



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

CECW-SAD (1105-2-10a)

MAY 21 2012

SUBJECT: Broward County Water Preserve Areas Project, Comprehensive Everglades Restoration Plan, Central and Southern Florida Project, Broward and Miami-Dade Counties, Florida

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on ecosystem restoration improvements for the Broward County Water Preserve Areas (BCWPA) Project, located in Broward and Miami-Dade Counties, Florida. It is accompanied by the report of the Jacksonville District Engineer and South Atlantic Division Engineer. 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 the development of a decision document known as a Project Implementation Report (PIR). The requirements of a PIR are addressed in this report and are subject to the review and approval by the Secretary of the Army. Preconstruction engineering and design activities for this project will be continued under the CERP Design Agreement.

2. The three components comprising the proposed BCWPA Project were conditionally authorized by Sections 601(b)(2)(C)(iv), 601(b)(2)(C)(v), and 601(b)(2)(C)(vi) of WRDA 2000, but are not being recommended for implementation under those authorities. The PIR recommends a project that combines implementation of three projects identified in the CERP. Due to changes in scope and combining of CERP components, the BCWPA Project is recommended for new specific Congressional authorization consistent with WRDA 2000, Section 601(d). The reporting officers determined that the original authorities for the individual components of the BCWPA Project contained in Sections 601(b)(2)(C)(iv), (v) and (vi) of WRDA 2000, are no longer needed. As such, the reporting officers recommend that the projects authorized in Section 601(b)(2)(C)(iv), (v) and (vi) of WRDA 2000 be deauthorized.

3. Although cost sharing of the ecosystem restoration features for the BCWPA Project is governed by Section 601 of WRDA 2000, as amended, cost sharing of recreation features is governed by Section 103 of WRDA 1986, as amended. In particular, in accordance with Section 103(j) of WRDA 1986, 100 percent of the cost of Operation, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R) of the recreation features is the non-federal sponsor's responsibility. In addition, section 601(e)(5)(B) of WRDA 2000, as amended, governs credit for non-federal sponsor design and construction work on the ecosystem restoration features of the project, whereas section 221(a)(4) of the Flood Control Act of 1970, as amended (42 U.S.C.

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1962d-5b(a)(4)), governs credit for non-federal sponsor design and construction work on the recreation features of the project.

4. The final PIR and integrated Environmental Impact Statement (EIS) recommends a project that contributes significantly to all the ecological goals and objectives of the CERP: (1) increasing spatial extent of natural areas; (2) improving habitat function and quality; and (3) improving native plant and animal abundance and diversity. In addition, it contributes to the economic values and social well being of the project area by providing recreational opportunities. The historical Everglades ecosystem was previously defined by a mosaic of uplands, freshwater marsh, deepwater sloughs, and estuarine habitats that supported a diverse community of fish and wildlife. Today nearly all aspects of south Florida's flora and fauna have been affected by development, altered hydrology, nutrient input and spread of non-native species that have resulted directly or indirectly from a century of water management for human needs. Significant areas within the project study boundary are characterized by undesirable dense cattail (*Typha* spp.) stands, drydowns and degraded ridge and slough habitat. The BCWPA Project addresses loss of ecosystem function within the Everglades as a result of (1) damaging discharges of runoff from developed areas in western Broward County into the Everglades (Water Conservation Area 3A); (2) excessive nutrient loading to the Everglades, and; (3) excessive seepage of water out of the Everglades to developed areas in western Broward County. The project also addresses insufficient quantities of water available in the regional water management system during dry periods to meet municipal, agricultural, and environmental water supply demands. The PIR confirms information in the CERP and provides a project-level evaluation of costs and benefits associated with construction and operation of this ecosystem restoration project. The Recommended Plan will improve functional fish and wildlife habitat in Water Conservation Areas (WCA) 3A/3B, and in Everglades National Park. The portion of the Everglades ecosystem directly affected by the project provides habitat for five federally-listed species: West Indian manatee, Florida panther, wood stork, snail kite and Eastern indigo snake. Overall, an ecological lift of approximately 166,211 average annual habitat units will occur due to improved hydroperiods and hydropatterns in the project area. Overall, approximately 563,000 acres in Water Conservation Area 3 and 200,000 acres in the greater Everglades will benefit from project implementation.

5. The reporting officers recommend a plan for ecosystem restoration and recreation. The Recommended Plan would improve the ecological function of the Everglades ecosystem by capturing and storing the excess surface water runoff from the C-11 watershed and reducing excess releases to the WCA 3A/3B, and will minimize seepage losses during dry periods. The Recommended Plan, Alternative A4, would include a footprint of approximately 7,990 acres based on the three components: C-11 Impoundment, WCA 3A/3B Seepage Management Area (SMA), and C-9 Impoundment, as well as recreation features. A description of the individual components follows:

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C-11 Impoundment: The C-11 Impoundment is located in the northern part of the project area and requires 1,830 acres to construct an above-ground impoundment (interior storage of 1,068 acres). Major elements include canals, levees, water control structures and buffer marsh. Water control structures consist of pump stations, a gated spillway, gated and non-gated culverts and a non-gated fixed weir. The purpose of the C-11 Impoundment is to capture and store surface runoff from the C-11 Basin, reduce pumping of surface water into the WCA 3A/3B, and provide releases for regional benefits.

WCA 3A/3B Seepage Management Area: The WCA 3A/3B SMA makes up the western project border and requires 4,353 acres. Elements include levees, canals, pumps, bridges and water control structures. The C-502A and C-502B conveyance canals are major components that will transfer water between the C-11 and C-9 impoundments, assist with creating a hydraulic ridge, and transfer water to the southern project region for future CERP Projects. The purpose of this rain-driven component is to establish a buffer, reduce seepage to and from the WCA 3A/3B by creating a hydraulic head, and maintain the level of service flood protection.

C-9 Impoundment: The C-9 Impoundment is located north and adjacent to the Snake Creek Canal (C-9) and requires approximately 1,807 acres to construct an above-ground impoundment (storage of 1,641 acres). Elements include levees, canals, pumps, bridges and water control structures. The purpose of the C-9 Impoundment is to capture and store surface runoff from the C-9 Basin, store C-11 Impoundment overflow, assist with WCA 3A/3B seepage management, and provide releases for regional benefits.

Recreation Features: The recreation amenities proposed are ancillary, work harmoniously with the Project and are on fee owned lands. The amenities include 14 miles of improved trail surface, parking areas with ADA accessible waterless toilets, walkway to canoe launch facilities, an information kiosk, shaded benches, footbridges, trash receptacles and signage. Walking, jogging and biking are proposed on the levee crowns. Equestrian use is proposed at the levee base. Nature-based activities and fishing would be allowed.

6. The total first cost of the Recommended Plan from the final PIR/EIS, based on February 2012 price levels, is estimated at \$840,657,000. Total first cost for the ecosystem restoration features is estimated to be \$834,211,000, and the recreation first cost is estimated to be \$6,446,000. The total project cost being sought for authorization is \$866,707,000, which includes all costs for construction; lands, easements, rights-of-way and relocations; recreation facilities; pre-construction, engineering and design (PED) and construction management costs; and sunk PIR costs (\$26,050,000).

7. In accordance with cost sharing requirements of Section 601(e) of the WRDA 2000, as

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amended, the federal cost of the Recommended Plan is \$433,353,500 and the non-federal cost is \$433,353,500. The estimated lands, easements, rights-of-way and relocation (LERRs) costs for the Recommended Plan are \$380,633,000. Based on FY12 price levels, a 38-year period of economic evaluation and a 4.00% discount rate, the equivalent annual cost of the proposed project is estimated at \$49,415,000 which includes OMRR&R, interest during construction and amortization, but not sunk costs. The estimated annual costs for ecosystem restoration OMRR&R, including project monitoring costs, vegetation management and endangered species monitoring, are \$3,510,000. The project monitoring period is five years except for endangered species monitoring, which is 10 years. Any costs associated with project monitoring beyond 10 years after completion of the construction of the Project (or a component of the Project) shall be a non-federal responsibility. The estimated annual OMRR&R cost for recreation is \$412,000.

8. As a component of the CERP program, the interagency/interdisciplinary scientific and technical team, formed to ensure that the system-wide goals are met, will participate in the annual monitoring to assess system-wide changes. In accordance with Section 601(e)(4) and 601(e)(5)(D) of WRDA 2000, as amended, OMRR&R costs and adaptive assessment and monitoring costs for ecosystem restoration will be shared equally between the federal government and the non-federal sponsor. The Project Monitoring Plan was developed assuming that major, ongoing monitoring programs that are not funded by the Project would continue to supply data relevant to the Project. The Project Monitoring Plan shall not include items that are already required to be monitored by another federal agency or other entity as part of their regular responsibilities or required by law. Should any of these monitoring programs be discontinued or significantly curtailed, then monitoring priorities and funding options may be re-evaluated to ensure proper Project evaluations. In accordance with Section 103(j) of the WRDA 1986, as amended, OMRR&R costs related to recreation features will be funded 100 percent by the non-federal sponsor.

9. To ensure that an effective ecosystem restoration plan was recommended, cost effectiveness/incremental cost analysis (CE/ICA) techniques were used to evaluate alternative restoration plans. These techniques determined the selected alternative plan to be cost effective and incrementally justified. The hydraulic model and ecological model utilized to estimate the ecological outputs that were used in the economic analysis were both peer reviewed and certified for use in the project. The plan recommended for implementation is the National Ecosystem Restoration (NER) plan, supports the Incremental Adaptive Management principles established by the National Research Council and was prepared in a collaborative environment. The Recommended Plan provides benefits by: (1) restoring quantity, timing and distribution of water for the Water Conservation Areas 3A and 3B and Everglades National Park; (2) improving hydroperiods and hydropatterns in the project area; and (3) providing water for other CERP projects within the vicinity of the project area.

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10. In accordance with the WRDA 2000 Section 601(f)(2), individual CERP projects may be justified by the environmental benefits realized in 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 CERP and on their ability to provide benefits that justify costs on a next-added increment (NAI) basis. Due to the project location at the terminus of the Everglades system, the BCWPA Project does not depend on any other CERP or non-CERP projects to achieve estimated ecological benefits. The NAI analysis evaluates the effects, or outputs, of the Recommended Plan as the next project to be added to the group of already approved CERP projects. The results of the NAI analysis show that as a stand-alone project, the BCWPA Recommended Plan greatly increases the ecological function of the Everglades ecosystem in project area habitats over the expected future without project condition. The Recommended Plan will produce an average annual increase of 166,211 habitat units at an annual cost of \$49,415,000, for a cost of \$297.00 per habitat unit. The average annual cost for the recreation features is \$748,000, the average annual benefit is \$1,376,000, and the average annual net benefit of approximately \$628,000. The benefit to cost ratio for the recommended recreation plan is approximately 1.8.

11. Of the total 7,990.47 acres of land identified for the Project, approximately 6,607.58 acres would be required in fee, approximately 851.39 acres owned by FPL would be required in perpetual flowage easements, 42 acres owned by FDOT would be provided by Supplemental Agreement, and 490 acres acquired as part of the original Central & Southern Florida Project would be recertified for this Project. No credit shall be afforded and no reimbursement shall be provided for the value of any lands, easements, rights-of-way, or relocations that have been provided previously as an item of cooperation for another federal project. The Recommended Plan will result in some unavoidable impacts to existing mitigation sites required by Department of the Army (DA) Section 404 Permits that are located within both of the impoundment footprints. The Recommended Plan addresses this issue through the acquisition of mitigation bank credits from an established mitigation bank to replace established DA mitigation areas within the impoundment. However, should mitigation bank credits not be available at the time of construction, the optional FDOT wetland mitigation area described in this paragraph and further detailed in the PIR will be constructed. The original plan called for the rehydration of wetland areas on FDOT lands as mitigation to offset wetland impacts resulting from the project. Due to USFWS concerns about selenium tainted soils on the FDOT land and their ecological risk to USFWS trust species, the project will not use these lands for the purpose of wetland mitigation at this time. The current mitigation plan will avoid the FDOT lands, and calls for the purchase of wetland mitigation bank credits (estimated 54 FCUs) to offset the loss of the FDOT lands that would have been used to satisfy project wetland impacts. In order to be ecologically successful, the mitigation areas within the impoundments need additional water (above and beyond what would be provided in a rainfall driven system) which will be supplied by the BCWPA Project.

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The ecological lift that would occur as a result of the replacement mitigation in the impoundments is not being counted for Project benefits. The storage provided by the replacement mitigation areas, though not used to justify federal participation in the Project, would contribute to provide downstream benefits.

12. In accordance with the Corps of Engineers' Engineering Circular on review of decision documents, all technical, engineering, and scientific work underwent an open, dynamic, and vigorous review process to ensure technical quality. This included Agency Technical Review (ATR), external scientific review of CERP through the National Academy of Science at the programmatic level, and Corps Headquarters policy and legal review. Independent External Peer Review is not required for this Project because the study was initiated and an array of alternatives was selected over two years prior to the enactment of WRDA 2007. All concerns have been addressed and incorporated into the final PIR. The final PIR/EIS was published for state and agency review on 4 May 2007. In response to comments received from the Florida Department of Environmental Protection (FDEP), the Corps sent a letter in May 2012 that clarified the roles and responsibilities of the Corps and the non-federal sponsor in addressing residual agricultural chemicals on project lands and a parcel known as the Naval Bomb Target, the same parcel is sometimes referred to as the Fort Lauderdale Bombing Target #7 (tract #W92000-001). The Corps clarified that based on past investigations, concurred in by FDEP, that there is no known contamination requiring remediation at the Naval Bomb Target. A number of interest parties commented on the mitigation plan. The Corps has revised the PIR to further clarify that in accordance with Section 2036(c) of WRDA 2007, the mitigation plan is to purchase mitigation bank credits. However, should mitigation bank credits be unavailable at the time of construction, the mitigation will be accomplished by creating the optional FDOT wetland mitigation area described in the PIR and explained in paragraph 11 of this Report. The agencies supported implementation of the recommended plan. The revised final PIR/EIS was also published in the Federal Register and sent to federal and state agencies in April 2012.

13. Section 601(e)(5)(B) of WRDA 2000, as amended by Section 6004 of WRDA 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 execution of the design or project partnership agreement (PPA) and subject to a determination by the Secretary that the work is integral to the Project. As part of its initiative for early implementation of certain CERP projects, the BCWPA Project was included in the "State Expedited Projects and Program" to allow the non-federal sponsor to execute work expeditiously. The work completed by the non-federal sponsor prior to a PPA has focused on engineering and design aspects now a part of the PIR. At this time, the non-federal sponsor does expect to commence construction prior to signing a PPA. The reporting officers believe that it is in the public interest for the Project to be implemented expeditiously due to the regional restoration of federal lands in the Everglades National Park, Water Conservation Areas 3A/3B, and ecological benefits to the south Florida

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ecosystems. Therefore, the reporting officers recommend that the non-federal sponsor be credited for all reasonable, allowable, necessary, auditable and allocable costs applicable to the BCWPA Project as may be authorized by law, including those incurred prior to the execution of a PPA, 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.

14. The non-federal sponsor and the U.S. Department of the Army entered into an agreement known as 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, dated 13 August 2009 (hereinafter "Master Agreement"). The Master Agreement sets forth the terms of participation in the construction and OMR&R of projects under CERP that will apply to any future project for which the non-federal sponsor and the Government have entered into a PPA. The uniform terms of the Master Agreement will be incorporated by reference into the BCWPA Project PPA.

15. Credits for the non-federal sponsor's design and construction work will be evaluated in accordance with the terms of the Master Agreement and Design Agreement. All documentation provided by the non-federal sponsor will be thoroughly reviewed by the Corps to determine reasonable, allowable, necessary, auditable, and allocable costs. Upon completion of this review, a financial audit will be conducted prior to granting final credit. 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 Corps estimate of the cost of the work allocable to the Project had the Corps performed the work. The non-federal sponsor has completed design 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 by the Master Agreement.

16. Washington level review indicates that 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.

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

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

b. Reservation or Allocation of Water for the Natural System. 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. In accordance with the regulations, an analysis was conducted to identify water dedicated and managed for the natural system. Accordingly, the non-federal sponsor will protect the water that was identified as necessary to achieve the benefits of the Project, using water reservation or allocation authority under Florida law.

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 CERP. An analysis of project effects on existing legal sources of water was conducted and it was determined that implementation of the Broward County Water Preserve Areas Project will not result in a transfer or elimination of existing legal sources of water.

d. Maintenance of Flood Protection. Section 601 (h)(5)(B) states that the Plan 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 flooding effects as a result of the proposed project were analyzed and the results indicated that the proposed project would not have an adverse impact on the level of service for flood protection in the project area.

18. I generally concur with the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan described herein for ecosystem restoration and recreation 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 execution of a PPA for this project, in accordance with the terms described in paragraphs 13 and 15 of this report.

Further, this recommendation is subject to the non-federal sponsor agreeing to comply with all applicable federal laws and the following items of local cooperation:

a. Provide 50 percent of total project costs consistent with the provisions of Section 601(e) of the WRDA 2000, as amended, including authority to perform design and construction of project features consistent with federal law and regulation.

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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 and OMRR&R 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 non-CERP 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 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. Notwithstanding Section 528(e)(3) of WRDA 1996 (110 Stat. 3770), the non-Federal sponsor shall be responsible for 50 percent of the cost of OMRR&R activities authorized under this section.

f. The non-Federal sponsor shall operate, maintain, repair, replace and rehabilitate the recreational features of the Project and is responsible for 100 percent of the costs.

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 PL 91-611, Flood Control Act of 1970, as amended, and Section 103 of the WRDA of 1986, PL 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 the construction, OMRR&R 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.

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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 CERP Master Agreement between the Department of Army and the 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, including Article XI Maintenance of Records and Audit.

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 and operation and maintenance (O&M) 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 right-of-ways necessary for the construction and OMRR&R.

m. As between the Government and the non-Federal sponsor, the non-Federal sponsor shall be considered the operator of the Project for the purposes of CERCLA liability. To the maximum extent practicable, the non-Federal sponsor shall OMRR&R the Project in a manner that will not cause liability to arise under CERCLA.

n. Prevent obstructions of and encroachments on the Project (including prescribing and enforcing regulations to prevent such obstruction or encroachments) which might reduce ecosystem restoration benefits, hinder O&M, or interfere with the Project's proper function, such as any new developments on Project lands or the addition of facilities which would degrade the benefits of the Project.

o. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, PL 91-646, as amended by the title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (PL 100-17), and Uniform Regulations contained in 49 CFR part 24, in acquiring lands, easements, and rights-of-way, and performing relocations for construction, O&M of the Project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act.

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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, PL 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," and all applicable Federal labor standards and 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 Florida's State Historic Preservation Office and, as necessary, the Advisory Council on Historic Preservation prior to construction as part of the Pre-construction 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 WRDA 2000.

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 project partnership agreement 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-

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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.

(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 non-federal sponsor shall execute under State law the reservation or allocation of water for the natural system as identified in the PIR for this authorized CERP Project as required by Sections 601(h)(4)(B)(ii) of WRDA 2000 and the non-Federal sponsor shall provide information to the Government regarding such execution. In compliance with 33 CFR 385, the District Engineer will verify such reservation or allocation in writing. Any change to such reservation or allocation of water shall require an amendment to the PPA after the District Engineer verifies in writing in compliance with 33 CFR 385 that the revised reservation or allocation continues to provide for an appropriate quantity, timing, and distribution of water dedicated and managed for the natural system after considering any changed circumstances or new information since completion of the PIR for the authorized CERP Project.

19. 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.



MERDITH W.B. TEMPLE
Major General, USA
Acting Commander