

*K. Role of the Department of the Interior*

Several commenters recommended that the Department of the Interior be given a more prominent role in implementation of the Plan because it administers significant lands and natural resources involved in the Plan. These commenters felt that the concurrence provisions in the proposed regulations diminished the role of the Department of the Interior envisioned in WRDA 2000. They felt that the concurrence provisions in the proposed regulations did not give the Secretary of the Interior an appropriate role in approving the guidance memoranda because the Secretary of the Army could finalize these documents after giving good faith consideration to comments from the Secretary of the Interior, notwithstanding the fact that the Secretary of the Interior might have concerns about finalizing the regulations. In addition, these commenters believe that the Department of the Interior should have a concurrence role on other programmatic decisions such as Comprehensive Plan Modification Reports, the Master Implementation Sequencing Plan, and System Operating Manual. Other commenters noted that the concurrence process in WRDA 2000 only extends to the programmatic regulations and that section 601(h)(3)(C)(ii) expressly prohibits the requirement for concurrence on Project Implementation Reports, Project Cooperation Agreements, Operating Manuals for individual projects, and other documents relating to the development, implementation, and management of individual features of the Plan unless concurrence is provided for in other laws. These commenters did not favor giving the Department of the Interior a greater role in implementing the Plan.

The final regulations give the Department of the Interior a concurrence role, along with the Governor of the State of Florida, in the development of six specific guidance memoranda related to important program-wide aspects of implementing the Plan. These guidance memoranda address the: (1) General format and content of Project Implementation Reports; (2) processes for evaluation of alternatives developed for Project Implementation Reports, their cost effectiveness and impacts; (3) general content of operating manuals; (4) general processes for the conduct of assessment activities of RECOVER; (5) process for identifying if an elimination or transfer of existing legal sources of water will occur as a result of implementation of the Plan; and (6)

process used in Project Implementation Reports for identifying the appropriate quantity, timing, and distribution of water dedicated and managed for the natural system. In accordance with section 601(h)(3)(c)(ii) of WRDA 2000, the regulations prohibit concurrence by the Secretary of the Interior and the Governor of Florida on Project Implementation Reports, Project Cooperation Agreements, Operating Manuals for individual projects, and other documents relating to individual features of the Plan.

We revised the concurrence provisions in the final regulations so that the approval process for the guidance memoranda parallels the statutory concurrence process for the programmatic regulations. We deleted the language in the proposed regulations that said the Army would give "good faith consideration" to the concurrence or non-concurrence statements of the Secretary of the Interior and the Governor before approving the guidance memoranda. This language did not communicate adequately our intent to obtain the concurrence of the Secretary of the Interior and the Governor. Instead, it suggested that the Army simply had to fulfill a ministerial coordination requirement by asking the Secretary of the Interior and the Governor whether they concurred or non-concurred in the guidance memorandum. We felt that this language did not convey the Army's intent to actively seek the concurrence of the Secretary of the Interior and the Governor prior to approving the guidance memoranda.

The final regulations also provide that the Department of the Interior will play a significant role in addressing other issues related to the Plan. Like the proposed regulations, the final rule gives the Secretary of the Interior, along with the Governor of the State of Florida, a concurring role in the Secretary of the Army's determination of the pre-CERP baseline. The final regulations also envision that interim goals will be established through a formal Interim Goals Agreement among the Secretary of the Army, the Secretary of the Interior, and the Governor. Further, the Department of the Interior plays an important role in the Leadership Group of RECOVER, along with several other Federal and State agencies and Tribes.

Finally, the regulations give the Department of the Interior an important consulting role throughout implementation of the program, including, among other things, participation on Project Delivery Teams; selection and revision of hydrologic

models; development of the Adaptive Management Program, Project Implementation Reports, Operating Manuals, and Comprehensive Plan Modification Reports; development, review and revision of changes to the Master Implementation Sequencing Plan; and the development of the means for monitoring progress towards other water-related needs of the region as provided for in the Plan.

Read together, we believe that these provisions give the Department of the Interior as well as the Governor of the State of Florida an important and appropriate role in implementing the Plan. This prominent role is consistent with Interior's natural resources stewardship and land management responsibilities.

*L. Role of South Florida Ecosystem Restoration Task Force*

Several commenters felt that the proposed regulations did not give the South Florida Ecosystem Restoration Task Force ("Task Force") an appropriate role in Plan implementation. The Task Force is an interagency group created by section 528(f) of the Water Resources Development Act of 1996 (110 Stat. 3770) (hereinafter "WRDA 1996") More specifically, the Miccosukee Tribe and the Seminole Tribe expressed the view that the Task Force could play a constructive role in facilitating an open discussion of issues related to implementation of the Plan among Federal, State, Tribal, and local interests. The Seminole Tribe also commented that information about alternatives developed for Project Implementation Reports should be shared with the Task Force before the completion of the draft Project Implementation Report.

The responsibilities of the Task Force are found in section 528 of WRDA 1996 and section 601 of WRDA 2000. In general, section 528 envisions that the Task Force will coordinate programs and research on ecosystem restoration, exchange information, provide assistance and facilitate resolution of conflicts involving the restoration of the South Florida ecosystem. Section 601 of WRDA 2000 gives the Task Force a consultation responsibility concerning the establishment of an independent scientific review panel to review the progress that is being made toward achieving the natural system restoration goals of the Plan.

The final regulations recognize that the Task Force can play a constructive role in Plan implementation. The regulations acknowledge the benefits that result from sharing issues with the