2 the subparts A through E and the appendix are the parts
3 that when they're finally adopted become part of the
4 Rule and they're actually codified in the code of
5 Federal regulation.

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6 We have a web site set up, not only for you to make
7 public comment, but also to download the Regulation as
8 well as see the initial draft when it was out there, the
9 comments that were received on the initial draft and
10 other basic information about the Programmatic
11 Regulations.

12 When that public comment period closes on the 1st of
13 October, here's what's going to happen next. We'll
14 analyze all the comments that are received. We'll then
15 use that as a basis for preparing the Final Rule. That
16 Final Rule, just like this Proposed Rule, will need to
17 go back through the Office of Management and Budget for
18 clearance. We'll obtain concurrence of both the
19 Governor and the Secretary of the Interior and then
20 publish the Final Rule in the Federal Register.

21 As Colonel May showed you earlier, here are the
22 three ways to make public comment in addition to the
23 comment you can make at this meeting. You can send us
24 written comments. You can email us at the
25 proregs@usac.army.mil address; or you can get on the web

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1 for -- web page and fill out a comment form and then it
2 will trigger an email back to us that goes into part of
3 the public record.

4 With that, I'm going to turn it back to Colonel May.

5 COLONEL MAY: Thank you, Stu. Okay. Well, now
6 we're in the public comment part of tonight's meeting.
7 Again, we'd ask that everybody limit your remarks to
8 about three minutes. We find that if you've got

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9 something written, it's best to kind of think about how
10 you want to summarize it. And then what we'll do,
11 again, is just kind of randomly go through the cards
12 that we've got. When we're through with those, we'll
13 ask if there is anybody else who would like to make
14 remarks. And then, when we're done with that, we'll be
15 glad to stay, again, as long as you'd like to talk about
16 the Programmatic Regs or the -- Programmatic Regs or the
17 Comprehensive Everglades Restoration Plan after the
18 meeting.

19 Just to let everybody know if we're still going
20 about an hour from now, we'll take a short break and
21 give everybody a chance to stretch and then we'll come
22 back in. Questions before we get started?

23 UNIDENTIFIED MALE: Yes. Can you elaborate on the
24 differences between what was proposed before and what's
25 being proposed now?

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1 COLONEL MAY: We'd be glad to do that after the
2 meeting.

3 UNIDENTIFIED MALE: Well, that would filter -- that
4 would color the public comments to have a greater
5 understanding of exactly the differences that are
6 supposed to be so much better than before.

7 COLONEL MAY: We'd be glad to sit down with you and
8 everybody else to discuss this after the public comment
9 period. I will say that at the Senate Oversight hearing
10 last week, and in all the press accounts that I've read,

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11 there was universal agreement that the Programmatic Regs
12 were vastly improved over the initial draft. And,
13 again, that was because of the public comment. And
14 that's why we're so appreciative of everybody being here
15 tonight to help us make the draft rules even stronger.

16 Okay. First up we've got -- and please forgive me
17 if I don't get your name quite right -- John Fortuin.
18 John, how do you pronounce your name?

19 JOHN FORTUIN: Fortune.

20 COLONEL MAY: Fortune.

21 JOHN FORTUIN: Good evening. The Army Corps of
22 Engineers began more than a hundred years ago when they
23 created -- started working on the project in the Dry
24 Tortugas to build a gigantic fortress. Incorporated
25 into that plan was a plan to collect fresh water since

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1 there was no fresh water available in the Dry Tortugas
2 for the troops that were stationed there. This plan
3 worked initially, but quickly became a failure. And the
4 Army and the people in the fort were required to
5 desalinate water in order to continue maintaining a
6 human presence there.

7 The next Army Corps' project that comes to mind that
8 had a substantial impact on water was what they did when
9 they put the canals in to drain the Everglades.

10 I have real reservations about the Army Corps' role
11 in the proceedings of restoration. I think the Army
12 Corps should be under a civilian academic board of
13 hydrologists that should be defining the restoration

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14 together working with numerical targets for flora and
15 fauna, to bring back the bird populations for instance
16 up ten-fold from where their current levels are because
17 they have decreased ten-fold from their original levels.

18 There is many more things I could say, but I'm going
19 to close with that. Thank you.

20 COLONEL MAY: Thank you, John. Christine Cairns.

21 JOHN FORTUIN: She went to the bathroom.

22 COLONEL MAY: We'll come back to Christine.

23 Jonathan Ullman.

24 JONATHAN ULLMAN: I'm Jonathan Ullman, Everglades
25 field representative for the National Sierra Club. The

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1 Sierra Club is the oldest and largest grassroots
2 environmental organization in the United States with
3 750,000 members nationwide. The Programmatic
4 Regulations that the Corps of Engineers are proposing
5 today are completely inadequate to restore the
6 Everglades. Experts from the top environmental
7 organizations have poured over these proposed rules.
8 Their unanimous conclusion is that if these regulations
9 are not drastically changed, the now 11-billion-dollar
10 Plan will be nothing but a heavily engineered urban
11 water supply and flood protection project. That was not
12 the intention of Congress. That was not the intention
13 of the environmental organizations. And that was not
14 the intention of the voting public.

15 The Corps wrote these rules by passing them by those

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16 who represent polluters and developers, specifically
17 sprawl developers. If polluters and developers found a
18 problem with any part of the language that would
19 guarantee the Everglades restoration, it was taken out.
20 Language was left vague to keep them happy. The result,
21 therefore, is dozens of pages of watered-down rules that
22 don't have any teeth to protect our Everglades.

23 There are drastic improvements needed. The final
24 Programmatic Regulations must have independent science
25 review in them. And specifically they must provide for

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1 an open science-driven decision making process in order
2 to separate the auditors from the managers of Everglades
3 restoration.

4 The Programmatic Regulations also must provide that
5 the independent science review panel, as mandated by
6 Section 601(j) of the Water Resources Development Act of
7 2000, must operate independently of U. S. Army Corps of
8 Engineers, the State of Florida and the Department of
9 the Interior. They must have access to all pertinent
10 information generated by the implementation of the
11 Comprehensive Everglades Restoration Plan. And it must
12 be adequately funded. The Programmatic Regulations must
13 specify how separate agencies and the inner-agency
14 RECOVER shall work with the independent science panel,
15 including a role for dispute resolution on science
16 matters and within the process for adaptive management
17 and assessment.

18 There are other glaring problems. The rules don't

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19 define restoration as bringing back the animals and
20 plants that made the Everglades so unique and wonderful.
21 Instead they defined restoration as whatever the
22 government can deliver, which based on history and
23 politics may not be much. The draft rules don't have
24 clear and measurable interim goals specifically
25 requested by Congress. The draft rules come up with new

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1 goals for urban and agricultural water supply and fail
2 to prioritize restoration ahead of water supply.

3 They don't implement independent science review
4 requested by Congress. They don't allow the people who
5 manage and do research in Everglades National Park to
6 have a vital shared authority. And these are not
7 nitpicky details. This is the essence of restoration.
8 Let's just say you wouldn't buy a car with this kind of
9 contract. Unless these are included in the final
10 regulations, your agency will have failed in a mission
11 to which this country and this planet has entrusted it.

12 I firmly disagree with the statement that Colonel
13 May made. Those -- the draft resolution -- the draft
14 rules that we're looking at today are very, very, very
15 similar to the draft rules that were thrown out many
16 months ago. There are clear -- as I think about six --
17 no, about eight top environmental groups have released a
18 document saying the Proposed Programmatic Regulations
19 are inadequate in key respects and must be significantly
20 improved to achieve Congress' mandate for the

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21 regulations that they ensure that the Everglades
22 restoration will occur. I do not agree with that
23 statement that Colonel May made at all.

24 COLONEL MAY: Thank you, Jonathan. April Gromnicki.

25 APRIL GROMNICKI: Thank you. April Gromnicki with

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1 Audubon of Florida, representing both the Audubon --
2 National Audubon Society and Florida Audubon Society.
3 First of all, I just want to thank Stu and his team for
4 the effort he has already invested in drafting the
5 Regulations, and even more for the effort you will
6 continue to invest in the Regulations to bring them to
7 where they need to be for the final draft.

8 In short the Regs are a crucial piece of assuring
9 that the Everglades will be restored and that once
10 restored will never again be harmed through water
11 management practices. To that end, the Regulations need
12 to provide a firm foundation for making this assurance
13 to the American people.

14 As currently drafted, we see several very important
15 shortcomings. Briefly, a clear guidance that
16 restoration of the Everglades is the priority. You
17 know, there seems to be no argument on that point. It's
18 clear in the word of law '96 and 2000, and the President
19 and Governor's agreement. We'd like to see that carried
20 through and made clear in the Regulations.

21 Defining restoration in terms of the ecological and
22 hydrological conditions that the restoration project
23 strives to return to the Everglades, as opposed to the

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24 current draft which I think tries to get closer to
25 there, but it really still reads to me as a default.

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1 Once we build the plan, that's restoration. We need to
2 set the bar a little higher -- a lot higher.

3 The Regulations need to provide that the interim
4 goals once they're developed be incorporated into the
5 regulation. And, finally, the shared leadership of
6 RECOVER for the Federal government between the
7 Department of Interior and the Army Corps of Engineers,
8 I think that engineers could benefit from the ecologists
9 that Interior has to offer. So we should bring them to
10 the table as full partners.

11 We will be submitting detailed written comments to
12 specific language on all of our suggestions. And we
13 thank you.

14 COLONEL MAY: Thank you, April. Nada MacKinney.

15 NADA MacKINNEY: Thank you for taking my comments.
16 Can you hear me? Stand up a little closer. My name is
17 Nada MacKinney and I live in Boca Raton, Florida. The
18 number one priority of CERP, as everybody has said here,
19 is the restoration of the natural Everglades.
20 Therefore, I'd expect to see in this document clear and
21 strong assurances for the restoration of the natural
22 Everglades. There really shouldn't be much debate about
23 that, but more importantly I'd expect to see those
24 assurances strongly supported by environmentally-driven,
25 scientifically-driven objectives that are quantifiable

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1 and are stated for achievement within a specified period
2 of time. And a time frame that is aggressive enough to
3 reflect the restoration priority.

4 My concern is that these strong, clear, quantifiable
5 objectives are not jumping out, at least not to me. I
6 have a business background. I'm a marketing project
7 manager. And the foundation of the business projects I
8 manage is certainly basic. It is most certainly not
9 rocket science; and that is -- yet I think it applies to
10 any project in any discipline -- and that is that the
11 objectives very specifically have to be preset at the
12 project start. And, again, they have to be quantifiable
13 within a specified period of time. Without that, there
14 is no real accountability, number one. And, number two,
15 it's human nature to have a project evolve and have the
16 project owners present that as to what we intended to
17 achieve. And whether it is or not, it can't really be
18 debated because those objectives were not clearly enough
19 set in the beginning. We run into that over and over
20 again certainly in my work.

21 That said, I understand that the science of the
22 Everglades is very complex and a lot of it isn't known
23 now. And much of the scientific information we'd like
24 to have to establish those clear objectives isn't known,
25 but the way to handle that I think is to establish

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1 objectives with as much detail and as much sound
2 scientific evidence as we have today. And then to put
3 into the Plan preset, preplanned times where we will
4 reevaluate those objectives with then current science to
5 see if those objectives are still appropriate or need to
6 be adjusted.

7 In summary, the number one priority I think we all
8 agree is the restoration of the natural Everglades.
9 And, number two, that should be reflected in strong,
10 quantifiable objectives environmentally driven and
11 scientifically driven in an aggressive time frame.
12 Thank you very much for taking my comments.

13 COLONEL MAY: Thank you, Nada. Kay Gates.

14 UNIDENTIFIED MALE: She's here. She's here.

15 KAY GATES: What timing. I forgot my photo ID. I
16 had to go home and get it, but I'm glad I came back
17 because I think it's important to be here. I'd like to
18 quote President Bush. He said we're the greatest
19 country in the world. If we can't get this Everglades
20 project right in the United States, how can any country
21 in the world redeem any environmental land or area? And
22 I think the world is watching us. And I think they're
23 going to be measuring us. I think that we need to put
24 these goals in and we need to do this right. And if we
25 bow to political pressure and to special interests,

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1 they'll all know. So everybody is watching. Please,
Page 25

PROREGS

2 let's get it right. Put in the measures. Put in the
3 measurements and the goals. Thank you.

4 COLONEL MAY: Thank you, Kay. Christine Cairns.
5 We'll try again. John Koch.

6 JOHN KOCH: John Koch, Sierra Club member. Colonel
7 May, I feel that your Regulations are definitely
8 defective. They provide no goals. How can you know
9 when you've succeeded if you don't know what you were
10 trying to do? But we also need some guarantees in there
11 that the water that is stored, trapped, pumped and what
12 have you really goes to the natural system, that it
13 doesn't wind up going to some city waterworks or a golf
14 course.

15 Further, the biggest hunk of the surviving
16 Everglades is Everglades National Park. It's operated
17 by the Department of the Interior who seem to have very
18 little role in this scheme that you've set up. But we
19 also need to pay some attention to more things than just
20 the water, like what kind of plants and animals, what
21 kind of wildlife might return in a restored Everglades.
22 And that -- I could go on longer, but I think I'll stop
23 now. Thank you.

24 COLONEL MAY: Thank you, John. Guy Bachmann.

25 GUY BACHMANN: Bachmann.

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1 COLONEL MAY: Bachmann.

2 GUY BACHMANN: Guy Bachmann, Sierra Club. In the
3 1920's we had a terrible hurricane down here in Florida

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4 and out around Lake Okeechobee I believe about four
5 thousand people died. And the Army Corps of course, you
6 know, came in there and it was I thought very well
7 intentioned. At that time people didn't understand the
8 Everglades. So the land around the Everglades was of
9 course raised just to saving lives in the future.

10 Unfortunately that started I think the whole
11 Everglades system on a downward spiral which it has
12 never really recovered from. Even though they were very
13 well intentioned, the Army Corps are not scientists.
14 And I'm not a scientist. I think what we need are
15 scientists involved to audit the restoration of the
16 Everglades.

17 And as long as I'm up here -- and I was told this
18 was an irrelevant thing to say -- I'm very angry at the
19 U.S. Sugar. I mean, they won't give up five percent of
20 their land to restore the natural sheaves, just to, you
21 know, go back to mother nature just to allow the
22 Everglades to flow down from the Kissimmee River into
23 Lake Okeechobee into the Florida Bay.

24 And U.S. Sugar has done absolutely nothing. There
25 is a law called eminent domain. I think if we had

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1 strong leadership in the State, I think we could force
2 them to sell five percent of their land or just, I mean,
3 to use to allow the Everglades just to flow 'cause you
4 can't improve on mother nature. I think with the power
5 of the special interests in Florida, I don't think that
6 is going to be done. And I'm a camper, I'm a hiker and

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7 I'm a kayaker and that angers me.

8 COLONEL MAY: Thank you, Guy. Mike Scott.

9 MIKE SCOTT: Thank you. Colonel May, Stu, I have --
10 this isn't shade-of-gray issue, it's sort of a high tech
11 math issue. And I don't have a calculator. So I'm
12 going to ask you to go back to one of your earlier
13 slides. You talked about the cost of operation I think
14 you said was 172 million a year for thirty years?

15 MR. APPELBAUM: A hundred and 72 million dollars a
16 year each year.

17 MIKE SCOTT: For thirty years?

18 MR. APPELBAUM: For the life of the project.

19 MIKE SCOTT: And that would be thirty years? I'm
20 asking --

21 MR. APPELBAUM: It's just an annual operation cost.
22 So as long as --

23 MIKE SCOTT: That's factored into the CERP; is that
24 correct?

25 MR. APPELBAUM: Yes.

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1 MIKE SCOTT: So 172 million for thirty years, which
2 is what we're using for the parameter of CERP -- and I'm
3 asking, I don't know -- is that sort of the basis we
4 could go on?

5 COLONEL MAY: I think there may be a little
6 confusion in that there are two costs associated with
7 the Comprehensive Everglades Restoration Plan.

8 MIKE SCOTT: That's correct.

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9 COLONEL MAY: One is the cost to build the features
10 of the program. And then the other is the operations
11 and maintenance of the features once you do build them.

12 MIKE SCOTT: Okay.

13 COLONEL MAY: The thirty-year-plus Plan is how long
14 it will take to develop all of the features of the Plan.
15 And then the operations and maintenance is really
16 separate from that.

17 MIKE SCOTT: But it's factored into the funding of
18 the CERP?

19 COLONEL MAY: Again --

20 MIKE SCOTT: The 172 million comes from the 8.4
21 billion?

22 COLONEL MAY: No. They're two separate issues.

23 MIKE SCOTT: It's a separate deal?

24 COLONEL MAY: Yes, that's correct.

25 MIKE SCOTT: So when does the 172 million kick in?

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1 COLONEL MAY: It would kick in when all the project
2 features were totally built, but until that time as a
3 feature comes on line and you begin to operate and
4 maintain it, that's when you would start that.

5 MIKE SCOTT: So some of the early ones kick in in
6 year two or three, and then the sixty-third project
7 kicks in in year thirty?

8 COLONEL MAY: That's correct. That's a ballpark.

9 MIKE SCOTT: Okay. Thanks.

10 COLONEL MAY: You bet. Brian Scherf.

11 BRIAN SCHERF: I'm Brian Scherf from the Florida

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12 Bio-Diversity Project. Today I just wanted to limit my
13 discussion to one issue and that's going to be the
14 system-wide goals and objectives. Scientists tell us
15 that for restoration to succeed, we have to have
16 clearly-defined goals and objectives. And a careful
17 reading of the Programmatic Regulations indicates a
18 glaring oversight. Not only do they not contain interim
19 goals, they don't even contain general system-wide
20 management goals and objectives. And I'd like to know
21 how you can run, you know, an eight-billion-dollar
22 restoration project without system-wide goals and
23 objectives?

24 If you look at the 1999 Programmatic Environmental
25 Impact Statement, better known as the Yellow Book, and

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1 the WRDA 2000 legislation, they barely discuss the
2 topic. They state that the overarching objective is the
3 restoration, preservation and protection of the south
4 Florida ecosystem, while providing for other water-
5 related needs of the region. While this is a good
6 start, it's way too broad.

7 In the Programmatic EIS, the goals and objectives
8 listed in Section 5.5 are similarly too broad. They
9 include enhance ecological values, enhance economic
10 values and social well-being. The few listed objectives
11 there are laced with fudge words like improve and
12 increase instead of restore, maximize and reestablish.

13 The Corps would like to make the argument that more

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14 time is needed for technical modeling, objectives must
15 be measurable. And there must be -- therefore, must be
16 remanded to the RECOVER team for analysis at some future
17 time. We disagree. The objectives are often chosen for
18 the measurability rather than on relevant ecological
19 criteria. Crucial goals and objectives are avoided
20 because we do not know how to measure them. General
21 management system-wide goals and objectives do not need
22 to be quantified. Without clear system-wide goals and
23 objectives, the adaptive management cycle will be
24 clouded with uncertainty.

25 Many of the Corps' Environmental Impact Statements

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1 begin with a list of goals and objectives. This is
2 simply good planning. Therefore, the Programmatic
3 Regulations should contain general system-wide goals and
4 objectives. And, for example, the science subgroup
5 report in 1993, which probably met the shredder,
6 identified these specific system-wide objectives. And
7 I'd just like to paraphrase a few of them here since I
8 don't have time to go into them all.

9 Objective one, maximize the size and landscape
10 diversity to the system to recover its structure,
11 composition and function. Sub-objectives are like
12 prevent further wetland loss.

13 Objective two, restore the natural patterns of
14 surface water coverage and surface and ground water.
15 They had sub-objectives like restore sheetflow
16 throughout the system. Restore the natural quantity,

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17 timing, location and quality of water, like Stu had
18 alluded to earlier, and decompartmentalizing the Water
19 Conservation Area.

20 Objective three, restore natural biological
21 diversity. They had sub-objectives like recover
22 populations of threatened and endangered species. That
23 seems logical.

24 Objective four, restore the natural rates of
25 productivity throughout the ecosystem. One of the

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1 things there, sub-objectives, restore the natural
2 ecological processes, reestablish the natural patterns
3 of distribution and abundance of species.

4 Objective five, link agricultural and upland growth
5 management with ecosystem management. A sub-objective
6 there was reduce the dependence of urban and
7 agricultural areas on water supplies.

8 Objective six, which is restore a system that is
9 self-maintaining with minimum human intervention. Now
10 we have a system here that relies on more human
11 intervention. We have to spend 172 million dollars a
12 year just to operate.

13 So in conclusion the Florida Bio-Diversity Project
14 urges that the Corps incorporate the above system-wide
15 management objectives -- the system-wide management
16 objectives into the final Programmatic Regulations in
17 this final draft. Thank you.

18 COLONEL MAY: Thank you, Brian. John Ruffin. John

PROREGS

19 Ruffin. John, we'll come back to you. Michael Yustin.

20 MICHAEL YUSTIN: One of the things that I've tried
21 to do is I try to look back at the history of the
22 Everglades, how it formed and how it came to be what it
23 is today. And one of the things that I found is that
24 historically this ecosystem has forever been changing,
25 highly dynamic, always ebbing and flowing, and it wasn't

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1 even water based up until six thousand years ago. So
2 you come to understand how sensitive and fragile the
3 Everglades is.

4 But when I hear people talking about restoring the
5 Everglades back to the way it was, when I look at the
6 history of the Everglades, I don't think that's
7 possible. So I think when you come up with your goals
8 and objectives, they need to look at how we can maximize
9 the health and sustainability of the Everglades
10 ecosystem and not say we're going to make it look like
11 it was a hundred years ago. There is just no way that
12 can happen.

13 But a healthy system has certain components. You
14 know, a healthy Everglades it cannot have all the
15 nutrients that are being dumped in there at this point
16 in time. It can't have the water levels being
17 manipulated like it is. So I think that that is an
18 important consideration that you need to look at.

19 I also, you know, we're babies in this process.
20 It's never been done before. And that is why I think
21 it's important that you allow flexibility and change

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22 over time, that you constantly reevaluate and look at
23 your program objectives and goals and have them change
24 over time. Because I think, as time goes on, you will
25 get a better understanding of how this can be done.

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1 And I do think that the science community should be
2 involved in this. I think it would be a gigantic
3 mistake if they weren't because these are the people
4 that know the most about how to restore it and what to
5 do. And so I do think they should have inclusion.

6 And there is one other important issue I think
7 hasn't been addressed enough here. We have this problem
8 of water flow. We have this problem of water pollution,
9 but why? Where does that come from? And I think that
10 that is because of the lack of coordination among
11 development that is occurring here. I'm not saying I'm
12 anti-development. What I'm saying is there needs to be
13 coordination and we need to figure out what and how much
14 development can be sustained in south Florida. I mean,
15 you have all these different areas that are going to
16 provide water, but do you really know how much water
17 that can provide? Do you really know how many more
18 people we can take and where we can take them without
19 doing further damage to the -- not only to the
20 Everglades ecosystem, but to our own selves as well?
21 And I think you need to coordinate with counties. I
22 think you need to coordinate with cities and
23 municipalities. I think you need to coordinate with the

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24 State and Federal governments on this. Because if you
25 don't consider this, I think everything else will be a

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1 waste. And I don't think it will be successful unless
2 you answer that question.

3 Oh, and one more thing. I do have questions about
4 the aquifer storage and recovery. I think in any way
5 possible we should do what's natural instead of creating
6 more man-made, artificial mechanisms for storing and
7 containing water. There is big issues with this
8 technology. Is it going to eat up the aquifer? There
9 is many questions that have not been answered. And all
10 I hear about is that it should be included, that we're
11 going to do this and we're going to do it on this scale.
12 Well, we don't know what scale it should be done on,
13 one. And we don't know how successful it's going to be,
14 two. And we don't know if it's going to do more damage
15 than good, three. And I think that's something that the
16 Corps needs to answer about.

17 COLONEL MAY: Thank you, Michael. Irene Kennedy
18 Quincy.

19 IRENE KENNEDY QUINCY: Halfway through the program
20 of public speakers, you need comic relief. I, however,
21 am not giving up my day job. I'm not quite sure comic
22 relief is quite my forte. Although Stu, Colonel,
23 appreciate very much the opportunity of having the
24 public hearing in Palm Beach County because, as we all
25 know, CERP is extremely important for the future of

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1 south Florida.

2 Tonight I'm speaking for a coalition of agricultural
3 interests, many of which have other spokespersons who
4 could not be here tonight. Some initial comments.
5 These regulations, all eighty pages of them, are very
6 well organized and well written. It is one of the most
7 complex documents trying to put in place a project for
8 the next thirty to fifty years. And we do agree with
9 those that you were referring to, Colonel, that there
10 has been tremendous staff effort putting in developing
11 this document. With that said, we will provide you some
12 additional comments. We do have some questions on some
13 specific points, but recognize it is always easier to
14 comment on a document than it is to write the initial
15 document.

16 Couple of very specific comments. Pre-CERP
17 baseline, Stu, you talked a little bit this evening
18 about the pre-CERP baseline. We believe that the
19 pre-CERP baseline is going to be a critical document in
20 the early implementation stages. It's not mentioned in
21 WRDA, and its definition in the Regs leads us to believe
22 that it's intrinsically tied to water allocation and the
23 water reservation process, which as we know are given to
24 and recognized under the State law.

25 Based upon that, we think that there does need to be

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1 some clarification of what the baseline is and what the
2 baseline isn't. And supporting the intent that it's in
3 the summary section of the Regulations that we're
4 deferring to the State law process on that.

5 Couple other things along those same lines.
6 Definitions of legal sources, that's tied to the State
7 law process, as I said before, for reservation for the
8 environment as well as allocation for the users. And
9 there are other ongoing groups, coordinating groups with
10 State, Federal interests, stakeholders, environmental
11 groups attempting to flush that out even further.

12 The schedules that are set forth in the Regs for the
13 interim goals and the development of the guidance
14 memorandum are extremely ambitious. We recognize that
15 there is still significant work that must be completed
16 prior to the finalization of those interim goals. And,
17 with that in mind, we think that you need to look at
18 those ambitious six months' time frame and extend them
19 to allow the integration of the engineering information,
20 the economic information, one of the speakers earlier
21 mentioned all of the scientific information,
22 hydrological information and ecological information,
23 which are all currently under development. Taking time
24 to do that right now is only going to pay benefits as we
25 move forward through the next thirty to fifty years.

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1 The interim goals themselves need to be established

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2 based upon the scientific knowledge base at the time.
3 CERP at the moment is a conceptual plan. Until the
4 initial PIR's are done, the pilot projects are completed
5 and we resolve technical uncertainties, whether it be
6 the ASR that the prior speaker just mentioned or other
7 of the pilot projects that are those 68 that we're not
8 going into tonight, the performance goals are going to
9 need to be conceptual in nature.

10 We should avoid the conceptual goals becoming
11 premature documentation of failures, and instead use
12 them to measure actual progress. Adjust them if need be
13 over time.

14 Colonel, we will take you up on your offer to
15 provide additional written comments. We appreciate it
16 very much. And thank you for coming in person to listen
17 to our concerns.

18 COLONEL MAY: Thank you, Irene. Steven Bell.

19 STEVEN BELL: Good evening, everyone. My name is
20 Steven Bell. I live in Lantana. I'm a co-chair for the
21 Palm Beach County Environmental Coalition, but I'm here
22 tonight as an individual who is concerned about our
23 environment. C stands for comprehensive and not
24 conceptual.

25 I'm a member of the Sierra Club and the Audubon too,

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1 who are very active in making this aware in our county
2 I'm proud to say. I know -- I don't have anything
3 personal against the Corps. I'm sure you guys are
4 really nice, but historically the Corps has failed our

PROREGS

5 country. Throughout our country, the Corps has failed,
6 from the Mississippi River to the Everglades, to
7 allowing over-permitting of water withdrawals here
8 knowing that we can't support it. I personally
9 commented on many Corps' projects and failed to get any
10 review or any response back from the Corps. And, you
11 know, there has been, like I said, the Mississippi, the
12 Kissimmee, over-water withdrawals and now rock mining
13 the Everglades with an eco face on it. You know, like I
14 say, nothing personal, I'm sure you guys are nice, but
15 how in God's name can anybody claim that destroying the
16 habitat is going to restore it?

17 You say, Stu, that process is to restore, yet you
18 talk about doing things that further degrade the
19 environment. And there is not -- there is nothing -- I
20 mean, we're basing restoration on these unproven
21 concepts. There is much question as to the viability of
22 the storage of these, you know, ground water loss. And
23 they don't belong there to start with. Anybody -- you
24 know, I mean, I don't know why you all think it does,
25 but anyway.

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1 And the EAA is one of the most shameful things in
2 our area. It's pitiful. Look at the map up here.
3 You've got the Lake Okeechobee and you've got this big
4 gouged out land of mono-culture that a handful of people
5 are profitting from while you and I and our lands go
6 dry. It's pitiful.

PROREGS

7 And what's the Corps doing about it? They're not
8 saying we should incorporate this land. They're saying
9 we're restoring the body, but they're leaving out the
10 intestines. They're pumping around the EAA lands. What
11 happens in the future when they can't grow sod anymore?
12 Are they going to let them develop that land? Good
13 likelihood.

14 When I asked Stu about that, he said that's what you
15 got growth management for. You see what our growth
16 management has done. The Corps was given the directive
17 to protect and enhance the waters of the United States.
18 We need you all to do that, please. I don't know what
19 it takes to stand up to the Bushes or whatever, but we
20 know how little they care about our environment. That's
21 why we have the Corps there.

22 I've read your directives, what it is that you're
23 supposed to be doing. It's not happening. And south
24 Florida's representative of the worst environmental
25 destruction in the entire continental United States.

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1 I'm a member of the National Wildlife Federation also.
2 Six years ago the NWF designated south Florida
3 justifiably as the most endangered natural area in the
4 United States. We've destroyed the fabric of life
5 around us. And we claim we're restoring it. And we're
6 blasting holes in the five thousand acres of the last of
7 the precious land -- wetlands we have. This isn't
8 restoration what you all are proposing. It's
9 facilitating development. What are those mines being

PROREGS

10 mined for? Rock to build roads.

11 The first Programmatic Regulations that came out
12 they got so much flak because they deserved the flak.
13 It was pitiful. The lack of -- as this gentleman very
14 well stated, all that criteria is not in there. So that
15 represented a concrete slab. And now you guys, you
16 know, you didn't even really detail, but these now
17 appears to be you threw up a couple of walls. I say we
18 want a full house and not a stacked deck. Please take
19 care of our environment for us. We can't. And I'm
20 tired of coming out here and trying to protect it to be
21 honest with you.

22 COLONEL MAY: John Ruffin.

23 JOHN RUFFIN, JR.: Good evening, Colonel May, and to
24 all of the citizens of south Florida. I'm John Ruffin.
25 I'm president of the Ruffin Group. I come to you this

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1 evening as a member of the board of the South Florida
2 Ecosystems Restoration Council. This council's members
3 have been active since 1997. This council seeks to
4 offer some observations for recognition and involvement
5 here in the south Florida. We seek to be recognized as
6 a regional stakeholder and consulting resource
7 throughout the Programmatic Regulations and adaptive
8 management process for the next thirty-plus years.

9 We seek the allocation of adequate marketing and
10 communication resources needed to inform and educate the
11 citizens both in rural and urban communities as to their

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12 negative impact and their responsibilities relative to
13 the restoration of the ecosystem and its maintenance.
14 In this regard, the South Florida Ecosystem Restoration
15 Council seeks to become a partner in the deliverance of
16 this outreach program. We're looking to partnering and
17 ensuring in the delivery of environmental equity,
18 fairness and justice and participating in the delivery
19 of services rendered and the benefits thereof both in
20 human and financial resources throughout the sixteen
21 counties, with special focus on the I-95 corridor.
22 Thank you for your attention.

23 COLONEL MAY: Thank you, John. I've got ten minutes
24 after the hour. Why don't we take a ten-minute break
25 and then we'll resume at twenty after.

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1 (Recess taken.)

2 COLONEL MAY: Are you all ready to get started
3 again? Rosa? Rosa, where are you? Hey, Rosa, you're
4 up, you're ready. It's time.

5 ROSA DURANDO: Not going to let me finish a
6 discussion with Lake Worth Drainage?

7 COLONEL MAY: I can come back to you if you'd like.

8 ROSA DURANDO: Well, I'm representing the Audubon
9 Society of the Everglades, the largest organization in
10 Palm Beach County probably. We have about 2,400
11 members. And we're in agreement with one thing, we
12 would like to see the restoration of the Everglades. I
13 doubt that will ever happen. It's a physical
14 impossibility. And what you need is to divert some of

PROREGS

15 the attacks you will be getting and have gotten by
16 telling it in a more truthful situation. We're lucky if
17 we can preserve what we have. There will be no
18 restoration. You've got a million point four people
19 living in this county, the northern reach of the
20 Everglades. By all estimations there will probably be
21 another million people living here. There is no way in
22 the world that the original statement you would increase
23 the spatial extent of wetlands will happen.

24 What I'm fighting for now is let's preserve some of
25 the wetlands that still function. And I will mention

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1 the Strazzulla Marsh. We have gotten no support from
2 the Corps or the Federal government or Water Management
3 or any other organization to preserve the Strazzulla
4 Marsh, the last closed system. There is no pump in.
5 There is no pump out. I don't want to hear from
6 engineers saying it needs rehydration on the eastern
7 edge. It was never dehydrated on the eastern edge. And
8 I can tell you even Lake Worth Drainage systems has very
9 little impact on Strazzulla.

10 So if you're going to increase the spatial extent of
11 the wetlands, I don't know how you're going to do it. I
12 get copied on permit applications by Water Management,
13 every single Palm Beach County application. And they're
14 mostly granted. And most of them are destruction of
15 wetlands. I don't care whether there is melaleuca there
16 or not, it's a wetland. It's a wetland. It's a

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17 wetland. If you dig it out and have a stormwater
18 retention area and use that fill to put a house pad in,
19 that's a property right. And that's happening every
20 single day of the week here in this county regardless of
21 the fact that now they're impinging on very delicate
22 areas, some of which were listed by our bond issue as,
23 A, property desirable to be bought.

24 You know that Broward County just passed their bond
25 issue four hundred million dollars. Guess what? They

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1 came to the District here and said nobody will sell them
2 any of the land that's left. And for good reason. This
3 is a capitalistic society and they get higher offers
4 from Mr. GL Homes, Mr. WCI, Lennar and the list is long
5 and you can't compete with it.

6 So what I'm saying is restoration you've got to
7 acknowledge is a moving target that probably you will
8 never get a good shot at. But you can ask for more in
9 the shape of when the permits come to you, there are too
10 many tracts of land, thousands of acres that the county
11 signed off of years ago and Water Management followed
12 suit and that's the end of that.

13 And, of course, you know I'm going to mention
14 Wellington now. I gotta say that at least the Corps
15 stepped in and said that every single five or ten-acre
16 tract in Basin B which discharges filthy, dirty water
17 into the Refuge in violation of an existing hearing that
18 was required, an administrative hearing in 1979. There
19 was an agreement between our Audubon chapter, Florida

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20 Audubon, Water Management and Acme Drainage District.
21 Not one single agency offered to help us prosecute
22 Wellington because they allowed someone who bought the
23 property with an obligation that ran with the land that
24 they could cut off discharging dirty water into what
25 became -- it was a marsh, an eighty-acre marsh, became

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1 known as Peacock Pond. The politics in Wellington are
2 pretty obscene. Now they're going to be part of your
3 restoration if they can come in for 25 million dollars.

4 A lot of people blame agriculture for a lot of
5 things, and maybe they deserve it and maybe not, but
6 urban development is much more deadly and it will be
7 much more harder for you to deal with. Sugar does
8 contribute some money to the restoration no question
9 about it. And if it becomes a toss up about what's
10 going to happen in the EAA, I'd rather see sugar there
11 than any other use.

12 I also can't resist saying that the original
13 discussion with the Corps you all had a flow-way that
14 ran from Belle Glade all the way down. Well, that was
15 thrown out pretty quick. And we're told that the land
16 has been so disturbed that it would take continuous
17 pumping and there just wasn't enough water anymore to
18 have that flow-way. The next thing, and National
19 Audubon quite a few years ago was totally behind this at
20 that time, to have a flow-way down the eastern side of
21 Water Catchment Area One, Two and Three, have a

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22 continuous buffer and that would be partially clean-up
23 marsh and partially reservoir. That plan has become so
24 corrupted through the last few years that it's a joke.

25 And yesterday evening I was at a public hearing.

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1 And I wish someone from the Corps was there 'cause it
2 made me sick. You have FDOT to satisfy WCI, another GL
3 Homes development and whoever comes down the line, the
4 proposal for four new roadbeds right through that area
5 which should have been bought completely as a reservoir
6 and clean-up marsh. I'm talking about from Sub Five,
7 Six, Seven and so on down the line, over the
8 Hillsborough, on both sides of the Hillsborough, you're
9 looking at a road system there now proposed by the State
10 of Florida, by the counties of Broward and Palm Beach.
11 I want to know if you will object. Will you give them
12 dredge and fill permits to do that?

13 When I asked Parkland, you know, this was a promise
14 to Parkland by county commissioners many years ago,
15 we'll end that Sawgrass Expressway and the Coral Ridge
16 Expressway and all those roads, we'll end them north of
17 Glades Road or certainly by Atlantic Avenue, Delray.
18 Now, you know, we're considerably west of State Road 7.
19 Broward begged, they had their engineers there, their
20 planning staff, don't do this to us. DCA says that we
21 will not meet concurrency with the expansion of Parkland
22 or any of that farm land there if you, Palm Beach
23 County, won't keep that expressway on your thoroughfare
24 plan to relieve our problem with DCA. So, of course,

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25 the county commissioners being accommodating, decent

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1 people they accepted the -- and they called it a
2 gentleman's agreement, which kind of made me a little
3 sick at that time.

4 Nothing more was said about the Sawgrass Expressway
5 extension until now it's under public comment for
6 another couple weeks. This property should have been
7 bought by this four hundred million dollar bond issue
8 and do what they have to do in Broward County. It
9 should have been bought on both sides of Lox Road by
10 this county and turned it into marsh or reservoir. And
11 I guess a lot of the bad comments you guys receive --
12 you must be under enormous political pressure, but
13 frankly I'm more worried about urban development and the
14 potential of restoration than I am about the EAA.

15 The next thing though that you will hear -- and I've
16 compared it to the way the lakebelt began in Dade
17 County. I know there was a lot of agitation against it.
18 I didn't get into that fight because we lost that battle
19 before 1960. There is no way in the world that you're
20 now at this point in time going to do anything to the
21 lakebelt area in Dade County. That having been said,
22 for two months I've pulled from the agenda right here
23 last month and this month and lost this month, nobody
24 had one word to say either to refute what I was saying
25 or support. And the Corps will eventually be asked for

1 a dredge and fill. There is a sod farm who've used up
2 most of their top soil coming in, they got it, about
3 four hundred acre shell pit right in the heart of the
4 EAA in Palm Beach County. Right alongside -- and it's
5 funny because when staff identified it, all they said
6 was so many miles from U.S. 27. U.S. 27 is totally
7 irrelevant. They didn't say that it's only a couple
8 miles above STA 3 and 4. They didn't say that it ran
9 adjacent to the North New River Canal. And they didn't
10 say what I asked for, I said I'm not here -- I'll never
11 be able to stop that rock pit because Mr. Bergeron is
12 going to run it. And I don't think I have the clout to
13 stop Mr. Bergeron or that family. That having been
14 said, there is a 600-foot buffer between the intended
15 mined pit and the river. I said what are you going to
16 ask them to do with that 600-foot buffer? Well,
17 nothing. Why couldn't you ask them to scrape it down
18 and plant it? Why couldn't it function as sort of a
19 little bit of a flow-way and a marsh and maybe some day
20 connect with STA 3? You've got a water quality problem,
21 do something with it. They did absolutely nothing.

22 They're going to go down forty feet. They're going
23 to definitely hit saline water. I said you know very
24 little about the concentrations at different levels.
25 Ask for monitoring for God's sake, you could learn

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1 something. They did not.

2 So that thing sailed through. And you've got all
3 these permits coming to you from Wellington, from the
4 EAA, and all the other places. I want to know how
5 you're going to handle dredge and fill when it has a
6 direct impact on your restoration program.

7 COLONEL MAY: Thank you, Rosa. Christine Cairns.
8 Christine Cairns. Try again. Kathleen Gates. Kathleen
9 Gates.

10 KATHLEEN GATES: I spoke already.

11 COLONEL MAY: Excuse me. Charles Cutler. Charles,
12 do you have a brother here tonight?

13 CHARLES CUTLER: Yes. My name is Charles Cutler,
14 I'm representing the Vet's organization down in Miami.
15 I came to let you know that we're willing to work along
16 with you with this Everglades restoration progress --
17 process, but what's missing here is an education piece
18 in terms of the inner city. We always talk about water
19 conservation and preservation, but the information is
20 not getting into the inner city. We have a Haitian
21 population, Jamaican population, a mixed culture within
22 the inner city throughout the south Florida area. And I
23 think that in order to -- in order to restore the
24 Everglades and conserve the water quality and the
25 quantity in terms of future generations, I think that we

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1 need to make a more aggressive effort to get the
2 information into the inner city so that people can start

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3 talking about this. Just like sometime they say, well,
4 you can't wash your car or you have to take shorter
5 showers, most people don't really understand the
6 magnitude of that particular aspect of the Everglades
7 restoration.

8 So I think that it would be imperative that the
9 Corps of Engineers make a more aggressive effort through
10 other organizations that are community based, that are
11 grassroots organizations so we can start getting the
12 word out so that when we have these meetings, we can
13 have a better response from the community on all levels
14 across the board. Thank you.

15 COLONEL MAY: Thank you. Anthony Cutler.

16 ANTHONY CUTLER: Okay. My concern was piggy-backing
17 from what he said briefly was education of the public
18 from the south I-95 corridor to the north. The main
19 concern with programmatic meetings without -- I'm sorry,
20 without concerning viable stakeholders within the I-95
21 corridors, either programmatic activities nor adaptive
22 management progress, every stakeholder except African-
23 American communities were not consulted even for the
24 future progresses. We do not see African-Americans and
25 it in writing. We can't go back, but we can -- but we

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1 want to be included from this point on.

2 We pay taxes. Last year African-Americans spent
3 over 55 billion dollars in taxes -- I'm sorry, 555
4 billion dollars in taxes. We want to be included,

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5 consulted and we want to have meaningful participation
6 in the entire -- in the entire ecosystem restoration
7 process. We weren't included up to this point, but you
8 have the power to turn that around. We're counting on
9 you.

10 And, you know, just like in Miami-Dade County, if
11 you look at the African-American community, you have
12 other races in Miami they built the economy around the
13 African-American because they wasn't informed and wasn't
14 aware of different agencies. They're not sharing this
15 information to assist those residents. And right now,
16 Colonel, like I said, we're actually counting on you
17 guys to really assist these people because when you talk
18 about ecosystem, it's a human thing. It's not a racial
19 thing. It's a human thing. And every race have to put
20 their part in keeping this earth intact because we
21 contaminate it. But being neglected or not informed,
22 then this ecosystem project is a joke. Because if you
23 got one race contaminating a community and you're not
24 educating them to inform them, then, like I said, the
25 ecosystem it's going to be beating a dead horse. You

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1 ain't going to go nowhere with it. Thank you, Colonel.

2 COLONEL MAY: Thank you, Anthony. Okay. One last
3 chance, Christine Cairns.

4 All right. That's all the cards. Is there anybody
5 else who would like to talk.

6 JOHN GATES: Yeah, my name wasn't called, John
7 Gates.

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8 COLONEL MAY: Sir, come on up.

9 JOHN GATES: I'm John Gates and I live in Boynton
10 Beach. And I just want to make an addendum to Jonathan
11 Ullman's statement. He stated that the Proposed
12 Programmatic Regulations are inadequate in key respects
13 and must be significantly improved to achieve Congress'
14 mandate for the Regulations, that they assure that the
15 Everglades restoration will occur. What I want to add
16 to that statement is that that statement is supported by
17 the Audubon of Florida, Defenders of Wildlife, The
18 Everglades Foundation, The Everglades Trust, National
19 Audubon Society, The National Parks' Conservation
20 Association, The National Wildlife Federation, The Ocean
21 Conservancy, 1000 Friends of Florida, Sierra Club, The
22 World Wildlife Fund. Thank you.

23 COLONEL MAY: Thank you, John. Okay. Is there
24 anybody else who would like to make a public comment for
25 the record? Okay. If not, this will conclude the

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1 formal proceedings that we have here tonight. My staff
2 and I would be glad to stay after this as long as you'd
3 like to discuss the Everglades Restoration Plan,
4 permitting or Programmatic Regulations. We'll stay as
5 long as you'd like. I would like to thank you again for
6 joining us and providing your public comments into these
7 draft regulations. I'd like to thank the South Florida
8 Water Management District for providing these
9 facilities. Thank you all. Good night.

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(Meeting concluded.)

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CERTIFICATE OF REPORTER

THE STATE OF FLORIDA)

)

COUNTY OF PALM BEACH)

**I, Maren M Fawcett, Registered Professional
Reporter, certify that I was authorized to and did
stenographically report the foregoing U. S. Army Corps of
Engineers Programmatic Regulations meeting; and that the
transcript is a true and complete record of the proceedings.**

Dated this ____ day of _____, 2002.

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MAREN M FAWCETT, R. P. R.

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