



DEPARTMENT OF THE ARMY  
OFFICE OF THE CHIEF OF ENGINEERS  
WASHINGTON, D.C. 20314-1000

REPLY TO  
ATTENTION OF:  
CECW-SAD (1105-2-10a)

MAR 11 2010

SUBJECT: Comprehensive Everglades Restoration Plan, Central and Southern Florida,  
Caloosahatchee River (C-43) West Basin Storage Reservoir Project, Hendry County, Florida

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on ecosystem restoration improvements for the Caloosahatchee River (C-43) West Basin Storage Reservoir project, located in Hendry County, Florida. It is accompanied by the report of the district and division engineers. These reports are in response to Section 601 of the Water Resources Development Act (WRDA) of 2000, which authorized the Comprehensive Everglades Restoration Plan (CERP) 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. WRDA 2000 identified specific requirements for implementing components of the CERP, including development of a decision document known as a Project Implementation Report (PIR). The Caloosahatchee River (C-43) West Basin Storage Reservoir Project is a component of the CERP that was not specifically authorized in that Act. The authority for the preparation of the Caloosahatchee River (C-43) West Basin Storage Reservoir Project Implementation Report (PIR), one of a number of site-specific projects, is contained in Section 601(d) of WRDA 2000. Congress may authorize the project following review and approval of a PIR by the Secretary of the Army. The requirements of a PIR are addressed in this report. Preconstruction engineering and design activities for this Project will be continued under the existing CERP Design Agreement.

2. The PIR recommends a project that significantly contributes to two of the ecologic goals and objectives of the CERP: improving habitat and functional quality and improving native plant and animal species abundance and diversity. In addition, it contributes to the socioeconomic objective of providing recreational and navigation opportunities. Scientists have established that a mosaic of uplands, freshwater marsh, deep water sloughs, and estuarine habitats supporting a diverse community of fish and wildlife was one of the defining characteristics of the pre-drainage Everglades ecosystem. Currently in south Florida, habitat function and quality has significantly declined in remaining natural system areas due to water management projects and practices, resulting in a loss of suitable nesting, foraging, and fisheries habitat and a decline in native species diversity and abundance. The PIR confirms information in the CERP and provides project-level evaluation of costs and benefits associated with construction and operations of a reservoir. Constructing and operating a reservoir would reduce the extreme salinity changes in the Caloosahatchee Estuary by providing a more consistent flow of fresh water discharging at S-79 into the Caloosahatchee River Estuary. The extreme fresh water

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fluctuations are due to fresh water flows from basin runoff and releases from Lake Okeechobee. Due to the advanced land acquisition activities conducted jointly by the Federal Government and the State of Florida, the Project can be implemented relatively quickly, significantly advancing the realization of project benefits in an area that has been degraded by past water management activities.

3. The reporting officers recommend implementing the Caloosahatchee River (C-43) West Basin Storage Reservoir to improve the ecological function of the Caloosahatchee Estuary by capturing and storing the excess surface water runoff from the Caloosahatchee River watershed (or C-43 Basin) and excess releases from Lake Okeechobee. Stored water will then be discharged to the estuary during the dry season to augment existing inadequate flows. The project site is located on farm land adjacent to the Caloosahatchee River (C-43) canal in Hendry County and totals approximately 10,700 acres. The reservoir will require approximately 10,480 acres of land in fee and 20 acres of perpetual channel easement. Approximately 200 additional acres will be required on a temporary basis during project construction for staging areas. Approximately 7,080 acres of project lands were acquired with a 50 percent Federal cost-share using funds appropriated via the 1996 Federal Farm Bill and the Land and Water Conservation Funds that were specifically designated for the acquisition of lands to restore the South Florida ecosystem. Major features of the reservoir include external (dam) embankments varying in height from 32-37 feet above existing grade, Soil-Bentonite slurry walls within and beneath the external embankments, an internal (dam) embankment separating the two reservoir cells with an approximate height of 31 feet above existing grade, an inflow pump station consisting of diesel-powered pumps with a total pumping capacity of 1,500 cfs, a perimeter canal, and pump station consisting of electric-powered pumps with a total pumping capacity of 195 cfs, and numerous spillways, culverts, perimeter canal structures, an internal cell balancing structure, and outlet structures. Recreational opportunities are also provided at the site within the project footprint.

4. The total first cost of the recommended plan from the Final PIR and Integrated EIS, dated September 2007, based on October 2009 price levels, is estimated to be \$570,480,000. The fully funded cost, based on October 2009 price levels, is estimated to be \$610,736,000. Project cost increases since the Central and Southern Florida Project Comprehensive Restudy Study Final Integrated Feasibility Report and Programmatic Environmental Impact Statement, April 1999, are primarily due to the fact that the recommended plan is a larger reservoir than originally envisioned (170,000 acre-feet of storage compared to 160,000 acre-feet in the Restudy), that design refinements were needed to incorporate current methods and criteria for addressing dam safety requirements, and that real estate costs increased. Project cost increases from the final PIR to present are due to revisions to the land valuation crediting policy for CERP.

5. In accordance with the cost-sharing requirements of Section 601(e) of the WRDA 2000, as amended, the Federal cost of the recommended plan would be \$ 305,368,000 and the non-Federal cost would be \$305,368,000. The estimated lands, easements, rights-of-way, and relocations costs for the recommended plan are \$84,650,000 of which approximately

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\$27,566,500 (Rounded) has been provided to the State through the Federal Department of Interior Grant Funds. Based on October 2009 price levels, a 40-year period of economic evaluation and a 4.375 percent discount rate, the equivalent annual cost of the proposed project is estimated at \$37,600,000, which includes operation, maintenance, repair, rehabilitation and replacement (OMRR&R), interest and amortization. The estimated annual costs for restoration OMRR&R are \$3,100,000. The annual OMRR&R costs for recreation are estimated at \$25,000. As a component of the CERP program, the interagency/interdisciplinary scientific and technical team, formed to ensure that system-wide goals are met, will participate in the annual monitoring to assess system-wide changes. In accordance with Sections 601(e)(4) and 601(e)(5)(D) of WRDA 2000 as amended, OMRR&R costs and adaptive assessment and monitoring costs will be shared equally between the Federal Government and the non-Federal sponsor. OMRR&R costs related to recreation features will be funded 100 percent by the non-Federal sponsor.

6. To ensure that an effective ecosystem restoration plan was recommended, cost effectiveness/incremental cost analysis techniques were used to evaluate alternative restoration plans. These techniques determined the selected alternative plan to be cost effective. The plan recommended for implementation is an increment of the National Ecosystem Restoration (NER) plan, it supports the adaptive management recommendations established by the National Research Council, and it meets the policy criteria established in U.S Army Corps of Engineers (USACE) guidance for planning in a collaborative environment. The recommended plan provides benefits by: 1) reducing harmful discharges to the Caloosahatchee Estuary by capturing a portion of high flow releases from Lake Okeechobee and basin runoff from the lower West Caloosahatchee River Basin during the wet season, 2) storing the water until needed in a reservoir, and 3) discharging stored water to supplement inadequate flows over S-79 to Caloosahatchee Estuary during the dry season, thereby reducing stress on the natural system. Hydrologic output comparisons were made between the flow frequency distribution of each alternative plan and the target frequency distribution for the combined monthly and weekly average freshwater inflows at S-79 for a nine year period of record. The nine years chosen out of the 36 year period of record contain three wet, three dry and three normal years. Biological outputs used to compare plans are based on several parameters that indicate the degree to which natural vegetative conditions and key indicator species are restored. The parameters for both hydrologic outputs and biological outputs are based on established peer-reviewed hydrologic and conceptual ecological models developed to guide the restoration of the South Florida ecosystem.

7. The recommended plan improves functional fish and wildlife habitat in the Caloosahatchee River Estuary. The Everglades has been designated an International Biosphere Reserve (1976) and a World Heritage Site (1979) by the United Nations Educational, Scientific, and Cultural Organization (UNESCO) and a Wetland of International Importance (1987) in accordance with the Ramsar Convention. The portion of the Everglades ecosystem directly affected by the Caloosahatchee River (C-43) West Basin Storage Reservoir, including the project site and the Caloosahatchee River and Estuary, provides habitat for 21 federally-listed endangered or threatened species, including the Florida panther, Everglades snail kite, wood stork, manatee, eastern indigo snake, Audubon's crested caracara and five species of sea turtles. In accordance

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with the WRDA 2000 Section 601(f)(2), individual CERP projects shall be justified by the environmental benefits derived by the South Florida ecosystem. Similarly, Section 385.9(a) of the CERP Programmatic Regulations (33 CFR Part 385) requires that individual projects shall be formulated, evaluated, and justified based on their ability to contribute to the goals and purposes of the Plan and on their ability to provide benefits that justify costs on a next-added increment basis. The Caloosahatchee River (C-43) West Basin Storage Reservoir Project, operating in conjunction with other projects in the comprehensive plan produces an average annual increase of 12,809 habitat units in the Caloosahatchee River Estuary. On a next-added increment (NAI) basis (meaning adding the Caloosahatchee River (C-43) West Basin Storage Reservoir as the next project to be added to a system of projects) the Caloosahatchee River (C-43) West Basin Storage Reservoir project delivers about 15,300 average annual habitat units. Based on restoration first cost and the Caloosahatchee Estuary, the cost per acre benefited is about \$8,034. On a next-added increment basis, the average annual cost per average annual habitat unit is approximately \$2,825. Based on these parameters, the Caloosahatchee River (C-43) West Basin Storage Reservoir project is justified by the environmental benefits derived by the South Florida ecosystem and on a next-added increment basis. All NEPA compliance requirements have been completed. Final EIS coordination began on 21 September 2007 and concluded on 22 October 2007. No significant environmental changes have occurred since the EIS coordination was finalized in 2007.

8. Section 601(e)(5)(B) of the Water Resources Development Act of 2000, as amended by Section 6004 of the Water Resources Development Act of 2007, authorizes credit toward the non-Federal share for non-Federal design and construction work completed during the period of design or construction, subject to the execution of the design or project partnership agreement, and subject to a determination by the Secretary that the work is integral to the project. This project is included in the "Expedited Projects" formerly called Acceler8. The reporting officers recommend that the non-Federal sponsor be credited for all reasonable, allowable, necessary, auditable, and allocable costs applicable to The Caloosahatchee River (C-43) West Basin Storage Reservoir Project as may be authorized by law, including those incurred in advance of executing a project partnership agreement for this project, subject to authorization of the Project by law, a determination by the Assistant Secretary of the Army (Civil Works) or his/her designee that the In-kind work is integral to the Authorized CERP Project, that the costs are reasonable, allowable, necessary, auditable, and allocable, and that the In-kind work has been implemented in accordance with Government standards and applicable Federal and State laws.

9. Credits for non-Federal design and construction will be evaluated in accordance with the terms of the Master Agreement Between the Department of the Army and South Florida Water Management District for Cooperation in Constructing and Operating, Maintaining, Repairing, Replacing, and Rehabilitating Projects Authorized to be Undertaken Pursuant to the Comprehensive Everglades Restoration Plan, executed on 13 August 2009 (hereinafter "Master Agreement"). All documentation provided by the non-Federal sponsor will be thoroughly reviewed by USACE to determine reasonable, allowable, necessary, auditable, and allocable costs. Upon completion of this review, a financial audit will be conducted prior to granting final

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credit. Coordination between USACE and the Sponsor will occur throughout design and construction via the USACE Regulatory process. The credit afforded to the non-Federal sponsor will be limited to the lesser of the following: (1) actual costs that are reasonable, allowable, necessary, auditable, and allocable to the Project; or (2) the USACE estimate of the cost of the work allocable to the Project had USACE performed the work. The non-Federal sponsor intends to implement this work using its own funds and would not use funds originating from other Federal sources unless the Federal granting agency verifies in writing that the expenditure of such funds is expressly authorized by statute and in accordance with Section 601 (e)(3) of WRDA 2000 as amended and the Master Agreement.

10. The plan recommended by the reporting officers is environmentally justified, technically sound, cost effective, and socially acceptable. The plan conforms to essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies and complies with other administration and legislative policies and guidelines. Also, the views of interested parties, including Federal, State and local agencies, have been considered.

State and Agency comments received during review of the Final PIR/EIS included concerns raised by the Florida Department of Agriculture and Consumer Services (FDACS) related to savings clause requirements and water reservations within the Caloosahatchee Basin. These concerns were addressed through several multi-agency meetings and ultimately resolved in a Headquarters, US Army Corps of Engineers (HQUSACE) response dated August 11, 2009. This letter stated that "all water to be protected for the natural system is a result of being able to capture and store excess Lake Okeechobee discharges to tide, and then delivering that water at the right time to meet estuary salinity targets. This project as simulated in the modeling, and as it will be operated, will not reduce the amount of water available from existing sources in the C-43 Basin or the amount available to existing legal users."

The U.S. Environmental Protection Agency, the Southwest Florida Regional Planning Council (SWFRPC), Lee County, and the City of Sanibel provided comments expressing water quality concerns associated with the construction and operations of the reservoir. In response, USACE and the non-Federal sponsor explained that the intent of this project is to focus on meeting salinity targets in the estuary. Future CERP planning efforts will focus on other problems, including water quality, identified in the Caloosahatchee River Basin. This project is permitted through the Florida Department of Environmental Protection (FDEP) and compliant with State water quality standards. The FDEP finds that there are reasonable assurances that "State water quality standards, including water quality criteria and moderating provisions, will be met." (FDEP letter to the Mayor of Sanibel dated April 30, 2007). USACE will require the permit holder to conduct limited algal monitoring. The primary purpose of monitoring for algae in the reservoir will be for the prevention of harmful algal bloom exposure to recreationists and users of the downstream potable water supply systems. This initial monitoring program will be assessed after two years to determine if modifications are needed. USACE also intends to require that the permit holder develop an Algal Monitoring and Management Plan for the

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reservoir. This plan should include a long-term monitoring program as well as management plans should an algal bloom develop. Additionally, the non-Federal sponsor in conjunction with Lee County has acquired the Boma Property immediately east of S-78 along the Caloosahatchee River for the construction of a water quality treatment facility targeting nitrogen removal. Plans for this facility are being developed as part of the Northern Everglades Program, Caloosahatchee River Watershed Protection Plan, a cooperative State effort between the non-Federal sponsor, FDEP, and FDACS.

The SWFRPC additionally expressed concerns with the intended use of the Picayune Strand Restoration Project lands as mitigation for Florida panther habitat impacted by the construction and operation of the Caloosahatchee River (C-43) West Basin Storage Reservoir. In response, USACE stated that the USFWS has lead responsibility for programmatic tracking of Florida panther habitat losses and gains associated with CERP projects. Although individual projects may cause some panther habitat loss, this loss is being evaluated in the context of the conservation of the species range-wide. Acquisition of lands for this project and other CERP projects has resulted in preservation of important lands that may have otherwise been used for development. A majority of Florida panther habitat to be preserved is associated with the nearby Picayune Strand Restoration Project (PSRP), which is adjacent to other large tracts of natural and preserved lands including Fakahatchee Strand Preserve State Park and Big Cypress National Preserve. Acquisition and preservation of lands in the Caloosahatchee River (C-43) West Basin Storage Reservoir study area are consistent with the USFWS' goal to locate, preserve, and restore tracts of lands containing sufficient area and appropriate land cover types to ensure the long-term survival of the Florida panther.

11. The Project complies with the following requirements of WRDA 2000 as amended:

a. Project Implementation Report (PIR). The requirements of a PIR as defined by Section 601(h)(4)(A).

b. Water Reservations. Sections 601(h)(4)(A)(iii)(IV) and (V) require identification of the appropriate quantity, timing, and distribution of water dedicated and managed for the natural system and the amount of water to be reserved or allocated for the natural system. Additional water delivered to and retained in natural areas was identified and will be reserved or allocated by the State of Florida.

c. Elimination or Transfer of Existing Legal Sources of Water. Section 601(h)(5)(A) states that existing legal sources of water shall not be eliminated or transferred until a new source of water supply of comparable quantity and quality is available to replace the water to be lost as a result of the Plan. Implementation of the Caloosahatchee River (C-43) West Basin Storage Reservoir project will not result in a transfer or elimination of sources of water to meet agricultural and urban demand in the Caloosahatchee River (C-43 Canal) Basin (remaining the same as before the project). Sources of water for the Seminole and Miccosukee Tribes and Everglades National Park are influenced by the regional water management system (C&SF

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Project, including Lake Okeechobee), and will not be affected by this project. Therefore, there will be no elimination or transfer as a result of this project on existing legal sources of supply for: agricultural or urban water supply, allocation or entitlement to the Seminole Indian Tribe of Florida under Section 7 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e), the Miccosukee Tribe of Florida, water supply for Everglades National Park, or water supply for fish and wildlife.

d. Maintenance of Flood Protection. Section 601 (h)(5)(B) states that CERP shall not reduce levels of service for flood protection that are in existence on the date of enactment of this Act and in accordance with applicable law. Potential effects of the storage reservoir on water levels on adjacent lands were evaluated. In response to these evaluations, the Project includes a seepage management system, consisting of a seepage cut-off wall, seepage canal, and pump to ensure that adjacent lands in the immediate vicinity of the project are not adversely affected. The operations of this project will not change the operations of the Caloosahatchee River (C-43 Canal); therefore, there will be no system-wide effects on flood protection that will impact the regional basin as a result of the Project.

12. Agency technical reviews (ATR) of the Caloosahatchee River (C-43) West Basin Storage Reservoir document were carried out through collaboration with the National Ecosystem Restoration Planning Center of Expertise (PCX) in compliance with guidance at the time of Final PIR completion (2007). Extensive external scientific peer review through the National Academy of Science (NAS) has been conducted at the CERP programmatic level and will continue throughout the planning and implementation of the CERP program through the NAS biennial reports to Congress. In particular, the NAS promoted the use of traditional water storage technologies and the use of adaptive management principles within the formulation process. Both of these comments have been integrated into the formulation and design of the C-43 project. No further IEPR was deemed necessary or recommended for the study. In addition, no further IEPR is needed in response to WRDA 2007, since C-43 studies had been initiated and alternatives identified more than two years prior to its enactment and the final report had been submitted for approval prior to its passage.

13. I generally concur with the findings, conclusions, and recommendations of the reporting officers. The Caloosahatchee River (C-43) West Basin Storage Reservoir Project requires specific authorization by Congress in accordance with Section 601(d) of the WRDA 2000. Accordingly, I recommend that the plan described herein for ecosystem restoration be authorized for implementation as a Federal Project, with such modifications as in the discretion of the Chief of Engineers may be advisable, and subject to cost-sharing, financing, and other applicable requirements of Section 601 of WRDA 2000 as amended. In addition, I recommend that the non-Federal sponsor be authorized to receive credit for work accomplished prior to the execution of a Project Partnership Agreement (PPA) for this Project, in accordance with Section 601 of WRDA 2000, as amended, and the terms of the Master Agreement.

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Further, this recommendation is subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and agreeing 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 as amended 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 that the Government and the Non-Federal Sponsor jointly determine to be necessary for the construction, operation, maintenance, repair, replacement and rehabilitation of the Project and valuation will be in accordance with the Master Agreement;

c. Shall not use the ecosystem restoration features or lands, easements, and rights-of-way required for such features as a wetlands bank or mitigation credit for any other projects.

d. Give the Government a right to enter, at reasonable times and in a reasonable manner, upon land that the non-Federal 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. Assume responsibility for operating, maintaining, repairing, replacing, and rehabilitating (OMRR&R) the Project or completed functional portions of the Project, including mitigation features, in a manner compatible with the Project's authorized purposes and in accordance with applicable Federal and State laws and specific directions prescribed in the OMRR&R manuals and any subsequent amendments thereto. Cost sharing for OMRR&R will be in accordance with Section 601 of WRDA 2000 as amended;

f. The non-Federal Sponsor shall operate, maintain, repair, replace and rehabilitate the recreation features of the Project with responsibility for 100 percent of the cost;

g. Keep the recreation features, and access roads, parking areas, and other associated public use facilities, open and available to all on equal terms;

h. Unless otherwise provided for in the statutory authorization for this Project, comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended, and Section 103 of the WRDA 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;

i. Hold and save the Government free from all damages arising from construction, operation, maintenance, repair, replacement and rehabilitation of the Project and any project-related

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betterments, except for damages due to the fault or negligence of the Government or the Government's contractors;

j. 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 and comply with the provisions of the Master Agreement;

k. 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;

l. Assume complete financial responsibility for all necessary cleanup and response costs of any CERCLA-regulated materials located in, on, or under lands, easements, or rights-of-ways that the Government determines necessary for construction, operation, maintenance, repair, replacement and rehabilitation;

m. 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;

n. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the outputs produced by the ecosystem restoration features, hinder operation and maintenance of the project, or interfere with the project's proper function;

o. 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;

p. Comply with all applicable Federal and State laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7,

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entitled “Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army;” and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708[revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a et seq.), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)];

q. Comply with Section 106 of the National Historic Preservation Act in completion of all consultation with the Florida State Historic Preservation Officer, and as necessary, the Advisory Council on Historic Preservation, prior to construction as part of the preconstruction engineering and design phase of the project;

r. 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;

s. 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 and in accordance with Section 601 (e)(3) of the WRDA of 2000, as amended, and in accordance with the Master Agreement;

t. The Non-Federal Sponsor agrees to participate in and comply with applicable Federal floodplain management and flood insurance programs consistent with its statutory authority.

(1) Not less than once each year the Non-Federal Sponsor shall inform affected interests of the extent of protection afforded by the Project.

(2) The Non-Federal Sponsor shall publicize flood plain information in the area concerned and shall provide this information to zoning and other regulatory agencies for their use in preventing unwise future development in the flood plain and in adopting such regulations as may be necessary to prevent unwise future development and to ensure compatibility with protection levels provided by the Project.

(3) The Non-Federal Sponsor shall comply with Section 402 of WRDA 1986, as amended (33 U.S.C. 701b-12), which requires a non-Federal interest to have prepared, within one year after the date of signing a PPA for the Project, a floodplain management plan. The plan shall be designed to reduce the impacts of future flood events in the project area, including but not limited to, addressing those measures to be undertaken by non-Federal interests to preserve the level of flood protection provided by the Project. As required by Section 402, as amended, the non-Federal interest shall implement such plan not later than one year after completion of construction of the Project. The Non-Federal Sponsor shall provide an information copy of the plan to the Government upon its preparation.

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(4) The Non-Federal Sponsor shall prescribe and enforce regulations to prevent obstruction of or encroachment on the Project or on the lands, easements, and rights-of-way determined by the Government to be required for the construction, operation, maintenance, repair, replacement, and rehabilitation of the Project, that could reduce the level of protection the Project affords, hinder operation or maintenance of the Project, or interfere with the Project's proper function.

u. The overarching objective of the Plan is the restoration, preservation, and protection of the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection. The Federal Government and the non-Federal sponsor are committed to the protection of the appropriate quantity, quality, timing, and distribution of water to ensure the restoration, preservation, and protection of the natural system as defined in Section 601 of WRDA 2000, for so long as the project remains authorized. This quantity, quality, timing, and distribution of water shall meet applicable water quality standards and be consistent with the natural system restoration goals and objectives of the CERP, as the Plan is defined in the Programmatic Regulations. The non-Federal sponsor will protect the water for the natural system by taking the following actions to achieve the overarching natural system objectives of the Plan:

(1) Ensure, through appropriate and legally enforceable means under Florida law, that the quantity, quality, timing, and distribution of existing water that the Federal Government and the non-Federal sponsor have determined in this Project Implementation Report is available and beneficial to the natural system, will be available at the time the Project Partnership Agreement for the project is executed and will remain available for so long as the Project remains authorized.

(a) Prior to the execution of the Project Partnership Agreement, reserve or allocate for the natural system the necessary amount of water that will be made available by the project that the Federal Government and the non-Federal sponsor have determined in this Project Implementation Report.

(b) After the Project Partnership Agreement is signed and the project becomes operational, make such revisions under Florida law to this reservation or allocation of water that the non-Federal sponsor determines, as a result of changed circumstances or new information, is necessary for the natural system.

(2) For so long as the Project remains authorized, notify and consult with the Secretary of the Army should any revision in the reservation of water or other legally enforceable means of protecting water be proposed by the non-Federal sponsor, so that the Federal Government can assure itself that the changed reservation or legally enforceable means of protecting water conform with the non-Federal sponsor's commitments under paragraphs 1 and 2. Any change to

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a reservation of water made available by the project shall require an amendment to the Project Partnership Agreement.

14. The recommendation contained herein reflects the information available at this time and current Departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities in the formulation of a national Civil Works construction program or the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding.



R. L. VAN ANTWERP  
Lieutenant General, US Army  
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