

## SECTION 11 RECOMMENDATIONS

I am recommending the Water Preserve Areas Plan as an integral part of the Comprehensive Everglades Restoration Plan that will restore, protect, and preserve a natural resource treasure – the south Florida ecosystem. This plan will play an important role in reversing the environmental impacts that have occurred for the past fifty years as a result of the existing Central and Southern Florida Flood Control System. The recommended components of the Water Preserve Areas Plan were identified in the Comprehensive Everglades Restoration Plan that was approved by Congress in the Water Resources Development Act of 2000, Public Law 106-541.

I find that the Water Preserve Areas Plan will play an important role in capturing and beneficially using water currently lost to tide as well as water that is now adversely affecting the Everglades system due to problems of quality, timing and distribution. In addition, this plan will reduce the amount of good quality water seeping from the Everglades into the urbanized east coast of south Florida while providing important water supply, water quality, flood protection, and recreation functions.

The Everglades ecosystem is *endangered* as a result of adverse changes in the quantity and distribution of water, the timing of flows, and the degradation of water quality. Restoration of this ecosystem is vital to achieve environmental and economic sustainability in the of south Florida region. Modifications to the Central and Southern Florida Project are required to provide for the restoration and protection of this ecosystem. These modifications can be undertaken in a manner that allows us to continue to provide and enhance existing water supply and flood protection benefits necessary for the economic and social sustainability of the region.

The Water Preserve Areas Plan can be divided up into four separable elements. They are the Strazzulla Wetlands, Hillsboro Impoundment, Broward County Water Preserve Areas, and Dade-Broward Levee and Canal.

The Strazzulla Wetlands element has a total estimated first cost of \$15,781,000. This project meets the requirements of the Programmatic Authority provisions of Section 601(c) of the Water Resources Development Act of 2000. In addition, Section 601(g)(3)(A) of the Water Resources Development Act of 2000 directs that the Federal share of land acquisition for the project should be funded through the budget of the Department of the Interior.

The Hillsboro Impoundment (formerly known as Site 1 Impoundment) was authorized under Section 601(b)(2)(C)(iii) of the Water Resources Development Act of 2000 as an “Initial Project” and has a total estimated first cost of \$43,184,000.

The Broward County Water Preserve Areas element has a total estimated first cost of \$526,742,000 and the Dade Broward Levee and Canal element has a total estimated first cost of \$147,132,000. These separable elements were included in the Comprehensive Everglades Restoration Plan that was approved as a framework for modifications and operational changes to the Central and Southern Florida Project that are needed to restore, preserve, and protect the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection. These elements require authorization pursuant to the provisions of Section 601(d) of Water Resources Development Act of 2000.

Therefore, I recommend that the Strazzulla Wetlands, as described in the section of the report entitled “The Recommended Plan,” be authorized for construction under the Programmatic Authority of Section 601(c) of the Water Resources Development Act of 2000 with the costs to be shared equally between the Federal Government and the Non-Federal Sponsor. The estimated first cost is \$15,781,000 with estimated annual operations and maintenance costs of \$22,000 and estimated annual adaptive assessment and monitoring costs of \$319,000.

In addition, I recommend the Hillsboro Impoundment, as described in the section of this report entitled “The Recommended Plan,” be approved under the provisions of Section 601(b)(2)(D)(iii) of the Water Resources Development Act of 2000 with the costs to be shared equally between the Federal Government and the Non-Federal Sponsor. The estimated first cost is \$43,184,000 with average annual operations and maintenance costs of \$561,000, and average annual adaptive assessment and monitoring costs of \$130,000.

I further recommend the Broward County Water Preserve Areas and the Dade Broward Levee and Canal separable elements, as described in the section of this report entitled “The Recommended Plan,” be authorized for construction with the costs to be shared equally between the Federal Government and the Non-Federal Sponsor. The estimated first cost is \$673,874,000 with estimated annual operations and maintenance costs of \$2,678,000 and estimated annual adaptive assessment and monitoring costs of \$752,000.

The above recommendations are made with the provision that prior to implementation of each of these separable elements, the non-Federal sponsor and the Federal Government shall complete a Special Project Implementation Report, as described in the section of the report entitled “The Recommended Plan.” Those reports will fulfill the Federal Government’s and the State of Florida’s requirements

for Project Implementation Reports as required by the Water Resources Development Act of 2000 and Chapter 373 Florida Statutes.

The above recommendations are also made with the provision that prior to implementation of each separable element, the non-Federal sponsor shall enter into a binding agreement with the Secretary of the Army to perform the following items of local cooperation:

- a. Provide 50 percent of total project costs consistent with the provisions of Section 601(e) of the Water Resources Development Act of 2000 including authority to perform design and construction of project features consistent with Federal law and regulation.
- b. Provide all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform or assure the performance of all relocations determined by the Government to be necessary for the construction, operation, and maintenance of the project.
- c. Provide or pay to the Government the cost of providing all retaining dikes, wasteweirs, bulkheads, and embankments, including all monitoring features and stilling basins, that may be required at any dredged or excavated material disposal areas required for the construction, operation, and maintenance of the project.
- d. Grant the Government a right to enter, at reasonable times and in a reasonable manner, upon land which the local sponsor owns or controls for access to the project for the purpose of inspection, and, if necessary, for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the project.
- e. For so long as the project remains authorized assume responsibility for operating, maintaining, replacing, repairing, and rehabilitating (OMRR&R) the project or completed functional portions of the project, including mitigation features, with 50 percent of the funding provided by the Federal government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and specific directions in the OMRR&R manual to be developed by the Government and the non-Federal Sponsor and any subsequent amendments thereto.
- f. For so long as the project remains authorized assume responsibility for adaptive assessment and monitoring of the project or completed functional portions of the project, including mitigation features, with 50 percent of the funding provided by the Federal government, in a manner compatible

- with the project's authorized purposes and in accordance with applicable Federal and State laws and specific directions to be developed by the Government and the non-Federal Sponsor.
- g. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended, and Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element.
  - h. Hold and save the Government free from all damages arising for the construction, operation, maintenance, repair, replacement, and rehabilitation of the project and any project-related betterments, except for damages due to the fault or negligence of the Government or the Government's contractors.
  - i. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project to the extent and in such detail as will properly reflect total project costs.
  - j. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601-9675, that may exist in, on, or under lands, easements or rights-of-way necessary for the construction, operation, and maintenance of the project; except that the non-Federal sponsor shall not perform such investigations on lands, easements, or rights-of-way that the Government determines to be subject to the navigation servitude without prior specific written direction by the Government. All actual costs incurred by the Non-Federal Sponsor for such investigations for hazardous substances shall be included in total project costs.
  - k. Assume complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated materials located in, on or under lands, easements, or right-of-ways that the Government determines necessary for the construction, operation, or maintenance.
  - l. To the maximum extent possible, operate, maintain, repair, replace, and rehabilitate the project in a manner that will not cause liability to arise under CERCLA.

- m. Participate in and comply with applicable flood plain management and flood plain insurance programs in accordance with section 402 of Public Law 99-662, as amended.
- n. Not less than once each year, inform affected interests of the limitations of the protection afforded by the project.
- o. Publicize flood plain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in preventing unwise future development in the flood plain, and in adopting regulations as may be necessary to prevent unwise future development and to ensure compatibility with protection levels provided by the project.
- p. As between the Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the operator of the Project for purposes of CERCLA liability. To the maximum extent practicable, the Non-Federal Sponsor shall operate, maintain, repair, replace, and rehabilitate the Project in a manner that will not cause liability to arise under CERCLA.
- q. Prescribe and enforce regulations to prevent obstruction of or encroachment on the project that would reduce the level of protection it affords or that would hinder operation or maintenance of the project.
- r. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public law 91-646, as amended by title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulations contained in 49 CFR part 24, in acquiring lands, easements, and rights-of-way, and performing relocations for construction, operation, and maintenance of the project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act.
- s. Comply with all applicable Federal and State laws and regulations, including Section 601 of the Civil Rights Act of 1964, Public Law 88-352, and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army."
- t. Provide 50 percent of that portion of total cultural resource preservation mitigation and data recovery costs attributable to the project that are in excess of one percent of the total amount authorized to be appropriated for the project.

- u. Do not use Federal funds to meet the non-Federal sponsor's share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds is expressly authorized by statute.

The recommendations contained herein reflect the information available at this time and current Departmental policies governing formulation of individual projects. They do not reflect program and budgeting priorities inherent in the formulation of a national Civil Works construction program nor the perspective of higher review levels within the Executive Branch. Consequently, the recommendations may be modified before they are transmitted to the Congress as proposals for authorization and implementation funding. However, prior to transmittal to the Congress, the sponsor, the State, interested Federal agencies, and other parties will be advised of any modifications and will be afforded an opportunity to comment further.

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